

DES MOINES AREA COMMUNITY COLLEGE
EDUCATIONAL SERVICES PROCEDURES

Section: STUDENT RIGHTS, APPEALS AND FERPA
Subject: Sex Offenses and Offenders
Number: ES4631
Effective: February 1, 2016

I. Institutional Regulation

- A. The Iowa Code Section 260C.14 (18), requires the Board of Directors of each Iowa Community College to establish policies relating to sexual abuse. Hereinafter, these terms will be collectively referred to as “sex offenses.”
1. Definitions
 - a. Sexual abuse/assault: Any sex act between persons is sexual abuse by either of the participants when the act is performed with the other participant in any of the following circumstances:
 - 1) The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.
 - 2) Such other participant is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.
 - 3) Such other participant is a child. (Iowa Criminal Code, Chapter 709.1)
 - b. Dating violence: Violence committed by a person
 - 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim;
 - 2) The existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship;
 - iii. The frequency of interaction between the persons involved in the relationship. (42 U.S.C. § 13295(a)).
 - c. 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, by a person similarly situated to a spouse of the victim under federal, state, or local domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person’s acts under federal, state, or local domestic or family violence laws.
 - d. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - 1) Fear for his or her safety or the safety of others, or
 - 2) Suffer substantial emotional distress.
 - e. Consent: Consent is defined as clearly communicating agreement or permission to participate in sexual activity. The consenting individuals must act freely and voluntarily and have knowledge of the act involved. Such consent may be withdrawn at any time, without regard to the preceding activity. A current or previous relationship, or past consent, is not sufficient to constitute consent. Consent may not be inferred from silence or passivity. Consent is voluntary, affirmative and clear. Consent cannot be given when a person is incapacitated (such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual disability that prevents an individual from having the capacity to give consent). Coercion, force, or threats invalidates consent. (See Iowa Code § 709.1).
- B. In accordance with the Campus Sex Crimes Prevention Act of 2000, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (Clery Act) and the Family Educational Rights and Privacy Act (FERPA), DMACC provides information about where law enforcement information concerning sex offenders may be obtained.

- C. In accordance with Campus Sexual Assault Victims' Bill of Rights [Public Law 102.325, Section 486(c)], DMACC staff will provide information concerning the victim's rights during the first contact with the victim.
- D. Des Moines Area Community College shall not engage in or allow discrimination covered by law. This includes harassment based on race, color, national origin, creed, religion, sex (including pregnancy and marital status), sexual orientation, gender identity, age, disability and genetic information. Veteran status in educational programs, activities, employment practices, or admission procedures is also included to the extent covered by law. A student may file a formal complaint through the ES4645 – Discrimination and Harassment Compliant Procedure. Complaint forms may be obtained from a DMACC Counselor, Provost, or the Judicial Officer. For information regarding the ADA, the Section 504ADA Coordinator can be contacted at 515-964-6857.
- E. Prohibited conduct under this Policy also includes attempting or aiding in the commission of a sexual offense or retaliating against another for exercising his/her rights under this Policy.

II. Procedure Regarding Sex Offenses

- A. All DMACC students and visitors who are victims of sexual abuse/assault, domestic violence, dating violence, or stalking, shall be encouraged to report incidents that occur on DMACC property or at DMACC sponsored functions. If a DMACC student or employee witnesses a sexual assault on DMACC property or at a DMACC sponsored function, he/she should report the incident. Reports shall be made to the following officials:
 1. Ankeny Campus, Security Department, 515.964.6500-Cellular Phone 24-hours a day or 964.6816-7:00 a.m.-4:00 p.m. Monday through Friday.
 2. Ames Hunziker Center, Site Director, 515.663.6708
 3. Boone Campus, Provost, 515.433.5020
 4. Carroll Campus, Provost, 712.792.8308
 5. Newton Campus, Provost, 641.791.1721
 6. Urban Campus, Campus Safety Officers, ex 7200 on campus or 515.248.7200 or Provost Office, 515.248.7206
 7. West Campus, Provost ,515.633.2439
 8. Southridge Center, Executive Director, 515.287.8701
 9. Transportation Institute, Executive Director, 515.965.7450
 10. Perry Center, Director, 515.428.8120
 11. Evelyn Davis Center, Director, 515.248.7206
 12. Capitol Center, 515.248.7206
- B. The victim and the individual to whom the incident was reported are encouraged to visit with DMACC Security personnel and/or complete a DMACC Incident Report. DMACC Counselors, who due to confidentiality may not be able to complete an incident report, will make the victim aware of his/her right to submit a DMACC Incident Report. The victim will be provided a copy of the Campus Sexual Assault Victims' Bill of Rights.
- C. If the victim agrees, the DMACC official shall assist the victim in making arrangements with local police departments to initiate an investigation and stress that testing should be performed immediately. DMACC officials will inform the victim of the importance of preserving evidence as may be necessary in proof of the sexual assault, domestic violence, dating violence, or stalking, including testing for possible date-rape drugs. Information provided during confidential discussions shall remain confidential to the extent possible.
- D. DMACC officials will offer the victim an on-campus/off-campus advocate who will assist the victim in locating and connecting with on and off-campus counseling resources. The victim will be provided with a DMACC Consent for Advocacy form (ES Form 4631) to be completed.
- E. If requested by the victim, DMACC officials will assist the victim in changing academic, living, transportation, and working conditions after an alleged sexual assault incident, if such changes are reasonably available and within the control of DMACC. If DMACC Security is provided (Ankeny & Urban Campuses), the victim will be offered escorts to and from classes, if desired. Such changes will not be required of the victim, and shall not be an alternative to enforcement of such changes on the perpetrator, either as an Interim Action or as a result of a final disciplinary action pursuant to ES 4630.

