



2022

**Annual Campus Security and
Fire Safety Report**

For Reporting Year 2021

Published October 2022

Table of Contents

2022 Annual Campus Security and Fire Safety Report	3
ABOUT THE REPORT	3
How the crime statistics in this report are compiled:	3
How the crime report is disseminated	4
Disclosure of Reported Crimes and Crime Statistics for Calendar Years 2018, 2019, and 2020	4
Definitions	5
How to Report Criminal Offenses:	10
Importance of Reporting Criminal Activity:	10
Campus Security and Access:	11
Campus Security Personnel:	11
Campus Security Authorities:	11
Timely Warning and Emergency Notifications:	12
Building Evacuation	16
For the Main Building:	16
Campus Evacuation:	17
Security Awareness and Crime Prevention:	38
Primary Prevention and Awareness and Ongoing Prevention and Awareness Efforts:	38
Substance Abuse Prevention:	38
Alcohol:	39
Illegal Drugs:	39
Missing Person:	39
Dating Violence, Domestic Violence, Sexual Assault and Stalking Prevention:	40
Rights of the Accused Student and Survivor	40
All reports and complaints of violations of DCC's Discrimination, Harassment, Sexual Misconduct, Domestic Violence, and Stalking Policy are considered in accordance with DCC's Discrimination Grievance Procedure. The procedures include the following:	42
Description of Safe and Positive Options for Bystander Intervention:	43
Risk Reduction:	43
Sex Offenders:	44
Dawson Community College's policy and procedures regarding discrimination, harassment, sexual misconduct, domestic violence, and stalking:	44
Emergency Services Points of Contact	45
Medical	45
Victims Assistance Groups	45
Government Agencies	45
Fire Safety Report:	46
Brueberg Hall	46
Gibson Hall	46
Kettner Hall	46
Smoke-Free Housing Complex	47
Chemicals, Explosives, & Hazardous Materials	47

Student Evacuation Instructions	48
Fire Alarm	48
Fire Protection Equipment	48
Who to Report To	48
Fire Prevention Training/Education	48
Improvements	49
Fire Emergency Procedures	49
Appendix A Procedures and Policies	51
BP 2-7: VIOLENT, DISCRIMINATORY, AND SEXUAL MISCONDUCT	51
CP 2-7: Harassment and Sexual Harassment	51
BP 3-5: Student Code of Conduct	59
BP 3-7: VIOLENT, DISCRIMINATORY, AND SEXUAL MISCONDUCT	60
CP 3-7: Sexual Misconduct	61
CP 1-12b: Emergency Notifications	62
CP 1-12a: Timely Warnings Policy	64
CP 1-12c: Missing Student	66
Appendix B Clery Geography Map	68
Appendix C State of Montana Laws on Alcohol & Other Illegal Drugs	68

2022 Annual Campus Security and Fire Safety Report

About the Report

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 109 (f)) is the land-mark federal law, originally known as the Campus Security Act, that requires colleges and universities across the United States to disclose information about crime on and around campuses. This report includes statistics for the previous three years concerning reported crimes that occurred on-campus, non-campus property owned or controlled by DCC and on public property within, or immediately adjacent to and accessible from the campus. The following pages provide crime rates and statistics for 2019, 2020, and 2021 calendar years as required by law. This report also includes fire safety information.

The Clery Act requires that the following “Clery crimes” be reported:

- Murder and non-negligent manslaughter
- Negligent manslaughter
- Sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Domestic violence
- Dating violence
- Stalking
- Hate crimes

How The Crime Statistics In This Report Are Compiled

The crime statistics in this report have been compiled by the Dean of Student Success with the assistance of maintenance, local law enforcement agencies, and DCC CSAs. This report is prepared to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act of 1990. The statistics include Clery crimes reported to college officials, the Glendive Police Department and the Dawson County Sheriff’s Office and other local law enforcement agencies. The totals reported in this annual security report include crimes reported which have occurred on campus; at non-campus properties owned or controlled by the College that are used for educational purposes; and on public property such as streets and sidewalks immediately adjacent to the campus. This information is collected through a variety of methods including but not limited to email, letters, reports, and surveys.

Statistics pertaining to referrals for disciplinary action reflect those incidents of alcohol, drugs, and weapons violations that were referred to the Director of Residence Life, Dean of Student Success, Athletic Director, Title IX Coordinator, Faculty Student Club Advisors, and the Vice President of Academic and Student Affairs.

How The Crime Report Is Disseminated

The Clery Act stipulates DCC notify all current and prospective students, faculty and staff of the availability of this report no later than October 1, 2022. The report can be retrieved from the website at <https://www.dawson.edu/about/campus-security.html/title/annual-campus-security-and-fire-safety-report>, and an email notification providing the URL address for the report is sent to all current students, faculty, and staff. Printed copies of the report are available upon request from the office of the Dean of Student Success, 406-377-9491.

Disclosure of Reported Crimes and Crime Statistics for Calendar Years 2019, 2020, and 2021

For the purpose of this report, the following definitions apply:

	On-Campus			On-Campus Student Housing			Non-Campus			Public Property		
	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	0	0
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	1	1	0	1	1	0	0	0	0	0	0
Fondling	1	0	1	1	0	1	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	1	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	2	0	0	2	0	0	0	0	0	0
Burglary	1	1	0	1	1	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	1	0	0	1	0	0	0	0	0	0	0	0
TOTAL	3	3	2	3	2	4	0	0	0	0	0	0
VAWA Offenses												
Domestic Violence	1	0	0	1	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	1	0	0	1	0	0	0	0	0	0	0	0
Alcohol, Drugs, Weapons Arrests												
Weapons law violations	0	0	0	0	0	0	0	0	0	0	0	0
Drug law violations	2	0	0	2	0	0	0	0	0	0	0	0
Liquor law violations	3	0	0	3	0	0	0	0	0	0	0	0
TOTAL	5	0	0	5	0	0	0	0	0	0	0	0

Alcohol, Drugs, Weapons Disciplinary Actions/Referrals												
Weapons law violations	0	0	1	0	0	1	0	0	0	0	0	0
Drug law violations	0	0	2	0	0	2	0	0	0	0	0	0
Liquor law violations	3	19	17	3	19	17	0	0	0	0	0	0
TOTAL	3	19	19	3	19	20	0	0	0	0	0	0

On-campus is defined as “any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and property within the same reasonable geographic area of the institution that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as food or other retail vendor)”.

Non-campus building or property is defined as “any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.”

Public Property is defined as “all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution’s educational purposes.”

Unfounded Crimes

2019: There were zero unfounded crimes.

2020: There were zero unfounded crimes.

2021: There were zero unfounded crimes.

To be counted as an unfounded crime, the reported crime would need to be investigated by law enforcement authorities and found to be false or baseless. Only sworn or commissioned law enforcement personnel may unfound a crime. If DCC found that a reported crime was unfounded by law enforcement officials, the crime would be removed from the Annual Safety Report.

Hate Crimes By Category and Bias

2019: No hate crimes to report

2020: No hate crimes to report

2021: 1 On Campus Student Housing hate crime of intimidation

Definitions

Murder & Non-negligent Manslaughter is defined by the willful (non-negligent) killing of one human being by another. Any death caused by injuries received in a fight, argument, quarrel, assault, or commission of a crime is classified as murder and non-negligent manslaughter.

Negligent Manslaughter is defined as the killing of another person through gross negligence. Deaths of persons due to their own negligence, accidental deaths not resulting from gross negligence, and traffic fatalities, are not included in the category of Negligent Manslaughter.

Consent The State of Montana defines consent, in relation to sexual activity, with reference to sexual assault, in the applicable jurisdiction (Montana Code Annotated (MCA) 2019, (45-5-501), as follows:

1. The term “consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following: a. an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn; b. a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and c. lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.
2. Subject to subsections (1)(c) and (1)(d), the victim is incapable of consent because the victim is: a. mentally defective or incapacitated; b. physically helpless; c. overcome by deception, coercion, or surprise; d. less than 16 years old; b. As used in subsection (a), the term “force” means: i. the infliction, attempted infliction or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or ii. the threat of substantial retaliatory action that caused the victim to reasonably believe that the offender has the ability to execute the threat.

Consent is ineffective if: it is given by a person who by reason of youth, mental disease, disorder, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense. Mont. Code Ann. § 45-2-211(2)(b)

Institutional Definition of Consent “Consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. The institutional definition stated above reflects compliance with Montana State Law 45-5-501 Definitions.

Sex Offense is defined as any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent. Rape is 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.

Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Sexual Assault with an Object is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia (e.g., a finger, bottle, handgun, stick).

Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because his/her temporary or permanent mental incapacity.

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

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

Robbery is 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.

Aggravated Assault is an attack by one person upon another, in which the offender uses or displays a weapon in a threatening manner or the victim suffers severe injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Burglary is the unlawful entry into a building or other structure with the intent to commit a felony or a theft.

Motor-Vehicle Theft is the theft or attempted theft of a motor vehicle. All cases where automobiles, trucks, motorcycles, all-terrain vehicles, and mopeds are taken by persons not having lawful access or consent including joy riding, even if the vehicle is recovered.

Arson is 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.

Domestic Violence includes 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 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.

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

- A. By a current or former spouse or intimate partner of the victim;
- B. By a person with whom the victim shares a child in common;
- C. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- D. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

- E. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating Violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and, where the existence of such a relationship shall be determined by the victim with consideration of the following factors: (1) the length of the relationship, (2) the type of relationship, (3) the frequency of the interaction between the persons involved in the relationship.

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

1. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. For the purposes of this definition—
 - a. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence

Stalking

1. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - A. Fear for the person's safety or the safety of others; or
 - B. Suffer substantial emotional distress.
2. ii. For the purposes of this definition—
 - A. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - B. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - C. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Liquor-Law Violations are 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, underage possession, using a vehicle for illegal transportation of liquor, drinking on a train or public conveyance, and all attempts to commit any of the aforementioned offenses. Drunkenness and driving under the influence are not included in this definition.

Drug-Law Violations are the 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).

Weapons Law Violations are 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, furnished deadly weapons to minors, aliens possessing deadly weapons, all attempts to commit any of the aforementioned.

Hate Crime is defined as a criminal offense committed against a person or property that is motivated, in whole or in part, by the offender's bias. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, or disability. For Clery Act reporting purposes, hate crimes include any offense in the following list that is motivated by bias:

- Murder and Non-Negligent Manslaughter
- Sex Offense
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Destruction/Damage/Vandalism to Property
- Intimidation
- Larceny/Theft
- Simple Assault

Hate Crime Bias

- Race
- Gender
- Religion
- National Origin
- Sexual Orientation
- Gender Identity
- Ethnicity
- Disability

Larceny-Theft is the unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another.

Simple Assault is an unlawful physical attack by one person upon 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 is to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Destruction/Damage/Vandalism of Property is 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 it.

Unfounded Crimes Occasionally, an agency will receive a complaint that is determined through investigation to be false or baseless. In other words, no crime occurred. If the investigation shows that no offense occurred nor was attempted, then it must be classified as being unfounded. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with prosecution, or the failure to make an arrest does not unfound a legitimate offense. Also, the findings of the coroner, court, jury, or prosecutor do not unfound offenses or attempts that law enforcement investigations establish to be legitimate.

How to Report Criminal Offenses:

Preventing crime is everybody's responsibility. DCC encourages students and employees to be responsible for their own security and the security of others. If you have witnessed a crime or been a victim of, either on or off campus, report the incident immediately when the victim of the crime elects to, or is unable to, make such a report. Dial 9-1-1 for emergencies or the Glendive Police Department Dispatch Center at 406- 377-2596. In addition, the following staff at Dawson Community College can also be contacted to report a crime: Voluntary, confidential crime reporting can be made to the Dean of Student Success or to the Human Resources and Compliance/Title IX Coordinator either in person or via email or phone. If a crime occurs in the Residence Halls, the Director of Residence Life, the Dean of Student Success, and Resident Assistants can be contacted. Dawson Community College does not have campus law enforcement personnel.

If you see anyone acting suspiciously, call 9-1-1. Do not approach the individual yourself. Report the type of suspicious behavior and the location. Relay pertinent information concerning the involved person including age, sex, hair color and length, body size and clothing description, notable characteristics (scars, tattoos), vehicle, color and license information, and travel direction.

Importance of Reporting Criminal Activity:

Dawson Community College students, faculty, staff, and guests are strongly encouraged to report all criminal and suspicious activity by calling 9-1-1, the Glendive Police Department and College officials in a timely manner.

Prompt reporting of criminal activity enables College officials and local law enforcement officials to more effectively protect the safety of the entire community. Reporting criminal activity also ensures inclusion in the annual crime statistics and aids in providing timely warning notices to campus. Reports of criminal activity will be investigated. No matter how insignificant the incident may seem, the information students, faculty, staff, and guests provide can be helpful in an investigation.

Voluntary, confidential crime reporting can be made to the Dean of Student Success, or the Human Resources Title IX Coordinator. The confidential report is to comply with a student's wish to keep the matter confidential while still taking the steps to ensure the safety of the student and others. With this information, the College can keep an accurate record of the number of incidents involving students, employees and visitors, 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. Reports in this manner are counted and disclosed in the annual crime statistic for the institution.

Dawson Community College does not have pastoral or professional counselors employed by DCC on staff performing these duties and functions as DCC employees. Dawson Community College does not have a procedure to encourage pastoral and professional counselors, at their discretion, to inform those they counsel of procedures for reporting crimes voluntarily and confidentially for inclusion in the institution's annual security report.

Campus Security and Access:

During business hours, DCC is open to the public. During non-business hours, access to the College facilities is by key or key FOB only. Facilities staff lock the campus and buildings after hours for the manual doors and there is a computer system that locks and unlocks doors according to the programmed schedule. The Toepke Center and the Jane Carey Memorial Library have separate evening and weekend business hours and are locked after those business hours, which vary based on the time of year. There are security cameras in various areas on campus that record activities on campus 24/7. The Residence Halls are for students residing in the halls (no solicitation is allowed). The Residence Hall apartments are locked 24/7 and accessible only by key issued to residents that give access to their assigned bedroom room and apartment shared living space but to no other apartment or bedroom. The Main Lobby and two laundry rooms in the Residence halls are unlocked 24/7 and recorded 24/7 by cameras.

Maintenance monitors that lighting in parking lots, pathways and in buildings is working and provides adequate lighting. Maintenance minimizes hazardous conditions by repairing door locks, repairing sidewalks, shoveling and putting down salt, and making repairs to minimize dangers on campus. Maintenance also works with companies for inspections of fire safety systems, and that proper maintenance, care, and inspections are provided to other complicated systems campus-wide.

Campus Law Enforcement:

Dawson Community College does not employ campus police or campus security officers. Alleged criminal incidents are referred to the Glendive City Police Department or the Dawson County Sheriff Department. Dawson Community College does not have an official memorandum of understanding in place with the Glendive City Police Department or the Dawson County Sheriff Department. Glendive City Police Department and the Dawson County Sheriff Department respond quickly to requests made to them. Glendive City Police Department and the Dawson County Sheriff Department do have the authority to issue citations and make arrests on Dawson Community College's campus for crimes that are committed.

Dawson Community College does not have officially recognized student organizations at Non-campus locations for example there are no Greek organizations at Dawson Community College.

Campus Security Authorities:

Students and employees should report criminal offenses described in the annual Clery report to designated Campus Security Authorities (CSAs) or local law enforcement for the purpose of making timely warning reports and annual statistical disclosure. Under the Clery Act, DCC must designate certain individuals as CSAs. CSAs are officials who have significant responsibility for student and campus activities, individuals responsible for security, and individuals designated to receive crime reports. At DCC, the CSAs include the President, Title IX Coordinator 406-377-9412, Athletic Director, and Dean of Student Success, Dean of Academics. Clery Crimes are to be reported to the Office of Academic and Student Affairs or the Title IX Coordinator.

Students may contact any CSA for appropriate assistance in reporting crimes. Confidentiality of crime reports made to CSAs cannot be promised. Clery requires statistical reporting, but CSAs are also reporters under the requirements of Title IX and as such, may not be able to maintain confidentiality. Identified CSAs are provided yearly training as needed and in 2021 training provided through the D. Stafford and Associates "Campus Security Authority Online Training Program".

Timely Warning

The Timely Warning policy is established by Dawson Community College in compliance with the Higher Education Opportunity Act and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, (the Clery Act) to provide emergency response and notification guidelines for our campuses. The policy applies to all College faculty, staff, students, and visitors. DCC is not required to issue a timely warning with respect to crimes exclusively reported to a Pastoral or Professional Counselor.

The policy applies to all College faculty, staff, students, and visitors. DCC is not required to issue a timely warning with respect to crimes exclusively reported to a Pastoral or Professional Counselor.

DCC Title IX Coordinator issues timely warnings as soon as the pertinent information is available. Timely warnings are issued to aid in preventing similar crimes, enable people to protect themselves, and may seek information that may lead to an arrest or conviction of an offender.

DCC Title IX Coordinator is responsible for determining if a timely warning will be issued once notified that a Clery Act crime has been reported to a campus security authority, or local law enforcement.

The Title IX Coordinator or his/her designee is authorized to make any final judgment call in cases where this policy does not clearly apply or in cases when the protocol changes as the emergency situation unfolds.

Timely Warnings are disseminated using a variety of methods to include, but not limited to:

- Mass email notifications

When deciding whether to issue a Timely Warning, the primary considerations are

1. the nature of the crime and
2. whether there is a continuing danger that members of the campus community may become victims of a similar or related crime.

These warnings advise the community about violent crimes against persons, a series of crimes against property, or threats to persons or property in an effort to inform the community about potential risks and allow individuals to protect themselves against such risks. Timely Warnings may also provide details of the crime or threat, a description of the suspect (if known), information on who to contact about the investigation, and crime prevention tips.

A Timely Warning Notice will typically include the following, unless issuing any of this information would risk compromising law enforcement efforts:

- Date and time or timeframe of the incident
- Location
- Nature of the crime

Information that will promote safety and potentially aid in the prevention of similar crimes (crime prevention or safety tips)

- Suspect description(s)
- Police agency contact information
- Other information as deemed appropriate by the President or his/her designee

The description of subjects in a case will only be included in the notice if there is a sufficient amount of detail to describe the individual. If the only known descriptors are sex and race, then this information will not be included in the notice. DCC Title IX Coordinator works closely with individuals reporting serious crimes to ensure the victim's privacy, while also ensuring the community has adequate information regarding potential risks. The names and identifying information of victims will not be released in a Timely Warning.

Emergency Notifications

The Emergency Notification policy is established by Dawson Community College in compliance with the Higher Education Opportunity Act and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, (the Clery Act) to provide emergency response and notification guidelines for our campuses. The policy applies to all College faculty, staff, students, and visitors.

Policy

This policy covers internal electronic mass communications to Dawson Community College faculty, staff, and students in emergency circumstances. Emergency notifications are those electronic messages that are intended to inform the community regarding an ongoing emergency. Electronic messages include but are not limited to the following: text, social media, email, website messages and telephone. DCC uses email as its official form of communication. The institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Dawson Community College must exercise appropriate control over electronic communications in order to properly maintain network performance, limit the number of unsolicited email messages, and prevent desensitization that could inhibit the communication of critical information. As a result, the use of College's designated emergency communication will be limited to emergency notifications and timely warnings, weather-related events, and important time-sensitive announcements (as described below). The President, the Vice President for Human Resources/Title IX Coordinator, and the Dean of Student Success or his/her designee, are authorized to make any final judgment call in cases where this policy does not clearly apply or in cases when the protocol changes as the emergency situation unfolds. Any individual who is deemed in violation of this policy may be subject to disciplinary action.

Emergency Notification Procedures

Reporting Emergencies

Individuals should report all emergencies by calling the local Police Department.

- At Dawson Community College: Contact Main Office 406-377-9400
- In the case of a crime in progress, an emergency medical incident or a confirmed fire call all faculty, staff, and students are authorized to call 911 to report the incident

General Information

Dawson Community College faculty, staff, and students are strongly encouraged to activate and maintain regular access to College-provided electronic mail accounts. Dawson Community College faculty, staff, and students are expected to access electronic mail to obtain official College communications.

Significant Emergencies

Emergency Notifications are required to immediately notify the campus community of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus. An "immediate" threat as used here encompasses an imminent or impending threat.

Examples of significant emergencies when an Emergency Notification may be issued:

- Approaching weather such as a tornado, flood, or hurricane
- Earthquake
- Gas leak
- Terrorist incident
- Armed intruder
- Bomb threat
- Civil Unrest
- Explosion
- Outbreak of meningitis, norovirus, or other serious illness

Initial emergency communications will be sent immediately and will convey only the most critical information. Details will be carried on the college's website, which will be updated as circumstances dictate.

Communication Methods

The Dawson Community College Emergency Notification System allows the College to contact the members of the College community in the event of an emergency by employing any of the following available techniques: Email will still be the official communication method of DCC during emergencies.

1. Text message
2. E-mail
3. Social messaging networks
4. Video monitors
5. College website
6. Audible signals and loudspeaker systems from some of our campus buildings
7. College Marquee
8. TV and radio media
9. Person-to-person communications

The actual method(s) of communication used will be based on the particular emergency. It is imperative that contact information is accurate and up to date in order for students and staff to receive some forms of emergency notifications.

Because the intent of the notification is to enable members of the College Community to protect themselves, the notification should include information necessary to promote safety. Authorized personnel (The President, Vice President for Human Resources/Title IX Coordinator, and the Dean of Student Success or his/her designee) will determine how much information is appropriate to disseminate at different points in time. Generally, an Emergency Notification should include:

1. Date and time or timeframe of the Emergency or Dangerous Situation;
2. A brief description of the Emergency or Dangerous Situation;
3. Proactive steps for the College Community to take in order to maintain their health and safety (e.g., shelter in place or avoid outdoor activities);
4. Suspect description(s) when deemed appropriate and if there is sufficient detail; and
5. Other information as deemed appropriate by the authorized personnel.

Further, authorized personnel will determine the appropriate segment or segments of the College Community to receive the Emergency Notification based on which segments of the College Community need information about the Emergency or Dangerous Situation. Generally, the College will send the entire College Community an Emergency Notification. If sending the Emergency Notification to some members of the College Community and not others becomes necessary then the authorized personnel will consider: the type of Emergency or Dangerous Situation; the location; the segments of the College Community most likely to be affected; and the possibility that the Emergency or Dangerous Situation will become more dangerous.

If there is an immediate threat to the health or safety of students or employees occurring on campus DCC will follow its emergency notification procedures and is not required to issue a timely warning based on the same circumstances. Further, if circumstances change and a Timely Warning is appropriate it may be sent. Adequate follow-up information will be provided to the community as needed.

Post Emergency Communication

The College will issue an “all clear” message to convey the College’s return to normal operations to all faculty, staff and students via College assigned email accounts. A Timely Warning may not serve as the “all clear” (See table on next page for clearer understanding of when to use Timely Warning and Emergency Notification).

Authorized Users

Authorized users of the emergency notification system are:

- The President
- The Vice President for Human Resources and Advancement
- Dean of Student Success
- Director of Business Operations
- Director of Facilities
- Director of Athletics

Other users may be temporarily designated by these authorized users as required in an emergency.

Annual Testing

The emergency notification system will be tested annually. Procedures will be publicized in conjunction with the annual test. Additional testing may be conducted as part of drills and exercises, or as necessary.

Building Evacuation

If you hear an alarm or an administrator tells you to evacuate, evacuate immediately.

- **DO NOT HESITATE.** Do not take any personal belongings with you.
- Facilitate an orderly evacuation of the building or area.
- **DO NOT USE ELEVATORS DURING A FIRE OR AFTER AN EARTHQUAKE.**
- Assist those requiring assistance during the evacuation (children, persons with disabilities, etc.).
- When possible, close doors as you leave the room or office. Do not lock inside doors.
- Follow the evacuation route outlined on the map posted in your classroom or office.
- Walk quickly to the nearest exit and alert others to do the same.
- **MOVE AT LEAST 500 FEET AWAY FROM THE BUILDING(S) TO A SAFE AREA.**
- Wait quietly and calmly. Ensure that evacuees group at designated assembly points.
- Make sure no one is missing from your area.
- If anyone is missing, notify emergency personnel.
- Give official information and directions as soon as possible.
- **DO NOT INTERFERE WITH EMERGENCY VEHICLES OR STAFF.**
- **DO NOT BLOCK FIRE LANES OR FIRE HYDRANTS.**
- **DO NOT RE-ENTER THE BUILDING(S) FOR ANY REASON UNTIL INSTRUCTED TO DO SO BY EMERGENCY PERSONNEL OR CAMPUS ADMINISTRATION.**
- Stay in place until an “all clear” is issued by emergency personnel or administration.

Possible Evacuation Assembly Sites (If necessary):

For the Main Building:

- Outside: Upper Main Parking Lot
- Inside: DCC gym and/or Toepke Center gym

Campus Evacuation:

- Good Weather: DCC Baseball Complex
- Bad Weather: To Be Announced

Housing Evacuation:

- Good Weather: Housing Parking Lot
- Bad Weather: DCC gym and/or Toepke Center gym

Statement of Policy Prohibiting Dating Violence, Domestic Violence, Sexual Assault and Stalking

Dawson Community College (DCC or the college) prohibits domestic violence, dating violence, sexual assault and stalking (as defined by the Clery Act) and reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the college community. Toward that end, the college issues this statement of policy to inform the campus community of our programs to address domestic violence, dating violence, sexual assault and stalking as well as the procedures for institutional disciplinary action in cases of reported dating violence, domestic violence, sexual assault, or stalking, which will be followed regardless of whether the incident occurs on or off campus when it is reported to the Title IX Coordinator.

Retaliation is prohibited

It is central to the values of DCC that any individual who believes they may have been the target of unlawful discrimination or harassment, sexual assault, domestic violence, dating violence or stalking feel free to report their concerns for appropriate investigation and response, without fear of retaliation, retribution or discrimination. As such, the college policy prohibits retaliation against an individual for opposing any practices forbidden under DCC Policy, including; bringing a complaint of discrimination or harassment, sexual assault, domestic violence, dating violence or stalking for assisting someone with such a complaint, for attempting to stop such a behavior, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment, sexual assault, domestic violence, dating violence or stalking.

DCC recognizes that these issues can impact all in our community regardless of their sex, gender, gender identity, gender expression, or sexual orientation. Policies, procedures and campus services are available to all victims.

Throughout this document, the term victim will be used regarding anyone who experiences a Clery-covered crime. The College recognizes that individuals may use a variety of terms to describe themselves and their experience.

How to Report to the College

The College has designated the Human Resource Office which houses the Title IX Coordinator to oversee the College's compliance with state and federal civil rights laws, including law covering sexual assault, dating violence, domestic violence, stalking, and retaliation. The College has policies that prohibit, among other forms of discrimination and harassment, sexual assault, dating violence, domestic violence, stalking and retaliation. These policies apply to all faculty, staff, students, and visitors accessing College programs and services. Violations of these policies will be addressed through grievance procedures which apply to all faculty, staff, students and visitors. Consequences for violating these policies will depend on facts and circumstances of each situation. The full policies and procedures can be found on the college website at <https://www.dawson.edu/about/policies-procedures.html>. Grievance procedures are found in the Collective Bargaining Agreements for faculty and staff. Contact Human Resources for a copy of this document.

Reports of sexual assault, domestic violence, dating violence and stalking to the Title IX Coordinator may be made in several ways:

- Call: (406) 377-9412 and leave a private voice message.
- Email: dnyberg@dawson.edu
- Online reporting: <https://www.dawson.edu/about/title-ix.html> Click on the report button at the top of the page.
- Visit: Daisy Nyberg, Room 111, Administration Hallway, Main Building

Anonymous and Third-Party Reporting

The Title IX Coordinator accepts anonymous and third-party reports of conduct and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX coordinator to investigate and respond as appropriate. The Title IX Coordinator may be limited in the ability to investigate an anonymous report or a third-party report unless enough information is furnished to conduct a meaningful and fair investigation.

Required Reporting to Title IX by College Employees

In order to enable the College to respond effectively and to proactively stop instances of sexual assault, dating violence, relationship violence, and stalking involving students, all College employees must, within 24 hours of receiving the information, report all information they have received involving students to the Title IX Coordinator. This includes names of involved individuals and any other details such as time and location.

How to Report to Law Enforcement

Victims have the option to notify law enforcement. Contacting police will be confidential and does not require a victim to file a report or pursue criminal charges against the offender. It is the victim's choice whether to make such a report. Furthermore, victims have the right to decline to notify law enforcement. However, the Title IX Coordinator will assist any victim with notifying law enforcement if the victim so desires.

- Glendive Police Department 911 377-2364
- Dawson County Sheriff's 911 377-5291
Department

After you call the police, you will receive a call back from an officer. Officers can explain the options for medical exams, counseling, advocacy, and the processes for reporting assaults as crimes, police will arrange for a victim advocate, at victim's request we will investigate your assault as a crime, leaving your options open, gather the best evidence possible for later criminal proceedings, if that is your choice. Victims have the right to:

- Pursue action through both the college's process and the criminal process
- Pursue action only through the college's process
- Report to the police and decline to pursue further action by law enforcement
- Seek confidential support on campus through confidential resources listed below
- Report to the Title IX Coordinator and decline to pursue further action
- Report anonymously
- Do none of the above (victims are still encouraged to seek support)

Confidential Campus and Community Resources

There are several resources available on campus and in the community that provide free, confidential support to victims of sexual misconduct, dating or domestic violence, and stalking. These resources can help you report to the college or to the police if you so choose.

ON CAMPUS/Community	Service Provider	Contact Information
Visa and Immigration Assistance	Registrar	Virginia Boysun Room 127 Main Building 406-377-9404 vboysun@dawson.edu
Student Financial Aid	Financial Aid Office	Jennifer Almli Room 104 Main Building 406-377-9410 jalmlj@dawson.edu
Mental Health/Counseling Health	One Health	Amanda Vanorsdale Room 145 Main Building 406-351-3814

Health	Dawson County Health Department	406-377-5213 207 West Bell Street Glendive, MT 59330
Health	Glendive Medical Center	406-345-3306 202 Prospect Drive Glendive, MT 59330
Mental Health/Counseling	Mental Health Center	406-377-6075 313 Valentine Glendive, MT 59330
Victim Advocacy	Domestic Violence – Date Rape	377-6477 or 989-1318 122 Bell Glendive, MT 59330

College Procedures and Practices in Response to a Report

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

If domestic violence, dating violence, sexual assault or stalking is reported to the college, below are the procedures that the college will follow:

1. The college will contact the victim and provide a written explanation of rights and options
2. As needed, the college will aid victim in obtaining medical care
3. The college will assess immediate safety needs
4. The college will assist a victim, if requested, with contacting police and will provide the contact information for the police department
5. The college will provide information on how to preserve evidence
6. The college will provide referrals to on- and off-campus mental health providers
7. The college will assess need to implement interim or long-term protective measures or accommodations if appropriate
8. If deemed appropriate, the college will provide a campus “no contact” directive to involved parties. A “no contact” serves as a warning that any contact between parties can be grounds for a student conduct proceeding
9. If deemed appropriate, the college will provide a “no trespass” to the responding party, limiting access to campus property
10. The college will provide written instructions on how to apply for court ordered Protective Order

11. The college will provide a copy of its Sexual Misconduct Policy and Procedures and will inform parties about timeframes for inquiry, investigation and resolution
12. If a campus formal investigation is initiated by the Title IX Coordinator, the college will inform both parties that the standard of review is the preponderance of evidence, and of the outcome of the investigation. DCC will follow their Title IX Process Overview for a Title IX Report or a Title IX Formal Complaint.
13. The college will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation

Written Notification about Rights and Reporting Options

When the Title IX Coordinator receives a report that a student or employee has experienced dating violence, domestic violence, sexual assault, or stalking, whether the offense occurs on or off campus, they will provide a written notification through email to the complainant about the campus policy and procedures, rights and reporting options, notice of available assistance on and off campus, and notice of how to request interim accommodations or protective measures. Such written information will include:

- The procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred.
- Information about how the institution will protect the confidentiality of victims and other necessary parties.
- A statement that the institution will provide written notification to students and employees about victim services within the institution and in the community.
- A statement regarding the institution's provisions about options for, available assistance in, and how to request accommodations and protective measures.
- An explanation of the procedures for institutional disciplinary action.

Written Notification about Services Available for Victims

When the Title IX Coordinator receives a report that a student or employee has experienced dating violence, domestic violence, sexual assault, or stalking, whether the offense occurs on or off campus, they will provide a written notification through email to the complainant with information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community.

Written Notification about Accommodations and Protective Measures Available to Victims

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, the College will provide written notification to students and employees about College accommodations that may be available, how to get assistance in requesting accommodations, and how to request accommodations and protective measures (i.e., the notification will include the name and contact information for the individual or office that should be contacted to request the accommodations). Possible accommodations relate to academic, living, transportation, protective orders and working situations.

At the victim's request, and to the extent of the victim's cooperation and consent, College offices will work cooperatively to assist the victim in obtaining accommodations. If reasonably available, a victim may be offered changes to academic, living, transportation, protective orders and working situations regardless of whether the victim chooses to report the crime to local law enforcement. DCC at this time does not have campus security or police that a victim could choose to report to.

Examples of options for a potential change to the academic situation may be to transfer to a different section of a class or take a class at a future time if there is no option for moving to a different section, etc. Potential changes to living situations may include moving to a different room or residence hall. Possible changes to work situations may include changing working hours. Possible changes in transportation may include having the student or employee park in a different location, assisting the student or employee with a safety escort, etc. The notification describes that the College will provide interim accommodations or protective measures if the complainant requests them and they are reasonably available regardless of whether a complainant chooses to report to the police or start a formal College investigation.

To request changes to academic, living, transportation and/or working situations or protective measures, a victim should contact the Title IX office. If the victim wishes to receive assistance in requesting these accommodations, they should contact The Title IX Coordinator who will oversee fulfilling the College obligation to implement measures to ensure the safety of the complainant and that the complainant's educational experience is not jeopardized.

Written Notification about Resources and Interim Protective Measures to the Campus Community

In addition to assuring the Title IX Coordinator provides information to victims upon receipt of a report, the College also regularly provides written information to all members of the campus community through the Clery Report, Student Handbook, Catalog, Residence Life Manual and a website that raises awareness about sexual harassment and sexual assault and provides suggested steps for what someone should do if they have been sexually assaulted. It describes the College policy on dating violence, domestic violence, sexual assault, stalking, and sexual harassment, and options for reporting to the Title IX Coordinator, to law enforcement. Numerous resources are also provided with contact information, addresses, phone numbers, email addresses, and websites.

Rights of Victims and the Institution's Responsibilities for Orders of Protection, "No Contact" Orders, Restraining Orders, or Similar Lawful Orders Issued by a Criminal, Civil, or Tribal Court or by the Institution

An Order of Protection is a civil court order that is designed to stop violent and harassing behavior by placing limits on the conduct of and contact from the abuser. It is meant to protect a victim and their family members from someone who has: harmed or threatened to harm them, who has stalked them or who has sexually assaulted them, and of whom the victim is afraid. The College complies with Montana law and federal law to give full faith and credit to Orders of Protection issued by the State of Montana or any other state, tribal authority, or territory. Any individual who already has or obtains a court Order for Protection should provide a copy of the Order to the Office of the Title IX Coordinator in coordination with the Dean of Student Success and the Dean of Academics. A person may meet with the Title IX Coordinator before or after obtaining an Order of Protection to develop a Safety Action Plan, which is a plan to identify ways the College can assist the victim to reduce risk of harm while on campus, or when coming and going from campus. This plan may include, but is not limited to: campus escort, special parking arrangements, changing classroom location or allowing a student to complete assignments from home, etc. Police can enforce a court Order for Protection on College property and may be able to arrest a person for violating it.