- F. DMACC will ensure that the victim's confidentiality protected to the extent possible by law. DMACC shall edit or redact publicly-available record keeping to remove identifying information about the victim to the extent possible by law.
- G. DMACC will comply with all known orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal, civil, or tribal courts. Students should notify and provide a copy of such an order to the DMACC Security Office, 2006 S. Ankeny Blvd, Building 12, Ankeny, IA 50023, [fax] 515.965.6003, [email] security@dmacc.edu.
- H. The College will not pursue disciplinary action for improper use of alcohol or other drugs against a student who reports or makes a complaint in good faith concerning an incident of Sexual Misconduct, or who participates in good faith in an investigation into an incident of Sexual Misconduct.

III. Sexual Offenders

- A. Iowa law requires a person who has been convicted of certain sex offense crimes to register with the Sheriff in the County in which he/she resides. In addition, if he/she attends or works at an institution of higher education, he/she is required to register with the Sheriff in the County in which the institution is located.
- B. Community members wanting information regarding persons in the State of Iowa who have been convicted of a sex offense crime may visit <http://www.iowasexoffender.com>.
- C. In accordance with Iowa law, persons whose names appear on any state sex offender registry are not allowed to live in apartments located on DMACC property or managed by DMACC.

IV. Counseling Services

- A. Students who have been subject to sexual abuse/assault, domestic violence, dating violence, or stalking are encouraged to contact a DMACC counselor. Additional information can be found at: <http://go.dmacc.edu/counseling/pages/welcome.aspx>. Information about community resources can be found at: <http://www.dmacc.edu/Counseling/resourceguide.pdf>.
- B. Students who have been subject to sexual abuse/assault, domestic violence, dating violence, or stalking are encouraged to access resources and services through the Iowa Sexual Abuse Hotline (ISAH) (1.800.284.7821) which is Iowa's statewide 24-hour hotline for survivors of sexual abuse, their friends and family, and people concerned about the effects of sexual violence. Information can be found at: http://www.rvap.org/pages/iowa_sexual_abuse/. The ISAH, funded by a grant from the Department of Justice Crime Victim Assistance Program, is a place for callers to find a supportive listener and receive referral information.

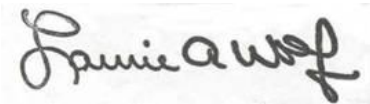
V. Education

- A. Students and employees are invited to attend a variety of educational programs addressing sex offenses including: the awareness of rape, acquaintance rape, sexual assault, domestic violence, dating violence, or stalking and other forcible and non-forcible sex offenses presented by various college departments throughout the academic year. In addition, statistics on sexual abuse shall be distributed annually to students.
Education programs offered by the college shall include, but are not limited to, prevention and awareness for all incoming students.

VI. Disciplinary Actions for Sexual Offenses

- A. In cases of an alleged sexual assault in which the accused is a student, the disciplinary procedure outlined in the DMACC Student Conduct/Discipline Procedure (ES 4630) will be followed: <https://go.dmacc.edu/studentconduct/pages/welcome.aspx>. DMACC will ensure a prompt, fair, and impartial investigation and resolution, which shall be conducted by DMACC officials who receive annual training on issues relating to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

- B. The standard of evidence used in determining any disciplinary action under this policy shall be whether the preponderance of the evidence indicates that a violation of this policy occurred. Possible sanctions following a final determination may include, but are not limited to, written reprimand, conduct probation, educational sanctions, suspension, or expulsion from the College.
- C. In cases of an alleged sexual assault in which the accused is a DMACC employee, the disciplinary procedure outlined in DMACC HR Procedure 3235 Discipline and Discharge will be followed: <https://go.dmacc.edu/hr/documents/hrpp/hr3235.pdf>.
- D. If applicable, both the accuser and the accused will have the right to have a support person or advisor of their respective choice present during a disciplinary hearing.
- E. If applicable, simultaneous written notification will be sent to both the victim and the accused of the outcome of the disciplinary hearing, including procedures for appealing the results of the proceeding, any change to the results of the hearing that occurs prior to the time the results become final, and when the results of the hearing will become final.