The college cannot apply to the court system for an Order of Protection for a victim. The victim is required to apply directly for these services themselves.

Type of Order	Who Can File	Court	Based Upon
---------------	--------------	-------	------------

The victim may contact the College to request a “Trespass Notice” to keep a person from entering or remaining on the College campus, in specific College buildings or at College sanctioned events. The College may issue an institutional No Contact Directive between individuals if deemed appropriate. The No Contact Directive is a warning to individuals not to contact the other in any manner on or off campus. If the College receives a report that such an institutional No Contact Directive has been violated, the College will initiate disciplinary proceedings and will impose sanctions if the accused is found responsible for violating the no contact order. Consequences for violating this policy will depend on facts and circumstances of each particular situation. Contact the Title IX Coordinator at (406) 377-9412 or email dnyberg@dawson.edu to discuss these College options and to make a Safety Action Plan.

Confidentiality of Complaints and Report

The College is committed to protecting the privacy of all individuals involved in an investigation and resolution of a report under this campus policy. The College is also committed to providing assistance to help students, employees, and third parties make informed choices. With respect to any report under this policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. However, federal law dictates that the alleged perpetrator must be notified that an investigation is being conducted. DCC does not allow retaliation.

The integrity of any investigation process depends on ensuring reasonable expectations of confidentiality. Federal laws require timely notification to the alleged perpetrator and the victim. The College will keep confidential the complaint, report, witness statements, and any other information provided by the complainant, respondent, or witnesses and will disclose this information only to these parties: to the complainant, respondent, witnesses, or appeals committee as necessary to give fair notice of the allegations and to conduct the investigation and appeal; to law enforcement consistent with state and federal law; to other College officials as necessary for coordinating interim measures or for health, welfare, and safety reasons; and to government agencies that review the College’s compliance with federal law.

If a reporting party or complainant requests that an investigation not be conducted, the Title IX Coordinator will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and members of the campus community. If there is a compelling reason the Title IX Coordinator is required to investigate further.

Pursuant to the Clery Act, the College includes statistics about Clery-reportable offenses in this Annual Security Report and provides those statistics to the U.S. Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the College to issue timely warnings or emergency notifications to the College community about certain crimes that have been reported and may continue to pose a serious or continuing threat to students and employees. Consistent with the Clery Act, the College withholds the names and other personally identifying information of complainants when issuing timely warnings or emergency notifications to the campus community.

The College will also 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. For example, information related to a report of prohibited conduct will be shared with a limited circle of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College’s response to reports of prohibited conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. Please note that victims may request that directory information on file with the College be withheld by submitting a request to the Registrar’s office.

FERPA and HIPPA Privacy

The College follows state and federal law regarding student records. The privacy of student educational records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (HIPAA).

What to Do If You Experience Sexual Assault, Dating Violence, Domestic Violence or Stalking

Your safety is important. What happened was not your fault. The following are options you can consider. If you are helping someone who is a victim, support their decisions and try not to tell them what to do. Find ways to help them make decisions for themselves.

Seek Support from Confidential Resources: As a first step to take care of yourself and learn about options, you can talk to anyone on the list of confidential resources listed above. They can assist with counseling and may help you decide how and to whom to report. Additional resources are available on the website at <https://www.dawson.edu/about/title-ix.html>.

Preserving Evidence: Evidence may assist in proving a criminal offense occurred or may be helpful in obtaining an Order of Protection. Evidence might include pictures of injuries, social media posts, text messages, emails, or other photos. In cases of sexual assault, medical forensic evidence may be collected within 120 hours of the assault by specially trained sexual assault nurse examiners. In Glendive contact the Glendive Police Department and you can get a medical forensic exam at the Glendive Medical Center. You may request an exam and forensic evidence collection at no cost and without having to file a police report. In the state of Montana, evidence may be collected and held for a year even if you choose not to make a report to law enforcement. Effort should be made to preserve anything that may have the perpetrator’s DNA prior to the collection of medical evidence. If you can avoid it, it is best not to use the bathroom, shower, change clothing, brush hair, smoke, brush teeth or clean up the area where the assault occurred. If you do change clothes, put all clothing you were wearing at the time of the assault in a paper bag (no plastic bags).

Seek Medical Attention: After an incident of sexual assault, dating violence, or domestic violence, you should consider seeking medical attention as soon as possible to treat any injury, get screened for sexually transmitted infections, pregnancy or to seek the medical collection of evidence.

Develop a Safety Plan: Speak with the Title IX Coordinator. For an appointment contact (406) 377-9412 or email dnyberg@dawson.edu

Consider Reporting to Police or the Title IX Coordinator: It is your choice whether to report to police and or to the campus Title IX Coordinator. Reporting to police and moving forward with an investigation can potentially lead to criminal consequences for the person who harmed you. Reporting to the Title IX Coordinator and choosing to move forward with a campus investigation can lead to College Student Conduct Code or personnel consequences for the individual who harmed you. The Title IX Coordinator will also assist you in notifying police if you so choose; this is up to you and you may decline to report to police. Please be aware that as time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining court Order of Protection related to the incident more difficult. If you decline to begin an investigation, you should nevertheless consider speaking with police to preserve evidence in the event you may later wish to pursue an investigation.

Adjudication of Violations: Types of Disciplinary Proceedings in Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault and Stalking

As noted, the College policies BP 2-7 and BP 3-5 prohibit, among other forms of discrimination and harassment, sexual assault, dating violence, domestic violence, stalking and retaliation. These policies apply to all faculty, staff, students, and visitors accessing College programs and services. Violations of this policy will be addressed through the grievance procedures which apply to all faculty, staff, students and visitors. Consequences for violating these policies will depend on facts and circumstances of each situation. The full policies and procedures can be found on the college website at <https://www.dawson.edu/about/policies-procedures.html>. Grievance procedures are found in the Collective Bargaining Agreements for faculty and staff. Contact Human Resources for a copy of this document.

The College's disciplinary process includes a prompt, fair, and impartial investigation and resolution process. In all instances, the process will be conducted in a manner that is consistent with the institution's policy and that is transparent to the accuser and the accused. The resolution of domestic violence, dating violence, sexual assault, and stalking complaints will be completed within a reasonable time frame of the initial report. However, each proceeding allows for extensions of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay. The accused and the accuser will be informed throughout the process. College officials involved in the investigation or adjudication of domestic violence, dating violence, sexual assault and stalking complaints are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking as well as how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability. Furthermore, each policy provides that:

1. The accuser and the accused will have timely notice for meetings at which the accuser or accused, or both, may be present. The accuser, the accused and appropriate officials will have timely and equal access to any information that will be used during formal and informal disciplinary meetings and hearings.
2. The institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the accuser or the accused.
3. The accuser and the accused will have the same opportunities to have others present during any institutional disciplinary proceeding. The accuser and the accused each have the opportunity to be advised by an advisor of their choice at any stage of the process and to be accompanied by that advisor to any related meeting or proceeding. The College will not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional

disciplinary proceeding. However, the role of the advisor is limited. An advisor may only consult and advise their advisee, but not speak for the advisee at any meeting or hearing except during cross examination.

4. The accuser and the accused will be notified simultaneously, in writing, of any initial, interim and final decision of any disciplinary proceeding.
5. The accuser and the accused will be notified simultaneously in writing, of the procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding. When an appeal is filed, the accuser and the accused will be notified simultaneously in writing of any change to the result prior to the time that it becomes final, as well as of the final result once the appeal is resolved.

Whether or not police are contacted, or criminal charges are filed, the College or a person may file a complaint with the Title IX Coordinator.

Policy Definitions

The College's Policy prohibits and defines sexual assault, dating violence, domestic violence, and stalking in addition to other acts of sexual misconduct and sexual harassment. Note that College policy definitions may differ from Clery Act definitions and Montana State law. Under the policy, sexual assault, inducing incapacitation for sexual purposes, sexual exploitation, dating and domestic violence termed "relationship violence," and stalking are prohibited.

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

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

1. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. For the purposes of this definition—
 - a. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence

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

- A. By a current or former spouse or intimate partner of the victim;
- B. By a person with whom the victim shares a child in common;
- C. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- D. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the
- E. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, A sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest: Sexual intercourse between persons who are related to each other within the degrees of marriage, is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

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

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

B. Suffer substantial emotional distress.

For the purposes of this definition—

A. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

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

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

Institutional Definition of Consent

"Consent" means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. The institutional definition stated above reflects compliance with Montana State Law 45-5-501 Definitions.

How to File a Disciplinary Complaint under this Policy

Reports from victims, third-parties, and anonymous reports of sexual assault, domestic violence, dating violence and stalking should be made to the Title IX Coordinator may be made in several ways:

Call: (406) 377-9412 and leave a private voice message.

Email: dnyberg@dawson.edu

Online reporting: <https://www.dawson.edu/about/title-ix.html> Click on the report button at the top of the page.

Visit: Daisy Nyberg, Room 111 Administration Building

How the College Determines Whether This Policy is Used

The Policy provides jurisdiction for the Title IX Coordinator to investigate complaints or reported sexual assault, stalking, dating violence, domestic violence, and retaliation involving students, faculty or staff. If the Title IX Coordinator determines that there is no jurisdiction under the policy, the Title IX Coordinator will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate campus and off-campus resources for addressing issues of concern.

Steps in Formal Disciplinary Process

Step 1: Title IX Coordinator discusses concerns with Complainant, and the Respondent as appropriate, including providing information about the policy and procedures and other helpful resources. Title IX Coordinator also considers whether immediate or interim actions or involvement of other College offices is appropriate. Title IX Coordinator determines whether the office has jurisdiction to investigate the matter. The Title IX Coordinator only has jurisdiction to investigate complaints alleging discrimination, harassment, sexual misconduct, dating violence, domestic violence, sexual assault, stalking, and retaliation.

Option 1: If the Title IX Coordinator determines that there is no jurisdiction, the Title IX Coordinator will offer to assist the Complainant and, as appropriate, the Respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.

Option 2: If the Title IX Coordinator determines that there is jurisdiction, the Title IX Coordinator will proceed to Step 2.

Step 2: The Title IX Coordinator conducts or oversees the conducting of a fair, thorough, and impartial investigation of the alleged Policy Violation. Impartial means the Title IX Coordinator and the investigator(s) do not have any conflicts of interest or biases that could affect the outcome of the investigation. The Title IX Coordinator will make best efforts to conduct the investigation within a timely manner. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution time frame. Only a trained investigator will conduct an investigation. Respondents will have the opportunity to review and respond to evidence considered against them.

Step 3: Title IX Coordinator manages the process from start to finish. After the investigation, the Title IX coordinator will coordinate a hearing panel appointed by the President to determine whether the respondent(s) is responsible for the allegations of prohibited conduct. The Chair of the Hearing Panel is responsible for writing the final report. The Chair will make the final decision in the event that the Hearing Panel does not reach consensus.

Anticipated Timeframe

The Title IX Coordinator will share information about how to file reports of Prohibited Conduct, for disseminating the Policy and Procedures and non-discrimination notices, for coordinating responses to reports of Prohibited Conduct, for ensuring that the Grievance Procedure provides for prompt and equitable resolution of Formal Complaints of Prohibited Conduct, for ensuring that investigators, Advisors, Hearing Panel members, and all other College officials facilitating an Informal Resolution or Formal Grievance Proceeding are properly trained, and for ensuring effective implementation of any remedies. The Title IX Coordinator will make every effort to see that an investigation is started as soon as possible once a complaint is received. The Title IX Coordinator will keep the accused and the accuser informed of the progress throughout the process.

Decision-Making Process

The Title IX Coordinator (or contracted investigators) investigates the reported violation. It will provide both parties with notice of the reported violation, an opportunity to respond, to provide any evidence including things such as text messages, photographs, physical evidence, to provide a list of potential witnesses. The Title IX Coordinator's final investigation report will be in writing and will be provided to both the Complainant and to the Respondent(s). Both parties have the opportunity to appeal the finding made in the final investigation report.

Standard of Evidence

The standard of evidence used in determining whether an accused has violated the policy is the preponderance of evidence standard.

Possible Student Sanctions

The Office for -----the Dean of Student Success is charged with imposing disciplinary sanctions for students who are found to have violated the College's Policy for dating violence, domestic violence, sexual assault, stalking, sexual harassment, or any other form of sexual misconduct. As outlined in the Policy, the possible sanctions that may be applied are the same as those described in the Student Conduct Code.

Disciplinary records for violations of the Policy are maintained in the same manner as other student disciplinary records. Both the complainant and respondent will simultaneously be informed of the outcome of any institutional disciplinary action arising from allegations of domestic violence, dating violence, sexual assault, or stalking, and the procedures to appeal.

Sanctions may include one or more of the following:

- **Disciplinary probation:** A designated period of time during which the respondent is not in good standing with the College. The terms of disciplinary probation may involve restrictions of privileges and/or set specific behavioral expectations;
- **Restriction from employment at the College:** Prohibition of or limitation on College employment;
- **Class/Workshop/Training/Program attendance:** Enrollment in and completion of a class, workshop, training, or program that could help the respondent or the College community;
- **Educational project:** Completion of a project specifically designed to help the respondent understand why certain behavior was inappropriate and to prevent its recurrence;
- **College housing transfer or removal:** Permanent placement in another room or housing unit or removal from College housing. Housing transfers or removals may be for a specified time (e.g., a year) or permanent depending on the circumstances;
- **Removal from specific courses or activities:** Suspension or transfer from courses or activities at the College for a specified period of time or permanently
- **Banning from all or specific College activities and events:** The College may prohibit an individual from attending College sponsored activities either on or off campus;
- **Permanent No Contact:** Restriction from entering specific College areas and/or from all forms of contact with certain persons;
- **Suspension:** Separation from the College for a specified period of time or until certain conditions are met;
- **Expulsion or permanent separation:** Termination of student status for an indefinite period for students or termination from employment for employees;
- **Transcript hold:** The College may prevent a student from receiving a copy of their transcript; or
- **Delay Degree Conferral:** The College may delay the conferral of the degree pending the outcome of an investigation or withhold the conferral of the degree due to a finding of

prohibited conduct. In extraordinary circumstances, the College may revoke the conferral of a degree.

College-Initiated Protective Measures

In addition to those protective measures previously described, the Title IX Coordinator or their designee will determine whether interim interventions and protective measures should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to: a College No Contact Directive, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by the College.

Policy Applicable to Employees Accused of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Please note the policies and procedures described above, the Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policies and Procedures, related to a report of sexual assault, stalking, domestic violence or dating violence apply to College faculty staff and students. The process as outlined for the DCC campus in regards to Title IX and VAWA will be followed for all students and employees. The Title IX Coordinator will notify all students, employees, and all unions holding collective bargaining agreements with the College of the identity of the Title IX Coordinator, contact information for the Office of Human Resources, Equal Opportunity and Title IX, information about how to file reports of Prohibited Conduct, for disseminating the Policy and Procedures and non-discrimination notices, for coordinating responses to reports of Prohibited Conduct, for ensuring that the Grievance Procedure provides for prompt and equitable resolution of Formal Complaints of Prohibited Conduct, for ensuring that investigators, Advisors, Hearing Panel members, and all other College officials facilitating an Informal Resolution or Formal Grievance Proceeding are properly trained, and for ensuring effective implementation of any remedies. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

A DCC investigation evaluates whether it is more likely than not that a student or employee has violated the College's Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policies. The violation may be reported directly to the Title IX Coordinator, to a trusted colleague, supervisor or via the online reporting tool found at <https://www.dawson.edu/about/title-ix.html>. The Title IX Coordinator will offer available resources and help to develop a plan of safety.

Investigation Process

A College investigation begins when:

1. a person reports a potential policy violation such as sexual misconduct to the Title IX Coordinator **and**
2. the TIX Coordinator determines there is jurisdiction **and**
3. the reporting person states that they would like to begin a formal College investigation.
In some rare instances, the College may begin a formal investigation without the reporting party requesting a College investigation. This would occur if, for example, the College received a third-party report indicating that someone may be perpetrating misconduct on multiple victims and that there is a danger to the campus community.

The trained investigators serve as unbiased, thorough, impartial investigators. An investigator is an individual who does not have a conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent; has been trained on the definitions of Prohibited Conduct, the scope of the College's jurisdiction, how to conduct a fair and impartial investigation, and on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Every attempt is made to conduct an investigation within 60 days, however there are times when gathering evidence will take longer. The Title IX Coordinator will keep all parties informed of the progress of the case. The College investigation is an administrative process and is not the same as a legal civil or criminal process. The College investigation looks into whether the College Discrimination policy has been violated. Under the policy, individuals are presumed not to have violated the policy unless the investigator finds a preponderance of evidence that the policy was violated. A preponderance of the evidence standard weighs whether it is more likely than not that a policy violation occurred.

Equitable Rights of Parties to an Investigation

- Both parties have the right to provide their description of events, to name witnesses and to provide evidence. Both parties will be given the opportunity to review relevant evidence gathered, to respond, ask questions, to provide feedback, to additional evidence or witnesses.
- Both parties have the right to have a "person of support" (advisor) accompany them at meetings with the investigator. This may include a supportive friend, a trusted faculty member, an employee, a parent, a union representative (if applicable) or an attorney.
- Both parties will be notified in writing of the outcome of the investigation. The investigator makes every effort to complete the investigation within 60 days, however, the gathering of evidence may require additional time.
- Both parties have the right to appeal the finding to the DCC Hearing Panel.

The following outlines the process of the investigation, hearing and resolution:

1. Report (Not a Formal Complaint))

- a. Title IX Coordinator begins record to track progression of case
- b. Provides written notification to the complainant with information about supportive measures and engages in an interactive process to determine what measures are needed and wanted. Note: Supportive measures must be free, available for both complainant and respondent, cannot UNREASONABLY burden one party, cannot be punitive or disciplinary,
- c. Written notification includes how to file a formal complaint, provides explanation of grievance process, resources on and off campus, rights and options, assistance with filing a police report. Provides VAWA/Clery notice.

2. Formal Complaint

- a. Complainant files & signs a formal complaint (requesting an investigation) to the Title IX Coordinator to initiate the grievance process; or
- b. Title IX Coordinator files & signs a formal complaint (requesting an investigation) when there is a reluctant complainant, and the institution has a compelling reason to investigate further.

3. Written Notice

- a. Written notice of the formal complaint (charges) and investigation will be provided concurrently to both parties;

- b. Information about the grievance process, rights of both parties, supportive measures, preservation of evidence, & other reporting options (e.g. law enforcement) will be provided to both parties; and
- c. The respondent is presumed not responsible for the alleged conduct & a determination of responsibility will be made at the conclusion of the Grievance Process.
- d. Ongoing notice about all meetings a party may be invited to attend.

4. Evidence Gathering

- a. Both parties may respond in writing and through interviews to provide statements and accounts of alleged conduct.
- b. Both parties may have an advisor of choice present and campus will provide someone if needed;
- c. Both parties may present information & evidence, provide names of fact or expert witnesses relevant to the investigation, and submit to the investigator questions they would like asked of witnesses or parties; and
- d. Investigators will interview relevant & available witnesses.
- e. Investigators should communicate with the parties that there are no institutional restrictions on either party to discuss the allegations, gather and present relevant evidence, or identify facts or expert witnesses relevant to the investigation.
- f. There are restrictions on privileged information: Institutions must not access, consider, disclose, or otherwise use a party's medical or mental health records (e.g. maintained by a physician, psychiatrist, psychologist, or other recognized professional treating or assisting in a medical or mental health capacity), unless the institution obtains that person's (or parent/guardian, if applicable), voluntary, written consent to do so.

5. Investigation Report

- a. Investigators will share a copy of all evidence obtained, & a draft of the investigation report concurrently with both parties (and each party's advisor) to have an opportunity to inspect & respond; and
- b. The completed investigation report and access to all evidence obtained will be provided concurrently to both parties (and each party's advisor) prior to the hearing.

6. Live Hearing

- a. In order for statements or evidence of a party or witness to be considered by the hearing officer in making a determination, the person must participate in the live hearing, and submit to questions & cross-examination; and
- b. The hearing officer can ask questions of parties & witnesses, and the party's advisor will conduct direct-& cross-examination (relevant questions only) of the other party & witnesses. If a party doesn't have an advisor, the College will provide one.

7. Determination

- a. The hearing officer (Chair) is responsible for rendering a written determination of responsibility & sanctions (if applicable) based only on statements & evidence of the parties & witnesses that participated in the hearing; and
- b. The hearing officer will provide a copy of the written determination concurrently to both parties.

8. Appeal

- a. Either party may appeal (a) the hearing officer's determination of responsibility, or (b) the College's dismissal of a formal complaint (see below)
 - i. Procedural irregularity that affected the outcome of the matter;

- ii. New evidence that was not reasonably available at the time of determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- iii. The Title IX Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against the parties (generally, or specifically in this matter) that affected the outcome of the matter.
- iv. Both parties will be notified concurrently in writing when an appeal has been filed, & the appeal procedures will apply equally for both parties. The non-appealing party will have an opportunity to submit a written response in support or opposition to the outcome; and
- v. The appellate officer will render an independent written determination concurrently to both parties.
- vi. This determination can be appealed to the Commissioner of Higher Education.

9. Formal Complaint Dismissals

- a. The College may dismiss the formal complaint at any time prior to a determination of responsibility due to requirements under Title IX, non-applicability to the policy, insufficient evidence to make a determination, or a complainant withdraws the formal complaint. Both parties will receive notice if a dismissal is rendered.

10. Informal Resolution Option

- a. An alternative to the formal grievance process (outlined above), both parties may opt voluntarily for an informal resolution (if available). Both parties must voluntarily agree to the terms of the informal resolution after receiving notice and show consent with a signature. Failure to do so will result in continuing the formal grievance process.

11. Emergency Removals & Employee Administrative Leave

- a. A respondent may be removed from the College's education program or activity (e.g. interim suspension) on an emergency basis, due to an immediate threat of physical health or safety of a person arising from the allegations. An employee respondent may be placed on administrative leave, during the pendency of the grievance process.

Education Programs to Promote Awareness of and to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking

The College prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking. Violence prevention and education encompasses multiple strategies designed to reduce the occurrence of dating violence, domestic violence, sexual assault, and stalking. Prevention strategies involve empowering the campus community to examine, question, and change the social, cultural, political, and environmental factors that influence violence.

Programs to Prevent Domestic Violence, Dating Violence, Sexual Assault and Stalking

The College engages in programming, intended to end dating violence, domestic violence, sexual assault and stalking that:

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and that provide:

1. A statement that the institution prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking (as defined by the Clery Act);
2. The definitions of domestic violence, dating violence, sexual assault and stalking according to any applicable jurisdictional definitions of these terms;
3. What behavior and actions constitute consent, in reference to sexual activity, in Montana
4. The College's definition of consent AND the purposes for which that definition is used.
5. A description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
6. Information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence
7. Information regarding:
 - a. procedures victims should follow if a crime of domestic violence, dating violence, sexual assault and stalking occurs (as described elsewhere in this document)
 - b. how the institution will protect the confidentiality of victims and other necessary parties (as described in elsewhere in this document);
 - c. existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community (as described elsewhere in this document); and
 - d. options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures (as described elsewhere in this document);
 - e. procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking (as described in elsewhere in this document);

Specifically, the College offered the following primary prevention and awareness programs for all students in 2021.

Primary Prevention and Awareness Program	Dates	Prohibited Behavior* Covered?
--	-------	-------------------------------

AlcoholEdu: “AlcoholEdu is an online prevention education program provided by EverFi, a national company that provides prevention education programs in several areas, including drug and alcohol use and abuse, campus sexual assault, and financial literacy. AlcoholEdu provides information on the use and effects of alcohol as well as prevention and risk-reduction tips and connections with healthy sexuality and sexual violence.

Online training for all students in the Fall 2021 semester.

DoV, DaV, SA, S

Sexual Assault Prevention for Community Colleges: “Sexual Assault Prevention for Community Colleges is an online program designed to educate students about sexual assault, healthy relationships, consent, and bystander intervention.

This online program was for all students in the Fall 2021 semester

DoV, DaV, SA, S

**DoV means Domestic Violence, DaV means Dating Violence, SA means Sexual Assault and S means Stalking*

The College offered the following ongoing awareness and prevention programs for students in 2021:

Name of Program	Date Held	Location Held	Which Prohibited Behavior* Covered?
Res Life- RA Training	8/9-20/2021	Cove	DoV, DaV, SA, S
Res Life- Mandatory Kick Off Meeting	8/24/2021	Dorm grass	DoV, DaV, SA, S
Res Life 1st Floor Meeting	8/31-09/3/2021	Brueberg Hall	DoV, DaV, SA, S
Res Life 1st Floor Meeting	8/31-09/3/2021	Gibson Hall	DoV, DaV, SA, S
Res Life 1st Floor Meeting	8/31-09/3/2021	Kettner Hall	DoV, DaV, SA, S

**DoV means Domestic Violence, DaV means Dating Violence, SA means Sexual Assault and S means Stalking*

The College offered the following ongoing awareness and prevention programs for employees in 2021:

Name of Program	Date Held	Location Held	Which Prohibited Behavior* Covered?
Residence Life RA Training	8/9-20/2021	Cove	DoV, DaV, SA, S

**Campus Security Authority and
Title IX Responsible Employee**

12/2021

Online

DoV, DaV, SA, S

Institutional Definition of Consent

“Consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. The institutional definition stated above reflects compliance with Montana State Law 45-5-501 Definitions.

How to Be an Active Bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.” ^[1] We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list ^[2] of some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

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

^[2] Bystander intervention strategies adapted from Stanford College’s Office of Sexual Assault & Relationship Abuse

Risk Reduction

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one’s risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, www.rainn.org)

1. 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.
2. Try to avoid isolated areas. It is more difficult to get help if no one is around.
3. Walk with purpose. Even if you don’t know where you are going, act like you do.
4. Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn’t the best place to be.
5. Try not to load yourself down with packages or bags as this can make you appear more vulnerable.

6. Make sure your cell phone is with you and charged and that you have cab money.
7. Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
8. Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
9. When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
11. Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
12. 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, don't drink from the punch bowls or other large, common open containers.
13. 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've had, or is acting out of character, get him or her to a safe place immediately.
14. If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.). Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
15. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
 - a. **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 that is to blame.
 - b. 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 with.
 - c. 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.
 - d. 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.
16. 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?
17. 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.

Sex Offender Registration – Campus Sex Crimes Prevention Act

Montana's Sexual or Violent Offender Registration Act is designed to protect the public from sexual or violent offenders by requiring them to register with local law enforcement agencies in the jurisdiction where they reside. Information about offenders is made available to the public.

This Registry provides an up-to-date listing of sexual and violent offenders who are required to register their whereabouts. The registry can be found on the [Montana Attorney General's office](https://app.doj.mt.gov/apps/svow/) website (<https://app.doj.mt.gov/apps/svow/>).

Security Awareness and Crime Prevention:

Residence Life/Student Life personnel provide sexual assault awareness to students on Dawson Community College's campus annually. Students who live on campus are required to attend a mandatory residence hall meeting at the beginning of the school year where consent is addressed as well as information on who to contact in an emergency (residence life staff and/or local Police Departments). Dawson Community College does not have any officially recognized student organizations with off-campus locations that are monitored by the College (such as fraternity or sorority houses). The Montana University System has also entered into a contract with EverFi, which is a company that hosts online training for sexual assault prevention and bystander intervention called "Sexual Assault Prevention for Community Colleges". All incoming students at DCC are supposed to complete both parts of the training "Sexual Assault Prevention for Community Colleges".

Prevention and Awareness Efforts:

Campus Security Authorities/Mandatory Reporter Training for Clery and Title IX: All faculty, staff, and Residence Life personnel complete mandatory reporter training as well as Title IX training annually. This training is provided in a combined effort by the Compliance/Title IX Coordinator, student affairs personnel and D. Stafford & Associates "Campus Security Authority Online Training Program". All new incoming students are provided with EverFi's web-based product which is a two-part training program focusing on prevention and awareness programming as it relates to dating violence, domestic violence, sexual assault, and stalking. The mandatory first floor meetings and Residence Life Kick Off Fall 2021 provided to residents living in the Residence Halls information about the topics of.

Substance Abuse Prevention:

Dawson Community College reviews the College's drug and alcohol abuse prevention programs for students and employees biennially to determine the programs' effectiveness and recommend changes. The review will include the collection of information about a) the number of drug and alcohol-related violations that occur on campus or as part of the institution's activities which are reported to campus officials; and b) the number of sanctions imposed by the institution as a result of those drug and alcohol-related violations and fatalities. The latest Biennial Review with further information is available at this link <https://www.dawson.edu/cost-affordability/consumer-information.html>

Dawson Community College provides alcohol and substance abuse prevention programming to both students and employees. Within the residence halls, there is a strict policy structure in place to prevent alcohol and substance abuse from taking place. Appropriate counseling services are available for all students and employees who have alcohol and/or substance abuse issues. Students who have concerns about their alcohol or substance use should contact the Associate Dean of Student Success or the Dean of Academics, or Housing Director to receive counseling services. Employees should contact Dawson Community College's Director of Human Resources for resources. The Montana University System has

also entered into a contract with EverFi, which is a company that hosts online training called AlcoholEdu. All new students at Dawson Community College are sent the information for completing AlcoholEdu.

Alcohol

It is illegal in Montana for anyone under the age of 21 to consume or be in possession of alcohol. It is also illegal for anyone to sell or provide alcohol to a person under the age of 21. DCC prohibits the possession or consumption of alcoholic beverages on campus, or in any college facility, except as specially authorized by Dawson Community College Board Policy. Students, organizations, or groups violating alcohol policies or laws may be subject to disciplinary actions by DCC and/or the appropriate law enforcement agency.

Illegal Drugs

The use, possession, or distribution of illegal drugs is strictly prohibited at DCC. The possession, sale, manufacture or distribution of any controlled substance is illegal in Montana with the exception of marijuana. Dawson Community College prohibits the use of marijuana on campus regardless of state laws due to Dawson Community College having to follow Federal drug laws regarding marijuana due to DCC receiving Federal funding. Violators of illegal drug use, possession, or distribution will be turned over to the appropriate law enforcement agency and are subject to Dawson Community College's disciplinary actions.

Missing Person

Definitions

On-Campus Student – A student who resides in on-campus housing under a housing contract with DCC Housing.

Off-Campus Student – A student who resides in off-campus private housing.

Missing - A student is presumed missing if

1. The student is overdue in reaching home, campus, or other specific destination for 24 hours past their expected time of arrival, or
2. additional factors lead college staff to believe the student is missing, and a check of their residence supports that determination.

Dawson Community College has established a Missing Student Policy concerning the procedures for reporting and responding to reports of missing students. After 24 hours, when students are unaccounted for, they are presumed missing and the missing student procedures are invoked. In accordance with the Higher Education Opportunity Act, DCC has a procedure that is followed when residential students are determined to be missing for 24 hours. Students residing in campus housing will be informed annually that each student has the option to identify a person designated as a missing person contact to be notified by DCC no later than 24 hours after the time the student is determined to be missing by College officials authorized to make that determination or the local law enforcement

agency in which the student went missing. When students provide a missing person contact, this contact information will be registered confidentially, and this information will be accessible only to authorized campus officials and law enforcement and that it may not be disclosed outside of a missing person investigation.

Reports of missing students should be referred immediately to the Director of Housing or Dean of Student Success. If members of the DCC community believe that a student has been missing for 24 hours, it is critical that they report that information to DCC by calling (406) 359-9030. When a student is reported missing by any source, the College will determine whether the report is valid and, if so, will institute action to find the student. It will also notify other appropriate law enforcement agencies and specified College officials.

If the student has designated a missing person contact as recommended by this policy, or as offered by Housing, DCC will notify that contact person within 24 hours, if the student is determined to have been missing for 24 hours. If the missing student is under 18 years old and is not emancipated, DCC will notify the custodial parent or guardian and any other designated contact person within 24 hours. For all missing students, DCC will notify the local law enforcement agency immediately once the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

Missing Student Procedures –

When a student is reported missing by any source, the College shall:

- Investigate to determine the validity of the report.
- Attempt to determine the location and status of the missing student.
- Notify local/other law enforcement agencies in accordance with established protocols.
- Notify the President and the Dean of Student Success.
- Notify the individual identified by the missing student as the missing person contact.
- If the missing student is under the age of 18, notify the individual identified by the missing student as the missing person contact and the student's custodial parent or guardian as provided in College records.

The Director of Housing may (1) inform college officials that may have knowledge of the student's background or situation, (2) inform the student's coaches, and (3) notify the student's instructors of his/her absence.

All parties involved in the reporting and investigation of missing students must comply with the applicable provisions of the Family Educational Rights & Privacy Act (FERPA), the federal law which protects the privacy of student records.

If the student is under the age of 18 and is not an emancipated individual, DCC will notify the student's parent or guardian and any other designated contact person within 24 hours.

Regardless of whether the student has identified a contact person, if above the age of 18, or is an emancipated minor, the College will inform the local law enforcement agency that has jurisdiction in the area that the student is missing immediately upon making the determination that the student is missing.

DCC's Opposition To Any Practice Or Action Denying Human Dignity

Dawson Community College affirms the right of all employees and students to work and study in an environment free from all forms of discrimination, harassment, and intimidation and is committed to providing a climate of mutual respect among students and employees. The College is opposed to any practice or action that denies human dignity or infringes upon academic and personal freedom (CP 2-7: Relationship Violence, Stalking, Bystander, and Harassment).

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal and physical conduct or written communications of an intimidating, hostile, or offensive sexual nature. In addition, sexual harassment behavior includes:

- the employee's or student's submission to the conduct that is made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- the employee's or student's submission to, or rejection of, such conduct that is used as a basis for employment or education decisions; or
- the conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, offensive environment.

Dawson Community College prohibits such conduct. Furthermore, sexual harassment and/or intimidation is a violation of state and federal equal opportunity and nondiscrimination regulations. The College is committed to taking action against an offender through the disciplinary process for both students and employees. Additional information can be found at

<https://www.dawson.edu/about/policies-procedures.html>, BP and CP 2-7.

Dawson Community College works with The Virtual Care Group to provide virtual mental health services. DCC also works with local resources and has an MOU with the Dawson County Domestic Violence Office.

Rights of the Accused Student/Respondent and Survivor/Reporter in Student Conduct Code Adjudication

The student accused of violating the Student Conduct Code (the "Respondent") and a student who brings a report against another student under the Student Conduct Code (the "Reporter") will be treated with equal care, concern, honor, fairness and dignity

A student accused of violating the Student Conduct Code (the "Respondent") has certain rights including the right to:

1. Be advised that a report is being investigated and the nature of the report.
2. Respond to the report including the right to submit a written account relating to the report.
3. Have a person of choice, including legal counsel, present throughout any and all proceedings provided for in this Code (Any expense for the person the Respondent chooses as their person of choice is the Respondent's responsibility and not the responsibility of the College or Reporter).
4. To review any evidence reasonably likely to be used in the proceedings. Be advised of the charges under the Student Conduct Code that are being filed.
5. Respond to the charges filed including the right to submit a written account relating to the charges.
6. Know the identity of individuals who will be present at an administrative or a Discipline

7. Hearing Committee (DHC) hearing.
8. A reasonable period of time to prepare for a hearing and the right to request a delay of the hearing for good reason.
9. Hear and question witnesses and the Reporter during the proceeding (the appropriate time and place for this is determined by the College). This right will be unavailable in exceptional circumstances.
10. Present relevant evidence and witnesses.
11. Timely resolution of charges as provided in this Code.