2-23-16

APPROVED:

Executive Dean, Student Services

Date: _____



2-23-16

Senior Vice President, Academic Affairs

Date: _____



Request for an Advocate Form
Use this form to request specific services
Sex Offenses and Offenders—ES 4631

The experience you have reported may invoke a number of emotions over a course of time. Des Moines Area Community College wishes to provide you with support and resources concerning this matter. To help you in identifying what resources may be needed, please review the following options and indicate which ones you think might be helpful.

Please note that even if you do not select an option at this time, you can always contact the Des Moines Area Community College Counseling Department and ask for assistance.

Which of the following Services Might be Helpful to You?

Check as many as you feel would be helpful:

- Speak with a Sexual Assault Responder/Victim Advocate
- Assistance with medical concerns
- Assistance with making a report to the police and/or learning about the process of filing criminal charges
- Referral to a counselor (Check one: On-Campus; Off-Campus)
- Information concerning judicial options
- Speak with the DMACC Judicial Officer regarding the process of filing a DMACC student complaint form
- Speak with the Campus Provost or the DMACC Executive Dean of Student Services
- Assistance with personal safety concerns
- Speak with a DMACC Security Officer concerning on-campus escort services
- Assistance with academic problem stemming from incident
- Request change in academic schedule

Please complete the following information:

- I would like information concerning resources related the checked options.
- I do not seek resources at this time, but am aware that I have the ability to ask for them in the future, should the need arise.

Print Name Date

Signature

Print Name of Witness Date

Signature

Sexual Assault Bill of Rights

Introduction

A college or university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the community in achieving these ends.

Applicable state and federal laws and institutional rules and regulations governing interpersonal behavior limit the boundaries of personal freedom. In creating a community free from violence, sexual assault and non-consensual sexual contact, domestic violence, dating violence, and stalking, respect for the individual and human dignity are of paramount importance.

Des Moines Area Community College recognizes that the impact of violence on its victims and the surrounding community can be severe and long-lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to insure that the needs of victims are met and that the community maintains its support of human dignity.

The Campus Sexual Assault Victim's Bill of Rights was adopted by the U.S. Congress as part of the 1992 Higher Education Amendments (P.L. 102-325, Section 486(c)). This law requires that all colleges and universities participating in federal student aid programs afford victims of sexual assault, domestic violence, dating violence, or stalking certain basic rights. It also requires each college and university to notify victims of their option to report their assault to the proper law enforcement authorities. Procedures for resolving issues of sexual assault, domestic violence, dating violence, or stalking are available in the Executive Dean of Students Office, the Campus Provost Offices, Counseling Office, Campus Health Specialist/Nurse, and Judicial Affairs Office.

Bill of Rights

The following Rights shall be accorded to victims of sexual assault, domestic violence, dating violence, or stalking that occur:

- On a Des Moines Area Community College (DMACC) campus or DMACC attendance center, and
- Where the victim or alleged perpetrator is a student at DMACC, and/or;
- When the victim is a student involved in an off-campus sexual assault.

Human Dignity Rights

- To be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy;
- To have any allegations of sexual assault, domestic violence, dating violence, or stalking treated seriously; the right to be treated with dignity;
- To be free from any suggestion that victims are responsible for the commission of crimes against them;
- To be free from any pressure from campus personnel to:
 - Report crimes if the victim does not wish to do so;
 - Report crimes as lesser offenses than the victim perceives the crime to be;

- Refrain from reporting crimes;
- Refrain from reporting crimes to avoid unwanted personal publicity.

Rights to Resources On-and Off-Campus

- To be notified of existing campus and community based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities;
- To have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling;
- To be informed of and assisted in exercising:
 - Any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy;
 - Any rights, as may be provided by law, to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

Campus Judicial Rights

- To be afforded a prompt, fair, and impartial investigation and resolution, conducted by DMACC officials who receive annual training on issues related to sexual assault, domestic violence, dating violence, and stalking, and on how to conduct an investigation and hearing process that protects the safety of the victim(s) and promotes accountability;
- To be afforded the same access to legal assistance as the accused;
- To be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused, including a support person or advisor of the victim's choice;
- To be notified at the same time as the accused of the outcome of the sexual assault disciplinary proceeding against the accused, including the process for appealing the results of the proceeding, any changes to the results of the proceedings that may occur prior to the time that such results become final, and the date on which such results become final.

Legal Rights

- To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;
- To have their confidentiality protected to the extent possible by law. DMACC shall edit or redact publicly-available record keeping to remove identifying information about the victim to the extent possible by law;
- To receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;
- To receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

Campus Intervention Rights

- To require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants;
- To be notified of the options for and provided assistance in changing academic, living, transportation, and working situations if such changes are reasonably available and it is within the authority of DMACC to effect such changes.

No Retaliation

- Federal and state law and DMACC policy expressly prohibit retaliation against anyone who exercises rights under this policy. Retaliation shall be punished by discipline up to and including suspension and expulsion. Any individual who believes he or she has been retaliated against in violation of this policy may report such retaliation to campus authorities under Section II.A of DMACC Procedure No. ES 4631 (Sex Offenses and Offenders).