A student who files a report against another student under the Student Conduct Code (the "Reporter") also is entitled to certain rights which include the right to:

1. Meet with the designated administrative officer to discuss the various aspects of the disciplinary process.
2. Submit a written account of the incident and a statement discussing the effect of the alleged misconduct on himself or herself.
3. Have a person of choice, including legal counsel, present throughout any and all the proceedings provided for in this Code (Any expense for the person the Reporter chooses as their person of choice is the Reporter's responsibility and not the responsibility of the College or Respondent).
4. Be informed of the date, time, and location of any meetings related to the disciplinary proceedings
5. Be informed immediately of the outcome of each step of the disciplinary proceeding
6. Have past conduct that is irrelevant to the case not discussed during the proceedings. In the case of rape and sexual assault, this is specifically provided for in Montana Law.

DCC will, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

All Reports And Complaints Of Violations Of DCC's Discrimination, Harassment, Sexual Misconduct, Domestic Violence, And Stalking Policy Are Considered In Accordance With DCC's Discrimination Grievance Procedure. The Procedures Include The Following:

- A prompt, fair, and impartial investigation and resolution adhering to the principles of due process of such reports and complaints;
- A process conducted by officials who receive annual training on the issues related to sexual misconduct, domestic violence, and stalking, including how to conduct investigations and hearings which protect the safety of victims and promotes accountability;
- A process in which the accusing party and the accused have the same opportunities to participate in the process, including the right to be accompanied by an adviser and the right to any appeal.

- Policy violations are established with the evidence showing that it is more likely than not the proscribed conduct occurred (referred to as a “preponderance of the evidence standard”). The outcome of the process, including the determination of whether a policy violation occurred and the sanction imposed, will be disclosed to both the accusing party and the accused. A written statement will be provided to any student or employee victim of sexual misconduct, dating violence, domestic violence, or stalking providing an explanation of their rights under the Discrimination Grievance Procedure.

Description of Safe and Positive Options for Bystander Intervention:

DCC stresses that preventing crime is a shared responsibility. Everyone in the campus community should play an active role in making the college environment safe and secure from criminal activity. Bystanders play a critical role in the prevention of sexual and relationship violence. DCC wants to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Bystanders might not always know what to do if they want to help. Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911.

- Watch out for your friends and fellow students/employees and, if you see someone who looks like they could be in trouble or need help, ask if they are ok
- Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated
- Speak up when someone discusses plans to take sexual advantage of another person
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking
- Refer people to on or off campus resources

Risk Reduction:

The following risk reduction strategies have been included from the Rape, Abuse & Incest National Network (RAINN) website located at <https://www.rainn.org/safety-prevention>.

These are some of the ways students can utilize tactics to reduce their risk of sexual assault:

- Walk with purpose: Even if you don’t know where you are going, act like you do
- Be secure: Lock your door and windows when you’re asleep and when you leave the room and report individuals who keep blocking doors open to a member of the residence life staff
- Stay alert: When you’re moving around on campus or in the surrounding neighborhood, be aware of your surroundings, and if alone, only use headphones in one ear to stay aware of your surroundings
- Avoid isolated areas: It’s more difficult to get help if no one is around
- Prevent isolation: Don’t allow yourself to be isolated with someone you don’t trust or someone you don’t know
- Be careful about posting your location: Many social media sites, like Facebook, use geolocation to publicly share your location
- Keep an eye on your friends: If you are going out in a group, plan to arrive together and leave together; if you decide to leave early, let your friends know; if you’re at a party, check in with them during the night to see how they’re doing; if something doesn’t look right, step in; don’t be afraid to let a friend know if something is making you uncomfortable or if you are worried about their safety

- Have a backup plan: Sometimes plans change quickly and you might realize it's not safe for you to drive home, or the group you arrived with might decide to go somewhere you don't feel comfortable; keep the number for a reliable cab company saved in your phone and cash on hand in case you decide to leave
- Know what you're drinking: If you don't recognize an ingredient then use your phone to look it up; avoid large-batch drinks like punches or "jungle juice" that may have a deceptively high alcohol content as there is no way to know exactly what was used to create these drinks
- Trust your instincts: If you feel unsafe, uncomfortable, or worried for any reason, don't ignore these feelings, go with your gut, get somewhere safe and find someone you trust or call law enforcement
- Don't leave a drink unattended: That includes when you use the bathroom, go dancing, or leave to make a phone call; take the drink with you or throw it out and avoid using the same cup to refill your drink
- Don't accept drinks from people you don't know or trust: If you choose to accept a drink from someone you've just met, try to go with the person to the bar to order it, what it being poured, and carry it yourself
- Check in with yourself: Whether you drink regularly or not, check in with yourself periodically to register how you feel
- It's okay to lie: If you want to exit a situation immediately and are concerned about frightening or upsetting someone, it's okay to lie; you are never obligated to remain in a situation that makes you feel uncomfortable, pressured, or threatened; you can also lie to help a friend leave a situation that you think may be dangerous; some excuses you could use are needing to take care of another friend or family member, an urgent phone call, not feeling well, and having to be somewhere else by a certain time
- 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
- Have a code word: Having a code word with friends and family enables you to not feel uncomfortable and allows you to call them and communicate your discomfort without the person you are with knowing what you are communicating so they can then come and get you or make up an excuse for you to leave

Sex Offenders:

Montana's registry for sexual offenders can be found at the following web address:

<https://app.doj.mt.gov/apps/svow/default.aspx>.

Dawson Community College's Policy And Procedures Regarding Discrimination, Harassment, Sexual Misconduct, Domestic Violence, And Stalking: (Located In Appendix A)

<https://www.dawson.edu/about/campus-security.html/title/dawson-community-college-s-policy-and-procedures-regarding-discrimination-harassment-sexual-misconduct-domestic-violence-and-stalking>

BP 2-7: Harassment and Sexual Harassment Policy

https://www.dawson.edu/file_download/inline/6178765a-d307-48cd-8121-c29cff6c0848

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

https://www.dawson.edu/file_download/inline/aff106ca-a8f4-4d9b-b67c-726091957451

BP 3-5: Student Conduct Code Policy https://www.dawson.edu/file_download/inline/28027ce8-2608-43e2-868a-cb0efd0a0ec2

Student Handbook <https://www.dawson.edu/current-students/student-success/student-handbook.html>

BP 3-7: Sexual Misconduct Policy https://www.dawson.edu/file_download/inline/ec849e7b-6923-43c7-9144-cb48d84663e8

CP 3-7: Sexual Misconduct Procedures https://www.dawson.edu/file_download/inline/ff3a1b71-f326-4d16-8f18-40405e362d8b

Emergency Services Points of Contact

Agency	Phone Number	Website, Address or 2nd Phone Number
Glendive Police Department	911	377-2364
Dawson County Sheriff's Department	911	377-5291
Fire/Hazardous Material	911	377-2361
Dawson County Disaster & Emergency Services	377-2566	gehnertmj@dawsoncountymail.com
Crimestoppers	377-8111	
Medical		
Dawson County Health Department	377-5213	207 West Bell Street
Glendive Medical Center	345-3306	202 Prospect Drive
Gabert Clinic	345-8901	107 Dilworth Street
Gabert Walk-in Clinic	345-8901	107 Dilworth Street
Montana Poison Control	800-222-1222	dphhs.mt.gov
Family Planning/HIV Testing	377-2935	207 West Bell
Mental Health Center	377-6075	313 Valentine
Victims Assistance Groups		
American Red Cross – State Office	800-272-6668	Montana Region
National Institute of Mental Health		https://www.nimh.nih.gov/index.shtml
VA Montana Health Care System	877-468-8387	406-442-6410
Domestic Violence – Date Rape	377-6477 989-1318	122 West Bell
Government Agencies		
FEMA	800-621-3362	http://www.fema.gov/
Montana Commissioner of Securities Insurance	406-444-2040	http://www.csi.mt.gov/
Montana Dept. Environmental Quality	406-444-2544	https://deq.mt.gov/
Montana Safety and Health Bureau	406-444-6401	

Fire Safety Report

Dawson Community College maintains an on-campus student housing facility and must collect fire statistics and keep a fire log which is housed in the Housing office. For each housing facility on-campus, the following must be reported:

- The number of fires and the cause of each fire.
- The number of deaths related to the fire.
- The number of injuries related to the fire that resulted in treatment at a medical facility. The value of property damage related to the fire.

Statistics and Related Information Regarding Fires in Residential Facilities for 2021						
Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire (in \$)
Brueberg Hall*	1	1	Candle	0	0	0
Gibson Hall*	1	1	Bathroom Fan Electrical	0	0	0
Kettner Hall*	0	0	NA	0	0	0
The Manors**	0	0	NA	0	0	0
*Brueberg Hall, Gibson Hall, and Kettner Hall are all located at 200 College Dr. Glendive, MT 59330.						
**The Manors is located at 1111 S Pearson Ave, Glendive, MT 59330						

Statistics and Related Information Regarding Fires in Residential Facilities for 2020						
Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire (in \$)
Brueberg Hall*	0	0	NA	0	0	0
Gibson Hall*	0	0	NA	0	0	0
Kettner Hall*	0	0	NA	0	0	0
The Manors**	0	0	NA	0	0	0
*Brueberg Hall, Gibson Hall, and Kettner Hall are all located at 200 College Dr. Glendive, MT 59330.						
**The Manors is located at 1111 S Pearson Ave, Glendive, MT 59330						

Statistics and Related Information Regarding Fires in Residential Facilities for 2019						
Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire (in \$)
Brueberg Hall*	1	1	Grease Fire in Oven	0	0	\$254.99
Gibson Hall*	1	1	Stovetop Grease Fire	0	0	0
Kettner Hall*	1	1	Homemade Paper Towel Torch	0	0	0
*Brueberg Hall, Gibson Hall, and Kettner Hall are all located at 200 College Dr. Glendive, MT 59330.						

Monthly checks are conducted by the Residents Assistants in the Residence Halls. They ensure fire alarms haven't been tampered with and smoke detectors are in working order.

Brueberg Hall

Has 3 tied together smoke detectors and a fire extinguisher in each Apartment. Each apartment's outside door is a fire door. 1 fire drill was held for Brueberg Hall in 2021.

Gibson Hall

Has 3 tied together smoke detectors and a fire extinguisher in each Apartment. Each apartment's outside door is a fire door. There is a fire safety door on each entrance into the boiler room and for the laundry room. 1 fire drill was held for Gibson Hall in 2021.

Kettner Hall

Has a smoke detector in each bedroom of the apartment and in the room outside of the bedrooms that are tied together. There is a tied together fire detection system in Kettner in the main lobby, laundry room, and storage room that includes horns for the presence of smoke or a fire. The Kettner Main Lobby, laundry room, and every apartment in Kettner Hall has a fire extinguisher. There is a fire door for the door entering the laundry room and the door entering into the storage and boiler room of Kettner Hall. Each apartment's outside door is a fire door. 1 fire drill was held for Kettner Hall in 2021

The Manors

Has smoke detectors and a fire extinguisher in each Apartment. 1 fire drill was held for The Manors in 2021.

The following electrical appliances are **not** allowed in campus housing: electric skillets, grills (electric or non-electric), hot plates, broilers, space heaters, portable washer/dryer and live Christmas trees. Candles, candle warmers, and incense are NOT allowed in residence apartments. No open flames or open flame devices are allowed. **ALL** Extension Cords are NOT Allowed.

Smoke-Free Housing Complex

DCC housing complex is a smoke-free area which means there is no smoking anywhere on the housing complex premises, including all buildings and grounds. Tobacco use by definition includes the possession of any lighted tobacco products, including but not limited to electronic cigarettes, and all other nicotine delivery devices that are non-FDA approved as cessation products.

Chemicals, Explosives, & Hazardous Materials

Chemicals and explosives are not permitted in the Residence complex. This includes, but is not limited to: fireworks, explosive devices, smoke bombs, combustion engines, flammable or explosive liquids/gases, gunpowder, and ammunition (paintballs are considered ammunition and are prohibited). Oleoresin Capsicum Spray, also known as O/C spray or pepper spray, is not allowed unless it is in a small, personal protection container. Materials and devices which, by themselves or combined, could be explosive, toxic, flammable, or dangerous (such as camping fuel).

Student Evacuation Instructions

In the event of fire, severe weather, threats or other emergency situations, students please adhere to the following procedure: If for any reason you are to evacuate your apartment, Exit through the nearest exit and all students are to meet in the nearest Residence Apartment complex parking lot and wait for further instruction from the Director of Housing, Emergency Personnel, or DCC Administrators.

Fire Alarm

When the fire alarm sounds or a fire announcement is being made, leave the apartments immediately and gather at one of the two designated areas outside. (Main Campus Parking Lot and the Northeast corner of the housing complex parking lot) The Director of Housing will notify the Dean of Student Success, if necessary.

Fire Protection Equipment

Planned fire drills will be conducted periodically for the safety of the residents. All fire alarms are to be considered a real emergency. If someone fails to follow protocol for a fire drill, they can be fined for failing to exit their rooms. Fire extinguishers are located in each residence apartment for emergency use only. If you have to use your fire extinguisher, please contact the Director of Housing so we can get it refilled and ready for emergency use again. Any person who tampers with or handles any part of the firefighting equipment other than for legitimate fire protection will be fined \$500.00. All members of a group will be charged for damages resulting from group action. Charges will be made to the occupants of that area if the responsible party is not identified. In addition to the College's policy regarding false fire alarms, a full investigation may be performed by the fire department officials as they deem necessary.

Who to Report To

If a fire occurs in an emergency situation, call 9-1-1. After a fire has happened, a report should be given to Resident Assistants, Professional Residence Life Staff, Dean of Student Success, or Facility Personnel (Maintenance). In a non-emergency fire situation or the discovery of a previous fire contact Resident Assistants, Professional Residence Life Staff, (Dean of Student Success, Facility Personnel (Maintenance) so the fire information can be added to the fire log.

Fire Prevention Training/Education

Fire safety training and education is a priority topic in the year-long residence life training cycle. Prior to each semester, Professional Staff of Residence Life and Student Life review with the student staff the proper procedures of fire safety as well as review the proper protocol for drills and evacuation. These procedures are discussed after each fire drill to ensure staff understanding of the things they did correctly as well as any area needing improvement/correction prior to the next drill.

The on-campus residents are oriented regarding protocol for fire drills as well as the proper evacuation routes they would utilize in the event of a fire in a housing unit. The RA/SA and professional staff again review the information at mandatory floor meetings that are scheduled at the commencement of each semester. Fire drill reviews are scheduled to be held with residents at the first scheduled floor meetings (mandatory).

Improvements

Our institution is planning to add evacuation plans and placards in each of the rooms of Kettner, Brueberg, and Gibson as resources allow.

Fire Emergency Procedures

Pre-Fire Readiness

- Know the location of fire extinguishers and how to use;
 - activate alarm systems in your area immediately
 - Fire Extinguisher Instruction
 - **P = Pull** safety pin from the handle
 - **A= Aim** at the base of the fire
 - **S = Squeeze** the trigger handle
 - **S = Sweep** from side to side
- Identify at least two possible evacuation/exit routes from your classroom or office area.
- Never use an elevator as part of your escape route.
- Take an active part in fire evacuation drills.

If you discover a fire

- Activate the nearest fire alarm.
- **Call 911**
- Follow up with a call to your Supervisor and other occupants.

Maintenance/Physical Plant 406-377-9451

Student Services 406-377-9400

Fight the fire ONLY if

- The fire department has been notified of the fire

- The fire is small and confined to its area of origin
- You have a way out and can fight the fire with your back to the exit
- You have the proper extinguisher, in good working order, AND know how to use it.
- If you are not sure of your ability or the fire extinguisher's capacity to contain the fire, leave the area.

If you hear a fire alarm

- Evacuate the area. Close windows, turn off gas jets, and close doors as you leave.
- Assume the alarm is the real thing!
- Leave the building and move away from exits and out of the way of emergency operations (recommended 500 feet).
- Assemble in a designated area.
- Communicate with the administration or fire department so we can determine that all personnel have evacuated your area.
- Remain outside until "all clear" has been issued

Appendix A Procedures and Policies

BP 2-7: VIOLENT, DISCRIMINATORY, AND SEXUAL MISCONDUCT

BOARD POLICY BP 2-7 APPROVED: June 17, 2019 EFFECTIVE: June 17, 2019 REVIEWED: June 10, 2019
REFERENCES: MCA 45-5-221

It is the policy of Dawson Community College to expressly prohibit any acts or threats of violence or discriminatory misconduct—whether verbal, physical, visual, or through electronic means—by any DCC student, staff, or faculty member against another at any time or place. DCC recognizes that such misconduct interferes with all aspects of its functioning. By this policy, DCC notifies its community that it fosters a safe learning and working environment that supports academic and professional growth of students, staff, and faculty and has zero tolerance for violence or for discriminatory misconduct that is motivated by race, color, ethnicity, national origin, gender, sexual orientation, disability, class, religion, creed, age, marital or relationship status, or political ideas. When incidents occur, the College will hold perpetrators accountable through appropriate disciplinary actions, while respecting the rights of the aggrieved party, in accordance with federal and State laws, the College’s Student Conduct Code, and other applicable College policies. Each member of the DCC community is responsible for creating an atmosphere free of violence, discrimination, intimidation, and harassment. All DCC members have a duty to report any conduct which they believe violates this policy and cooperate with any investigation. DCC prohibits any form of retaliation against anyone affiliated with DCC for reporting violence and misconduct or for cooperating with efforts to investigate and stop it. SCOPE This policy applies to Dawson Community College. PROCEDURES The College President shall promulgate such procedures as may be needed to implement this policy. History: 8/28/01; 3/26/12

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

COLLEGE POLICY: CP 2-7 **APPROVED:** August 28, 2001 **EFFECTIVE:** August 28, 2001 **REVISED:** February, 2021 **REFERENCES:** BP 2-7

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

As a category of unlawful discrimination, Title IX of the Education Amendments of 1972 requires DCC to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. DCC also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the College. Federal and state law and regulations regard sexual harassment as an unlawful discriminatory practice. Specifically, sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination which are prohibited under Title IX and by this policy. Any member of the campus

community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, and/or benefits of any member of the DCC community on the basis of sex/gender, gender identity, gender expression, and sexual orientation is in violation of this policy.

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

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

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

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

Definitions

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

Bystander intervention

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

Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, and try to make out with, or have sex with people who are incapacitated.

3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources for support in health, counseling, or with legal assistance.²

Consent

“Consent” means knowingly and voluntarily, by freely giving clear permission by word or overt action, to have sexual intercourse or sexual contact. If coercion, intimidation, threats, or physical force are used, expressed, or implied, or there is duress or deception, there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption or being asleep or unconscious. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. Consent can also be withdrawn once given as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease immediately. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

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

- a. ***Dating Violence***: Violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant;
 - The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - For the purposes of this definition dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- b. ***Domestic Violence***: A Felony or misdemeanor crime of violence committed—
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

c. **Sexual Assault:** Sexual acts directed against another person (Complainant) without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

d. **Stalking:** Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Discrimination

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

1. Adversely affects a term or condition of an individual's education, employment, living environment, or participation in a College activity; or
2. Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a College activity; or

3. Constitutes harassment, as defined below, by unreasonably interfering with an individual's employment, educational performance, on-campus living environment, or participation in a College program or activity.

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

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

Force and Coercion

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g. "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.") Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Threats, whether or not a person has the intention of carrying out a threat, are a serious matter with possible criminal implications.

Harassment

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

1. Discriminatory Harassment: Unwanted conduct that is based on an individual's protected class status that has the purpose or effect of unreasonably interfering with a reasonable person's participation in a College Program or Activity. In determining the severity, pervasiveness, and objective offensiveness of the conduct, the following factors will be considered:
 - a. The identity of the parties, the nature of the parties' relationship, and the influence of that relationship on the complainant's employment or education;
 - b. The nature, scope, frequency, and duration of the conduct; and
 - c. The degree to which the conduct affected the Complainant's education or employment.
2. Sexual Harassment: Unwanted conduct that affects a student or employee that is based on/motivated by sex, gender identity, gender expression, or sexual orientation, and meets the elements of quid pro quo conduct, hostile environment sexual harassment, sexual assault, domestic violence, dating violence, stalking, or sexual exploitation, as defined herein.

Hostile Environment Sexual Harassment

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

Prevention Programs

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

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

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

Quid pro quo Sexual Harassment

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

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

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

- i. Prostituting another person;
- ii. Non-consensual visual (video, photograph, snap chat) or audio-recording or sexual activity;

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

Prohibited Conduct

The following conduct is prohibited:

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

Complaint Advice, Reporting, and Grievance Process

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

Reports and Inquiries may be made to:

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

Any individual (student, third party) may report prohibited conduct to the Title IX Coordinator. Upon receipt of a report of prohibited conduct, the Title IX Coordinator will promptly reach out to the identified Complainant to offer supportive and protective measures, consider the Complainant's wishes with respect to those measures, inform the Complainant of the availability of supportive or protective measures with or without the filing of a Formal Complaint, and meet to assess jurisdiction and discuss potential resolution options, including the process for filing a Formal Complaint. A report of prohibited conduct does not automatically trigger a grievance procedure, informal resolution process, or formal complaint process. The Title IX Coordinator determines whether there is jurisdiction to adjudicate a

report. Individuals should not avoid reporting prohibited conduct on jurisdictional grounds or wait to report ongoing conduct until it becomes sufficiently serious to constitute a policy violation. The Title IX Coordinator may be able to provide advice, take non-punitive preventive measures, and creatively address conflict in the interest of maintaining a safe and equitable campus environment.

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

¹ A report of prohibited conduct by or against the Title IX Coordinator should be filed with the President of the College. based on sex and sexual harassment involving students or employees. Employees cannot conduct their own investigations or engage in fact-finding. Counselors, ministers, and health care providers are exempt from this mandatory reporting requirement and must follow their own ethical and legal requirements for addressing such information.

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

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

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

Supportive and Protective Measures

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

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

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

Discipline

Disciplinary action will be taken when instances of sexual harassment are identified and confirmed and result in a finding of probable cause. Retaliation against persons who file complaints is a violation of laws prohibiting discrimination and a violation of this policy and will result in disciplinary action against offenders. Possible sanctions are described in the accompanying Discrimination Grievance Procedure.

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

Miscellaneous

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

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

Inquiries may be made externally to:

Office for Civil Rights, Seattle Office

U.S. Department of Education

915 Second Ave., Room 3310

Seattle, WA 98174-1099

Tel: (206)607-1600

Fax: (206)607-1647

TDD: (206)607-1647

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

SCOPE These procedures apply to Dawson Community College.

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

History:

BP 3-5: Student Code of Conduct

DCC BOARD POLICY 3-5 APPROVED: May 20, 2019 EFFECTIVE: May 20, 2019 REVISED: REFERENCES:

Being a student at Dawson Community College (DCC) presupposes a commitment to responsible citizenship and to the ideals of integrity and fairness. The Board recognizes the need for a code of student conduct which identifies appropriate conduct and sanctions for misconduct and which protects both the rights of students accused of misconduct, as well as the rights of survivors of such misconduct.

Pursuant to the above principles, the Board of Trustees confirms its commitment to the establishment of a fair code of student conduct and fair and expeditious procedures for the implementation of disciplinary sanctions pursuant to that code of conduct. In furtherance of this commitment, the Board directs and authorizes the DCC administration to develop and maintain a student conduct code for the students of DCC with fair procedures for the implementation of sanctions under that code. The code should address the expectations for appropriate conduct, rights of the parties involved, the imposition of discipline and appeal procedures, and the confidentiality of disciplinary proceedings and sanctions. Such procedures may include sanctions against individual students and student groups and may include the disciplinary sanctions of suspension and expulsion. The Division of Student Affairs shall be responsible for the procedural administration of the code. For purposes of this Code, a "student" means any person who is enrolled and pursuing undergraduate studies, whether full-time or part-time, or engaged in campus activities. In addition to compliance with this Code, students remain responsible for compliance with the civil and criminal laws of Montana and the United States and may be disciplined for violation of the law. JURISDICTION OF DAWSON COMMUNITY COLLEGE Generally, DCC jurisdiction is limited to conduct occurring on College premises or at College sponsored activities. However, DCC's jurisdiction extends to any situation in which off-campus conduct disrupts the college environment, interferes with student learning, and/or threatens the health and safety of any member of the campus community. Application of this Code to off-campus offenses is subject to procedures adopted by the DCC administration in accordance with this policy. DCC may pursue enforcement of its rules whether or not criminal proceedings are in process and may use information from third party sources, such as law enforcement agencies and the courts, to determine whether College rules have been broken and the discipline that should be imposed. SCOPE This policy applies to Dawson Community College.

PROCEDURES The College President shall promulgate such procedures as may be needed to implement this policy. History: 07/25/2005

BP 3-7: VIOLENT, DISCRIMINATORY, AND SEXUAL MISCONDUCT

DCC BOARD POLICY 3-7 APPROVED: May 20, 2019 EFFECTIVE: May 20, 2019 REVISED: REFERENCES:

It is the policy of Dawson Community College to expressly prohibit any acts or threats of violence or discriminatory misconduct – whether verbal, physical, visual, or through electronic means – by any DCC student, staff, or faculty member against another at any time or place. DCC recognizes that such misconduct interferes with all aspects of its functioning. By this policy, DCC notifies its community that it fosters a safe learning and working environment that supports academic and professional growth of students, staff, and faculty and has zero tolerance for violence or for discriminatory or sexual misconduct that is motivated by race, color, ethnicity, national origin, gender, sexual orientation, disability, class, religion, creed, age, marital or relationship status, or political ideas. When incidents occur, the College will hold perpetrators accountable through appropriate disciplinary actions, while respecting the rights of the aggrieved party, in accordance with federal and State laws, the College's Student Conduct Code, and other applicable College policies. Each member of the DCC community is responsible for creating an atmosphere free of violence, discrimination, intimidation, and harassment. All DCC members have a duty to report any conduct which they believe violates this policy and cooperate with any investigation. DCC prohibits any form of retaliation against anyone affiliated with DCC for reporting violence and misconduct or for cooperating with efforts to investigate and stop it.

SCOPE This policy applies to Dawson Community College.

PROCEDURES The College President shall promulgate such procedures as may be needed to implement this policy. History: 07/2005; 03/26/2012

CP 3-7: Sexual Misconduct

COLLEGE PROCEDURES CP 3-7 APPROVED: March 23, 2012 EFFECTIVE: March 23, 2012 REFERENCES: BP 3-7

Pursuant to BP 3-7, the Board of Trustees confirms its commitment to the establishment of a fair code of student conduct and fair and expeditious procedures for the implementation of disciplinary sanctions pursuant to that code of conduct. In furtherance of this commitment, the Board directs and authorizes the DCC administration to develop and maintain a student conduct code for the students of DCC with fair procedures for the implementation of sanctions under that code. The code should address the rights of the parties involved, the imposition of discipline and appeal procedures, and the confidentiality of disciplinary proceedings and sanctions. Such procedures may include sanctions against individual students and student groups and may include the disciplinary sanctions of suspension and expulsion. The Vice President of Student Affairs shall be responsible for the procedural administration of the code. Violations of this policy will subject a student to disciplinary action under the procedures set forth in the Student Conduct Code. Violations by employees will subject them to appropriate disciplinary action. Dawson Community College reserves the right to report any illegal activity to law enforcement authorities. DCC may pursue enforcement of its rules whether or not criminal proceedings are in process and may use information from third party sources, such as law enforcement agencies and the courts, to determine whether College rules have been broken. Reporting Procedures The College encourages reporting of all incidents of sexual misconduct, and respects the choices that the aggrieved party makes regarding the methods of reporting: 1. Filing a report with the appropriate law enforcement agency to pursue legal redress; 2. Filing a Student Conduct Code complaint to pursue College disciplinary action; 3. Filing a confidential report to alert the College to the threat of violence and contribute to accurate College data concerning violence; an 4. Filing a complaint with the Affirmative Action Officer. The aggrieved party may opt for one or more of these choices: The aggrieved party choosing to pursue the reporting process has the right to assistance or consultation by a friend or trained advocate. The College offers services to the aggrieved party even if they choose not to report the incidents. The Student Support Services Non-Traditional Advisor provides services, advocates, and information for the aggrieved party in a safe, supportive, and confidential setting. In some circumstances, the aggrieved party may seek a Temporary Order of Protection (TOP) from a court of appropriate jurisdiction against the alleged perpetrator. The aggrieved party may also seek restriction of access to the College by non-students or nonemployees in certain circumstances. Federal law requires the College to collect, publish, and distribute an annual security report that includes statistics concerning the incidence of sexual offense and other serious crimes occurring on campus and on public property, in non-College buildings, or on non-College property. The reports do not include identifying information about the aggrieved party, but incidents included within the reports require confirmation. These reports function to increase awareness of the extent of crime on campus and to foster the development of policies, procedures, and programs to prevent and report crime. Following a formal or confidential report of an incident of sexual violence on campus, the Affirmative Action Officer will issue a public warning if the evidence indicates

that a threat of continued violence exists (See Student Handbook, Student Information for Identifying and Reporting). SCOPE These procedures apply to Dawson Community College. History: 7/25/2005

CP 1-12 B : Emergency Notifications

COLLEGE POLICY: CP 1-12 B APPROVED: December 11, 2020 EFFECTIVE: December 11, 2020 REVISED: N/A REFERENCES: BP 1-12

This policy is established by Dawson Community College in compliance with the Higher Education Opportunity Act and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, (the Clery Act) to provide emergency response and notification guidelines for our campuses. The policy applies to all College faculty, staff, students, and visitors.

Policy

This policy covers internal electronic mass communications to Dawson Community College faculty, staff, and students in emergency circumstances. Emergency notifications are those electronic messages that are intended to inform the community regarding an ongoing emergency. Electronic messages include but are not limited to the following: text, social media, email, website messages and telephone. DCC uses email as its official form of communication. The institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Dawson Community College must exercise appropriate control over electronic communications in order to properly maintain network performance, limit the number of unsolicited email messages, and prevent desensitization that could inhibit the communication of critical information. As a result, the use of the College's designated emergency communication will be limited to emergency notifications and timely warnings, weather-related events, and important time-sensitive announcements (as described below). The President, the Vice President for Human Resources/Title IX Coordinator, and the Dean of Student Success or his/her designee, are authorized to make any final judgment call in cases where this policy does not clearly apply or in cases when the protocol changes as the emergency situation unfolds. Any individual who is deemed in violation of this policy may be subject to disciplinary action.

Emergency Notification Procedures

Reporting Emergencies

Individuals should report all emergencies by calling the local Police Department.

- At Dawson Community College: Contact Main Office 406-377-9400
- In the case of a crime in progress, an emergency medical incident or a confirmed fire call all faculty, staff, and students are authorized to call 911 to report the incident.

General Information

Dawson Community College faculty, staff, and students are strongly encouraged to activate and maintain regular access to College-provided electronic mail accounts. Dawson Community College faculty, staff, and students are expected to access electronic mail to obtain official College communications.

Significant Emergencies

Emergency Notifications are required to immediately notify the campus community of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus. An “immediate” threat as used here encompasses an imminent or impending threat.

Examples of significant emergencies when an Emergency Notification may be issued:

- Approaching weather such as a tornado, flood, or hurricane
- Earthquake
- Gas leak
- Terrorist incident
- Armed intruder
- Bomb threat
- Civil Unrest
- Explosion
- Outbreak of meningitis, norovirus, or other serious illness

Initial emergency communications will be sent immediately and will convey only the most critical information. Details will be carried on the college’s website, which will be updated as circumstances dictate.

Communication Methods

The Dawson Community College Emergency Notification System allows the College to contact the members of the College community in the event of an emergency by employing any of the following available techniques: Email will still be the official communication method of DCC during emergencies.

1. Text message
2. E-mail
3. Social messaging networks
4. Video monitors
5. College website
6. Audible signals and loudspeaker systems from some of our campus buildings
7. College Marquee
8. TV and radio media
9. Person-to-person communications

The actual method(s) of communication used will be based on the particular emergency. It is imperative that contact information is accurate and up to date in order for students and staff to receive some forms of emergency notifications.

Because the intent of the notification is to enable members of the College Community to protect themselves, the notification should include information necessary to promote safety. Authorized personnel (The President, Vice President for Human Resources/Title IX Coordinator, and the Vice President for Academic or Student Affairs or his/her designee) will determine how much information is appropriate to disseminate at different points in time. Generally, an Emergency Notification should include:

1. Date and time or timeframe of the Emergency or Dangerous Situation;
2. A brief description of the Emergency or Dangerous Situation;

3. Proactive steps for the College Community to take in order to maintain their health and safety (e.g., shelter in place or avoid outdoor activities);
4. Suspect description(s) when deemed appropriate and if there is sufficient detail; and
5. Other information as deemed appropriate by the authorized personnel.

Further, authorized personnel will determine the appropriate segment or segments of the College Community to receive the Emergency Notification based on which segments of the College Community need information about the Emergency or Dangerous Situation. Generally, the College will send the entire College Community an Emergency Notification. If sending the Emergency Notification to some members of the College Community and not others becomes necessary then the authorized personnel will consider: the type of Emergency or Dangerous Situation; the location; the segments of the College Community most likely to be affected; and the possibility that the Emergency or Dangerous Situation will become more dangerous.

If there is an immediate threat to the health or safety of students or employees occurring on campus DCC will follow its emergency notification procedures and is not required to issue a timely warning based on the same circumstances. Further, if circumstances change and a Timely Warning is appropriate it may be sent. Adequate follow-up information will be provided to the community as needed.

Post Emergency Communication

The College will issue an “all clear” message to convey the College’s return to normal operations to all faculty, staff and students via College assigned email accounts. A Timely Warning may not serve as the “all clear” (See table on next page for clearer understanding of when to use Timely Warning and Emergency Notification).

Authorized Users

Authorized users of the emergency notification system are:

- The President
- The Vice President for Human Resources and Advancement
- Dean of Student Success
- Director of Business Operations
- Director of Facilities
- Director of Athletics

Other users may be temporarily designated by these authorized users as required in an emergency.

Annual Testing

The emergency notification system will be tested annually. Procedures will be publicized in conjunction with the annual test. Additional testing may be conducted as part of drills and exercises, or as necessary.

CP 1-12 A : Timely Warnings Policy

COLLEGE POLICY: CP 1-12 A APPROVED: December 11, 2020 EFFECTIVE: December 11, 2020 REVISED: N/A REFERENCES: B-P 1-12

This policy is established by Dawson Community College in compliance with the Higher Education Opportunity Act and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, (the Clery Act) to provide emergency response and notification guidelines for our campuses. The policy applies to all College faculty, staff, students, and visitors. DCC is not required to issue a timely warning with respect to crimes exclusively reported to a Pastoral or Professional Counselor.

DCC Title IX Coordinator issues timely warnings as soon as the pertinent information is available. Timely warnings are issued to aid in preventing similar crimes, enable people to protect themselves, and may seek information that may lead to an arrest or conviction of an offender.

DCC Title IX Coordinator is responsible for determining if a timely warning will be issued once notified that a Clery Act crime has been reported to a campus security authority, or local law enforcement. The Title IX Coordinator or his/her designee is authorized to make any final judgment call in cases where this policy does not clearly apply or in cases when the protocol changes as the emergency situation unfolds.

Timely Warnings are disseminated using a variety of methods to include, but not limited to:

- Mass email notifications

When deciding whether to issue a Timely Warning, the primary considerations are

1. the nature of the crime and
2. whether there is a continuing danger that members of the campus community may become victims of a similar or related crime.

These warnings advise the community about violent crimes against persons, a series of crimes against property, or threats to persons or property in an effort to inform the community about potential risks and allow individuals to protect themselves against such risks. Timely Warnings may also provide details of the crime or threat, a description of the suspect (if known), information on who to contact about the investigation, and crime prevention tips.

A Timely Warning Notice will typically include the following, unless issuing any of this information would risk compromising law enforcement efforts:

- Date and time or timeframe of the incident
- Location
- Nature of the crime
- Information that will promote safety and potentially aid in the prevention of similar crimes (crime prevention or safety tips)
- Suspect description(s)
- Police agency contact information
- Other information as deemed appropriate by the President or his/her designee

The description of subjects in a case will only be included in the notice if there is a sufficient amount of detail to describe the individual. If the only known descriptors are sex and race, then this information will not be included in the notice. DCC Title IX Coordinator works closely with individuals reporting serious crimes to ensure the victim's privacy, while also ensuring the community has adequate information regarding potential risks. The names and identifying information of victims will not be released in a Timely Warning.

CP 1-12 C : Missing Student

COLLEGE POLICY: CP 1-12 C **APPROVED:** December 11, 2020 **EFFECTIVE:** December 11, 2020 **REVISED:** N/A **REFERENCES:** BP 1-12

Dawson Community College has established a Missing Student Policy concerning the procedures for reporting and responding to reports of missing students. After 24 hours, when students are unaccounted for, they are presumed missing and the missing student procedures are invoked.

Definitions

On-Campus Student – A student who resides in on-campus housing under a housing contract with DCC Housing.

Off-Campus Student – A student who resides in off-campus private housing.

Missing - A student is presumed missing if

1. The student is overdue in reaching home, campus, or other specific destination for 24 hours past their expected time of arrival, or
2. Additional factors lead college staff to believe the student is missing, and a check of their residence supports that determination.

Dawson Community College has established a Missing Student Policy concerning the procedures for reporting and responding to reports of missing students. After 24 hours, when students are unaccounted for, they are presumed missing and the missing student procedures are invoked.

In accordance with the Higher Education Opportunity Act, DCC has a procedure that is followed when residential students are determined to be missing for 24 hours. Students residing in campus housing will be informed annually that each student has the option to identify a person designated as a missing person contact to be notified by DCC no later than 24 hours after the time the student is determined to be missing by College officials authorized to make that determination or the local law enforcement agency in which the student went missing. When students provide a missing person contact, this contact information will be registered confidentially, and this information will be accessible only to authorized campus officials and law enforcement and that it may not be disclosed outside of a missing person investigation.

Reports of missing students should be referred immediately to the Director of Housing or Dean of Student Success. If members of the DCC community believe that a student has been missing for 24 hours, it is critical that they report that information to DCC by calling (406) 359-9030. When a student is reported missing by any source, the College will determine whether the report is valid and, if so, will institute action to find the student. It will also notify other appropriate law enforcement agencies and specified College officials.

If the student has designated a missing person contact as recommended by this policy, or as offered by Housing, DCC will notify that contact person within 24 hours, if the student is determined to have been missing for 24 hours. If the missing student is under 18 years old and is not emancipated, DCC will notify the custodial parent or guardian and any other designated contact person within 24 hours.

For all missing students, DCC will notify the local law enforcement agency immediately once the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

Missing Student Procedures –

When a student is reported missing by any source, the College shall:

- Investigate to determine the validity of the report.
- Attempt to determine the location and status of the missing student.
- Notify local/other law enforcement agencies in accordance with established protocols.
- Notify the President and the Vice President for Student Affairs.
- Notify the individual identified by the missing student as the missing person contact.
- If the missing student is under the age of 18, notify the individual identified by the missing student as the missing person contact and the student's custodial parent or guardian as provided in College records.

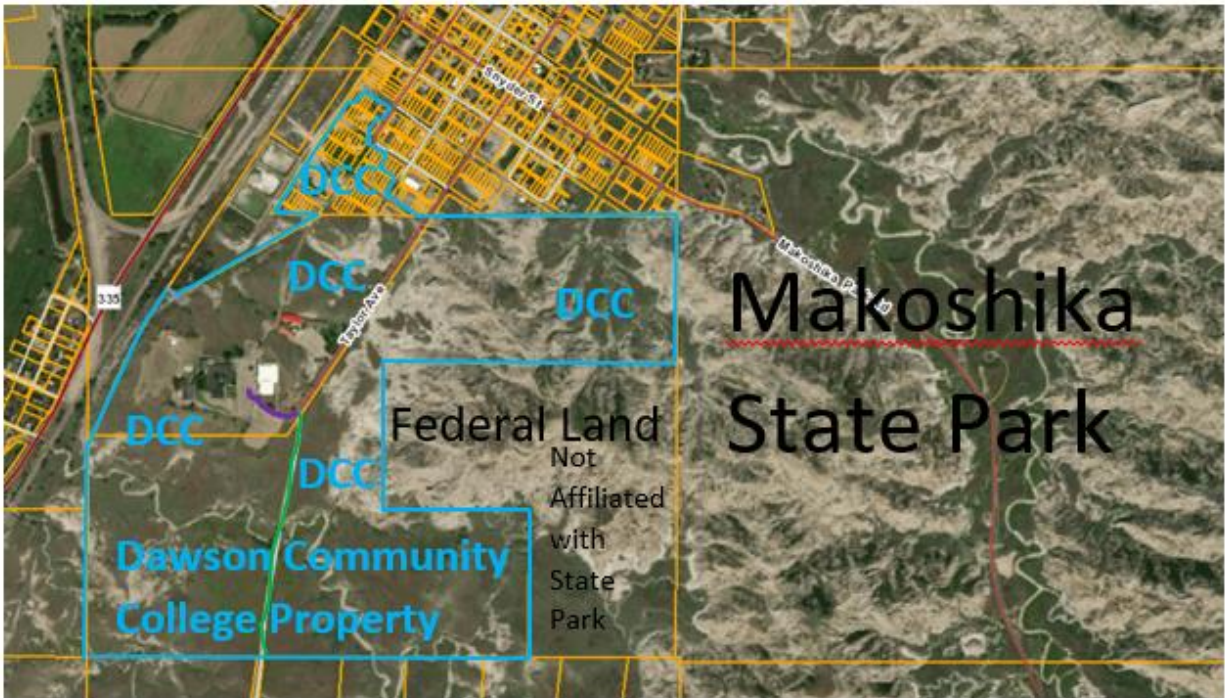
The Director of Housing may (1) inform college officials that may have knowledge of the student's background or situation, (2) inform the student's coaches, and (3) notify the student's instructors of his/her absence.

All parties involved in the reporting and investigation of missing students must comply with the applicable provisions of the Family Educational Rights & Privacy Act (FERPA), the federal law which protects the privacy of student records.

If the student is under the age of 18 and is not an emancipated individual, DCC will notify the student's parent or guardian and any other designated contact person within 24 hours.

Regardless of whether the student has identified a contact person, if above the age of 18, or is an emancipated minor, the College will inform the local law enforcement agency that has jurisdiction in the area that the student is missing immediately upon making the determination that the student is missing.

Appendix B Clery Geography Map (Within Blue Lines Is DCC)



In map above the blue line outlines DCC Clery Geography. Inside the blue outline: the purple line is College owned road; green line is Dawson County owned road; Taylor Ave is City of Glendive owned road. Taylor Ave and the green line within the blue outline of the map is Public Property.

DCC Clery Geography of non-contiguous spaces.

J & A Arena (non campus location)

147 Rd 240, Glendive, MT 59330 indoor and outdoor arena

4:00pm-9:00pm Monday through Thursday - February 2021, March 2021, April 2021, August 2021, September 2021, October 2021, November 2021.

Central Montana Education Center

773 Airport Rd, Lewistown, MT 59457

December 2020 - Office space

Appendix C State of Montana Laws on Alcohol and Other Illegal Drugs

State of Montana definitions are included for educational and awareness purposes only. The Clery Act requires crimes to be reported using Clery Act crime definitions.

STATE OF MONTANA CRIME DEFINITIONS; MONTANA CODE ANNOTATED

DATING VIOLENCE

Montana state law has no separate statute that prohibits dating violence. However, Montana law has a crime of Partner Family Member Assault ([45-5-206](#)). This crime encompasses acts of dating violence and domestic violence. In that law, “‘Partner’ means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.”

STATUTORY RAPE

Montana state law has no separate statute that prohibits statutory rape. Instead, that prohibition it is incorporated in the crimes of sexual assault [45-5-502](#) and sexual intercourse without consent [45-5-503](#) and aggravated sexual intercourse without consent. ([45-5-508](#)). By Montana law, as explained in the definition of consent, “the victim is incapable of consent because the victim is less than 16 years old.

45-5-206 PARTNER OR FAMILY MEMBER ASSAULT

- (1) A person commits the offense of partner or family member assault if the person:
- (a) purposely or knowingly causes bodily injury to a partner or family member;
 - (b) negligently causes bodily injury to a partner or family member with a weapon; or
 - (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.
- (2) For the purposes of Title 40, chapter 15, [45-5-231](#) through [45-5-234](#), [46-6-311](#), and this section, the following definitions apply:
- (a) “Family member” means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.
 - (b) “Partners” means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.
- (3)
- (a)
 - (i) An offender convicted of partner or family member assault shall be fined an amount not less than \$100 or more than \$1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.
 - (ii) An offender convicted of a second offense under this section shall be fined not less than \$300 or more than \$1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.
 - (iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in [46-23-1005](#).
 - (iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than \$500 and not more than \$50,000 and be imprisoned for a term not

less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

(v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing.

(b) For the purpose of determining the number of convictions under this section, a conviction means:

(i) a conviction, as defined in [45-2-101](#), under this section;

(ii) a conviction for domestic abuse under this section;

(iii) a conviction for a violation of a statute similar to this section in another state;

(iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under [45-5-202](#) or assault with a weapon under [45-5-213](#);

(v) a conviction for strangulation of a partner or family member under [45-5-215](#);

(vi) a conviction in another state for an offense related to domestic violence between partners or family members, as those terms are defined in this section, regardless of what the offense is named or whether it is misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under [45-5-202](#), [45-5-213](#), or this section; or

(vii) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

(4)

(a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in [45-5-231](#), must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.

(b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in [45-5-231](#). The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must meet the standards established pursuant to [44-7-210](#) and be:

(i) with a person licensed under Title 37, chapter 17, 22, or 23;

(ii) with a professional person as defined in [53-21-102](#); or

(iii) in a specialized domestic violence intervention program.

(c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other

issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no available treatment program directed to the violent or controlling conduct of the offender.

(5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.

(6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court.

(7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce [45-8-323](#) if a firearm was used in the assault.

(8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail.

45-5-215 STRANGULATION OF A PARTNER OF FAMILY MEMBER

(1) A person commits the offense of strangulation of a partner or family member if the person purposely or knowingly impedes the normal breathing or circulation of the blood of a partner or family member by:

(a) applying pressure on the throat or neck of the partner or family member; or

(b) blocking air flow to the nose and mouth of the partner or family member.

(2)

(a) A person convicted of a first offense of strangulation of a partner or family member shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

(b) A person convicted of a second or subsequent offense under this section shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined an amount not more than \$50,000, except as provided in [46-18-219](#) and [46-18-222](#).

(3) A person convicted of strangulation of a partner or family member is required to pay for and complete a counseling assessment as required in [45-5-206\(4\)](#).

(4) For the purposes of this section, "partner" and "family member" have the meanings provided in [45-5-206](#).

45-5-502 SEXUAL ASSAULT

(1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2)

(a) On a first conviction for sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) On a second conviction for sexual assault, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(c) On a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.

(4) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission.

(5)

(a) Subject to subsections (5)(b) through (5)(f), consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, conditional release, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility;

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service;

(v) a program participant, as defined in 37-48-102, in a private alternative adolescent residential or outdoor program, pursuant to Title 37, chapter 48, and the perpetrator is a worker affiliated with the program, as defined in 37-48-102; or

(vi) the victim is a client receiving psychotherapy services and the perpetrator:

(A) is providing or purporting to provide psychotherapy services to the victim; or

(B) is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim.

- (vii)** a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting.
- (b)** Subsection (5)(a)(i) does not apply if one of the parties is on probation, conditional release, or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.
- (c)** Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.
- (d)** Subsection (5)(a)(v) does not apply if the individuals are married to each other and one of the individuals involved is a program participant and the other individual is a worker affiliated with the program.
- (e)** Subsection (5)(a)(vi) does not apply if the individuals are married to each other and one of the individuals involved is a psychotherapy client and the other individual is a psychotherapist or an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the client.
- (f)** Subsection (5)(a)(vii) does not apply if the individuals are married to each other.

45-5-503 SEXUAL INTERCOURSE WITHOUT CONSENT

- (1)** A person who knowingly has sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(b)(iv).
- (2)** A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-219, 46-18-222, and subsections (3), (4), and (5) of this section.
- (3)**
- (a)** If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury on anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.
- (b)** If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.
- (c)** If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be

an offense under this section and if the offender inflicted serious bodily injury on a person in the course of committing each offense, the offender shall be:

(i) punished by death as provided in 46-18-301 through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or

(ii) punished as provided in 46-18-219.

(4)

(a) If the victim was 12 years of age or younger and the offender in the course of committing a violation of this section was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(5) If the victim is at least 14 years of age and the offender is 18 years of age or younger, the offender may be punished by imprisonment in the state prison for a term of not more than 5 years and may be fined not more than \$10,000 if:

(a) the offender has not previously been found to have committed or been adjudicated for a sexual offense as defined in 46-23-502;

(b) a psychosexual evaluation of the offender has been prepared and the court finds that registration is not necessary for protection of the public and that relief from registration is in the public's best interest; and

(c) the court finds that the alleged conduct was consensual as indicated by words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact.

(6) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

(7) As used in subsections (3) and (4), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or the act of flight after the attempt or commission.

(8) If as a result of sexual intercourse without consent a child is born, the offender who has been convicted of an offense under this section and who is the biological parent of the child resulting from the sexual intercourse without consent forfeits all parental and custodial rights to the child if the provisions of 46-1-401 have been followed.

45-5-508 AGGRAVATED SEXUAL INTERCOURSE WITHOUT CONSENT

(1) A person who uses force while knowingly having sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of aggravated sexual intercourse without consent.

(2) A person convicted of aggravated sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years and may be fined not more than \$50,000, except as provided in [46-18-219](#) and [46-18-222](#).

45-5-220 STALKING

(1) A person commits the offense of stalking if the person purposely or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to:

(a) fear for the person's own safety or the safety of a third person; or

(b) suffer other substantial emotional distress.

(2) For the purposes of this section, the following definitions apply:

(a) "Course of conduct" means two or more acts, including but not limited to acts in which the offender directly or indirectly, by any action, method, communication, or physical or electronic devices or means, follows, monitors, observes, surveils, threatens, harasses, or intimidates a person or interferes with a person's property.

(b) "Reasonable person" means a reasonable person under similar circumstances as the victim. This is an objective standard.

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

(3) This section does not apply to a constitutionally protected activity.

(4)

(a) Except as provided in subsection (4)(b), for the first offense, a person convicted of stalking shall be imprisoned in the county jail for a term not to exceed 1 year or fined an amount not to exceed \$1,000, or both.

(b) For a second or subsequent offense within 20 years or for a first offense when the offender violated any order of protection, when the offender used force or a weapon or threatened to use force or a weapon, or when the victim is a minor and the offender is at least 5 years older than the victim, the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both.

(c) A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense.

(5) Upon presentation of credible evidence of violation of this section, an order may be granted, as set forth in Title 40, chapter 15, restraining a person from engaging in the activity described in subsection (1).

(6) For the purpose of determining the number of convictions under this section, "conviction" means:

(a) a conviction, as defined in 45-2-101, in this state;

(b) a conviction for a violation of a statute similar to this section in another state; or
(c) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

(7) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person purposely or knowingly followed, harassed, threatened, or intimidated the stalked person.

45-5-220, MCA

45-5-507 INCEST

(1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2)

(a) Consent is a defense to incest with or upon a stepson or stepdaughter, but consent is ineffective if the stepson or stepdaughter is less than 18 years of age and the stepparent is 4 or more years older than the stepson or stepdaughter.

(b) A person who is less than 18 years of age is not legally responsible or legally accountable for the offense of incest and is considered a victim of the offense of incest if the other person in the incestuous relationship is 4 or more years older than the victim.

(3) Except as provided in subsections (4) and (5), a person convicted of incest shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount not to exceed \$50,000.

(4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000.

(5)

(a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (5)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(6) In addition to any sentence imposed under subsection (3), (4), or (5), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

Montana Code Annotated 2019

TITLE 45. CRIMES

CHAPTER 5. OFFENSES AGAINST THE PERSON

Part 6. Offenses Against the Family

Unlawful Transactions With Children

45-5-623. **Unlawful transactions with children.** (1) Except as provided for in **16-6-305**, a person commits the offense of unlawful transactions with children if the person knowingly:

(a) sells or gives explosives to a child under the age of majority except as authorized under appropriate city ordinances;

(b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of majority;

(c) sells or gives an alcoholic beverage to a person under 21 years of age;

(d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child under the age of majority without authorization of the parent or guardian; or

(e) tattoos or provides a body piercing on a child under the age of majority without the explicit in-person consent of the child's parent or guardian. For purposes of this subsection, "tattoo" and "body piercing" have the meaning provided in **50-48-102**. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection.

(2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (*See compiler's comments for contingent termination of certain text.*)

History: En. 94-5-609 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-609; amd. Sec. 2, Ref. 74, app. Nov. 7, 1978; amd. Sec. 4, Ch. 217, L. 1987; amd. Sec. 4, Ch. 448, L. 1989; amd. Sec. 1, Ch. 155, L. 1997; amd. Sec. 2, Ch. 391, L. 2003; amd. Sec. 16, Ch. 386, L. 2005.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 5. OFFENSES AGAINST THE PERSON

Part 6. Offenses Against the Family

Possession Of Or Unlawful Attempt To Purchase Intoxicating Substance -- Interference With Sentence Or Court Order

45-5-624. Possession of or unlawful attempt to purchase intoxicating substance -- interference with sentence or court order. (1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. A person may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages. A person does not commit the offense if the person consumes or gains possession of an alcoholic beverage because it was lawfully supplied to the person under **16-6-305** or when in the course of employment it is necessary to possess alcoholic beverages.

(2) (a) In addition to any disposition by the youth court under **41-5-1512**, a person under 18 years of age who is convicted under this section:

(i) for a first offense, shall be fined an amount not less than \$100 and not to exceed \$300 and:

(A) shall be ordered to perform 20 hours of community service;

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available; and

(C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b);

(ii) for a second offense, shall be fined an amount not less than \$200 and not to exceed \$600 and:

(A) shall be ordered to perform 40 hours of community service;

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available;

(C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and

(D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7);

(iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$900, shall be ordered to perform 60 hours of community service, shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available, and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7). If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b).

(b) If the convicted person fails to complete the community-based substance abuse information course and has a driver's license, the court shall order the license suspended for 3 months for a first offense, 9 months for a second offense, and 12 months for a third or subsequent offense.

(c) The court shall retain jurisdiction for up to 1 year to order suspension of a license under subsection (2)(b).

(3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance:

(a) for a first offense:

(i) shall be fined an amount not less than \$100 or more than \$300;

(ii) shall be ordered to perform 20 hours of community service; and

(iii) shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8);

(b) for a second offense:

(i) shall be fined an amount not less than \$200 or more than \$600;

(ii) shall be ordered to perform 40 hours of community service; and

(iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (8), which may, in the court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both;

(c) for a third or subsequent offense:

(i) shall be fined an amount not less than \$300 or more than \$900;

(ii) shall be ordered to perform 60 hours of community service;

(iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (8), which may, in the sentencing court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; and

(iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months.

(4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.

(5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need of intervention as defined in **41-5-103**. The youth court may enter its judgment under **41-5-1512**.

(6) A person commits the offense of interference with a sentence or court order if the person purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both.

(7) (a) A person convicted of a second or subsequent offense of possession of an intoxicating substance shall be ordered to complete a chemical dependency assessment.

(b) The assessment must be completed at a treatment program that meets the requirements of subsection (8) and must be conducted by a licensed addiction counselor. The person may attend a program of the person's choice as long as a licensed addiction counselor

provides the services. If able, the person shall pay the cost of the assessment and any resulting treatment.

(c) The assessment must describe the person's level of abuse or dependency, if any, and contain a recommendation as to the appropriate level of treatment, if treatment is indicated. A person who disagrees with the initial assessment may, at the person's expense, obtain a second assessment provided by a licensed addiction counselor or program that meets the requirements of subsection (8).

(d) The treatment provided must be at a level appropriate to the person's alcohol or drug problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon the determination, the court shall order the appropriate level of treatment, if any. If more than one counselor makes a determination, the court shall order an appropriate level of treatment based on the determination of one of the counselors.

(e) Each counselor providing treatment shall, at the commencement of the course of treatment, notify the court that the person has been enrolled in a chemical dependency treatment program. If the person fails to attend the treatment program, the counselor shall notify the court of the failure.

(8) (a) A community-based substance abuse information course required under subsection (2)(a)(i)(B), (2)(a)(ii)(B), (2)(a)(iii), or (3)(a)(iii) must be:

(i) approved by the department of public health and human services under **53-24-208** or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(b) An alcohol information course required under subsection (3)(b)(iii) or (3)(c)(iii) must be provided at an alcohol treatment program:

(i) approved by the department of public health and human services under **53-24-208** or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(c) A chemical dependency assessment required under subsection (7) must be completed at a treatment program:

(i) approved by the department of public health and human services under **53-24-208** or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(9) Information provided or statements made by a person under 21 years of age to a health care provider or law enforcement personnel regarding an alleged offense against that person under Title 45, chapter 5, part 5, may not be used in a prosecution of that person under this section. This subsection's protection also extends to a person who helps the victim obtain medical or other assistance or report the offense to law enforcement personnel.

(10) (a) A person under 21 years of age may not be charged or prosecuted under subsection (1) if:

(i) the person has consumed an intoxicating substance and seeks medical treatment at a healthcare facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment;

(ii) the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or

(iii) the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.

(b) For the purposes of this subsection (10), the following definitions apply:

(i) "Health care facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.

(ii) "Medical treatment" means medical treatment provided by a healthcare facility or an emergency medical service. *(See compiler's comments for contingent termination of certain text.)*

History: En. 94-5-610 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 87, L. 1974; amd. Sec. 1, Ch. 536, L. 1977; R.C.M. 1947, 94-5-610; amd. Sec. 3, Ref. 74, app. Nov. 7, 1978; amd. Sec. 1, Ch. 105, L. 1985; amd. Sec. 5, Ch. 217, L. 1987; amd. Sec. 65, Ch. 609, L. 1987; amd. Sec. 1, Ch. 412, L. 1989; amd. Sec. 5, Ch. 448, L. 1989; amd. Sec. 1, Ch. 477, L. 1989; amd. Sec. 1, Ch. 502, L. 1991; amd. Sec. 1, Ch. 233, L. 1993; amd. Sec. 6, Ch. 481, L. 1995; amd. Sec. 194, Ch. 42, L. 1997; amd. Sec. 1, Ch. 182, L. 1997; amd. Sec. 54, Ch. 550, L. 1997; amd. Sec. 14, Ch. 23, L. 2001; amd. Sec. 1, Ch. 64, L. 2001; amd. Secs. 3, 5, Ch. 498, L. 2001; amd. Sec. 1, Ch. 611, L. 2003; amd. Sec. 1, Ch. 183, L. 2005; amd. Sec. 1, Ch. 546, L. 2005; amd. Sec. 1, Ch. 245, L. 2007; amd. Sec. 1, Ch. 152, L. 2015; amd. Sec. 3, Ch. 45, L. 2017.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 9. DANGEROUS DRUGS

Part 1. Offenses Involving Dangerous Drugs

Criminal Distribution Of Dangerous Drugs

45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in Title 50, chapter 46, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in **50-32-101**.

(2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing any dangerous drug, as defined in **50-32-101**, shall be sentenced as provided in **45-9-102**.

(3) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (1), (2), (4), or (5) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined an amount of not more than \$50,000, or both.

(4) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40 years and may be fined not more than \$50,000.

(b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term not to exceed life and may be fined not more than \$50,000.

(5) If the offense charged results in the death of an individual from the use of any dangerous drug that was distributed, the person shall be imprisoned in the state prison for a term of not more than 100 years and may be fined not more than \$100,000.

(6) Practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. Sec. 4, Ch. 314, L. 1969; amd. Sec. 1, Ch. 55, L. 1973; amd. Sec. 24, Ch. 412, L. 1973; amd. Sec. 1, Ch. 258, L. 1974; amd. Sec. 1, Ch. 359, L. 1977; amd. Sec. 1, Ch. 584, L. 1977; R.C.M. 1947, 54-132; amd. Sec. 1, Ch. 587, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 9, Ch. 583, L. 1981; amd. Sec. 1, Ch. 393, L. 1983; amd. Sec. 16, Ch. 3, L. 1985; amd. Sec. 1, Ch. 478, L. 1987; amd. Sec. 1, Ch. 575, L. 1989; amd. Sec. 3, Ch. 448, L. 1993; amd. Sec. 11, Ch. 432, L. 1999; amd. Sec. 87, Ch. 114, L. 2003; amd. Sec. 11, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 2, Ch. 156, L. 2011; amd. Sec. 1, Ch. 135, L. 2013; amd. Sec. 19, Ch. 321, L. 2017; amd. Sec. 41, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 295, L. 2021; amd. Sec. 69, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 9. DANGEROUS DRUGS

Part 1. Offenses Involving Dangerous Drugs

Criminal Possession Of Dangerous Drugs

45-9-102. Criminal possession of dangerous drugs. (1) Except as provided in Title 16, chapter 12, or [50-32-609](#), a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in [50-32-101](#), [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

(3) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(4) Ultimate users and practitioners, as defined in [50-32-101](#), and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. Sec. 5, Ch. 314, L. 1969; amd. Sec. 1, Ch. 228, L. 1971; amd. Sec. 26, Ch. 412, L. 1973; amd. Sec. 1, Ch. 174, L. 1974; amd. Sec. 2, Ch. 359, L. 1977; amd. Sec. 2, Ch. 584, L. 1977; R.C.M. 1947, 54-133; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 612, L. 1983; amd. Sec. 17, Ch. 3, L. 1985; amd. Sec. 1, Ch. 42, L. 1991; amd. Sec. 1, Ch. 100, L. 2001; amd. Sec. 88, Ch. 114, L. 2003; amd. Sec. 12, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 2, Ch. 277, L. 2005; amd. Sec. 3, Ch. 156, L. 2011; amd. Sec. 2, Ch. 135, L. 2013; amd. Sec. 14, Ch. 253, L.

2017; amd. Sec. 20, Ch. 321, L. 2017; amd. Sec. 42, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 70, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 9. DANGEROUS DRUGS

Part 1. Offenses Involving Dangerous Drugs

Criminal Possession With Intent To Distribute

45-9-103. Criminal possession with intent to distribute. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in [50-32-101](#) [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) A person convicted of criminal possession with intent to distribute shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(3) Practitioners, as defined in [50-32-101](#), and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. 54-133.1 by Sec. 1, Ch. 545, L. 1975; amd. Sec. 3, Ch. 584, L. 1977; R.C.M. 1947, 54-133.1; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 18, Ch. 3, L. 1985; amd. Sec. 1, Ch. 162, L. 1987; amd. Sec. 12, Ch. 432, L. 1999; amd. Sec. 89, Ch. 114, L. 2003; amd. Sec. 13, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 3, Ch. 135, L. 2013; amd. Sec. 21, Ch. 321, L. 2017; amd. Sec. 43, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 71, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 9. DANGEROUS DRUGS

Part 1. Offenses Involving Dangerous Drugs

Fraudulently Obtaining Dangerous Drugs

45-9-104. Fraudulently obtaining dangerous drugs. A person commits the offense of fraudulently obtaining dangerous drugs if the person obtains or attempts to obtain a dangerous drug, as defined in [50-32-101](#), by:

- (1) fraud, deceit, misrepresentation, or subterfuge;
- (2) falsely assuming the title of or representing that the person is a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other person authorized to possess dangerous drugs;
- (3) the use of a forged, altered, or fictitious prescription;
- (4) the use of a false name or a false address on a prescription;
- (5) the concealment of a material fact;

(6) knowingly or purposefully failing to disclose to a practitioner, as defined in **50-32-101**, that the person has received the same or a similar dangerous drug or prescription for a dangerous drug from another source within the prior 30 days; or

(7) knowingly or purposefully communicating false or incomplete information to a practitioner with the intent to procure the administration of or a prescription for a dangerous drug. A communication of this information for the purpose provided in this subsection is not a privileged communication.

History: En. Sec. 6, Ch. 314, L. 1969; amd. Sec. 3, Ch. 359, L. 1977; R.C.M. 1947, 54-134; amd. Sec. 1719, Ch. 56, L. 2009; amd. Sec. 2, Ch. 194, L. 2011.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 8. OFFENSES AGAINST PUBLIC ORDER

Part 3. Weapons

Possession Or Use Of Machine Gun In Connection With A Crime

45-8-303. Possession or use of machine gun in connection with a crime. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 20 years.

History: En. Sec. 2, Ch. 43, L. 1935; re-en. 11317.2, R.C.M. 1935; Sec. 94-3102, R.C.M. 1947; redes. 94-8-202 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-202.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 8. OFFENSES AGAINST PUBLIC ORDER

Part 3. Weapons

Possession Or Use Of Machine Gun For Offensive Purpose

45-8-304. Possession or use of machine gun for offensive purpose. Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 10 years.

History: En. Sec. 3, Ch. 43, L. 1935; re-en. Sec. 11317.3, R.C.M. 1935; Sec. 94-3103, R.C.M. 1947; redes. 94-8-203 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-203.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 8. OFFENSES AGAINST PUBLIC ORDER

Part 3. Weapons

Carrying Concealed Firearms

45-8-316. Carrying concealed firearms -- exemption. (1) A person who carries or bears concealed upon the individual's person a firearm shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or both.

(2) A person who has previously been convicted of an offense, committed on a different occasion than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of 1 year could have been imposed and who carries

or bears concealed upon the individual's person a firearm shall be punished by a fine not exceeding \$1,000 or be imprisoned in the state prison for a period not exceeding 5 years, or both.

(3) This section does not apply to a person eligible to possess a firearm under state or federal law.

History: En. Sec. 1, Ch. 74, L. 1919; re-en. Sec. 11302, R.C.M. 1921; re-en. Sec. 11302, R.C.M. 1935; Sec. 94-3525, R.C.M. 1947; redes. 94-8-210 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 36, Ch. 359, L. 1977; amd. Sec. 1, Ch. 411, L. 1977; R.C.M. 1947, 94-8-210; amd. Sec. 1708, Ch. 56, L. 2009; amd. Sec. 2, Ch. 230, L. 2017; amd. Sec. 9, Ch. 3, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES

CHAPTER 8. OFFENSES AGAINST PUBLIC ORDER

Part 3. Weapons

Possession Or Allowing Possession Of Weapon In School Building -- Exceptions -- Penalties -- Seizure And Forfeiture Or Return Authorized -- Definitions

45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions. (1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel or to a school marshal in the school district where the school marshal is contracted or employed.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(5) As used in this section:

(a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in [20-5-109](#).

(b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

History: En. Sec. 1, Ch. 435, L. 1997; amd. Sec. 6, Ch. 581, L. 1999; amd. Sec. 5, Ch. 541, L. 2021.

Montana's Medical Amnesty Law 45-5-624.

Possession of or unlawful attempt to purchase intoxicating substance A person under 21 years of age may not be charged or prosecuted under subsection (1) if: 1. the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment; 2. the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or 3. the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.

Montana's Carrying False Identification Law 61-5-302.

Unlawful use of license or identification card It is a misdemeanor for a person to: 1. display or cause or permit to be displayed or have in the person's possession a canceled, revoked, suspended, fictitious, or altered driver's license, identification card, or tribal identification card; 2. lend the person's driver's license, identification card, or tribal identification card to any other person or knowingly permit its use by another; 3. display or represent as one's own any driver's license, identification card, or tribal identification card not issued to the person; 4. fail or refuse to surrender to the department upon its lawful demand a driver's license or identification card that has been suspended, revoked, or canceled; 5. use a false or fictitious name in an application for a driver's license or identification card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in an application; or 6. permit any unlawful use of a driver's license, identification card, or tribal identification card issued to the person. 7. Fines typically range between \$280 and \$500.

Montana's Public Drunkenness Law 61-8-508. Intoxicated pedestrian Except in an authorized crosswalk, a person who is under the influence of alcohol or any drug may walk or stand in the public right-of-way, as defined in 60-1-103, but not on a roadway or a shoulder as is otherwise permissible under 61-8-506(2). Fines typically range between \$100 and \$500.

Montana's law on selling or furnishing alcohol to minors 16-6-305. Age limit for sale or provision of alcoholic beverages – liability of provider

A. Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age. B. A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age. C. For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce: i. a blood, breath, or urine alcohol concentration in excess of 0.05; ii. substantial or visible mental or

physical impairment. 1. A person is guilty of a misdemeanor who: i. invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the person; ii. permits the person in a public place where an alcoholic beverage is sold to treat, give, or iii. purchase alcoholic beverages for the person; or holds out the person to be 21 years of age or older to the owner of the establishment or to the owner's employee. 2. It is unlawful for any person to fraudulently misrepresents the person's age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card, including a tribal identification card. 3. A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the violation.

Montana's open container laws 61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway

1. Except as provided in subsection 2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway. 2. This section does not apply to an open alcoholic beverage container: a. in a locked glove compartment or storage compartment; b. in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment; c. behind the last upright seat of a motor vehicle that is not equipped with a trunk; d. in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or e. in the immediate possession of a passenger: 1. of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or 2. in the living quarters of a camper, travel trailer, or motor home. 3. A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100. 4. A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, and 46-18-236 may not be imposed for a violation of this section.

Montana's Driving Under the Influence of Substances Law 61-8-401. Driving under influence of alcohol or drugs - definitions

It is unlawful and punishable, as provided in 61-8-442, 61-8-714, and 61-8-731 through 61-8-734, for a person who is under the influence of: a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public; b) a dangerous drug to drive or be in actual physical control of a vehicle within this state; c) any other drug to drive or be in actual physical control of a vehicle within this state; or d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this state. e) Fines typically range between \$600 and \$5,000.

Offense Level Penalty 1st Offense a) Shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000. b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person. 2nd Offense a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-401 shall be punished by a fine of not less than \$1,200 or more than \$2,000 and by imprisonment for not less than 7 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by a fine of not less than \$2,400 or more than \$4,000 and by imprisonment for not less than 14 days or more than 1 year. b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732. 3rd Offense a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8- 401 shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for a term of not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000. b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732. 4th Offense – Felony 4. If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration, driving under the influence of delta-9-tetrahydrocannabinol, or aggravated driving under the influence. 5. If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall be punished as provided in 61-8-465