

Davis Technical College (College)

Student Discrimination and Sexual Harassment Policy and Procedures

Effective Date: 2/23/2018

President's Council Approval: 11/13/16

College Board of Directors Approval: 2/22/2018

1. Purpose

1.1. The Davis Technical College strives to provide a safe and inclusive learning environment. This policy provides guidance on conduct related to sexual harassment, sexual assault and sexual violence.

2. References

- 2.1. Higher Education Opportunity Act
- 2.2. Utah Code 53B-4 (Enforcement of Regulations at Institutions)
- 2.3. Utah Code 53A-11-910 (Students at Public Schools, Disruptive Student Behavior)
- 2.4. DATC Student Records Policy
- 2.5. Title IX of the Higher Education Act
- 2.6. Violence Against Women Act of 2013
- 2.7. 10 U.S. Code § 920 – Art 120
- 2.8. Utah Criminal Code 76-5
- 2.9. DATC Student Code of Conduct

3. Definitions

3.1. **Administrative Discipline** – Formal corrective and/or disciplinary action taken against a student by a member of the College staff.

3.2. **Sexual Harassment** - Any unwelcome sexual advance, request for sexual favors, and verbal or physical conduct of a sexual nature, if it creates an intimidating, hostile, or offensive environment or interferes with student educational or work performance. Sexual harassment can be verbal, nonverbal, physical, written or electronic (social media).

3.3. **Sexual Violence** - A severe form of sexual harassment, and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, including, but not limited to rape, sexual assault, sexual battery, sexual coercion, or similar acts.

3.4. **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.

3.5. **Title IX Complaint** – Any reported incident that occurred while the student was enrolled that is the subject of a complaint involving a College student, a faculty member, other College staff,

guests visiting the College, or other students. Such incidents must be a violation of College policies and procedures. Incidents may include sexual harassment, sexual assault, or sexual violence or other types of related allegations or issues. The College will maintain thorough and reliable documentation of the investigation (including testimony) to ensure the process is fair to all parties.

3.6. **Stalking** - A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or to suffer emotional distress. Stalking may include repeatedly following, harassing, threatening, or intimidating another.

3.7. **Retaliation** - Any adverse action taken by a member of the College faculty, staff, or student body against any individual on the basis of a good faith report made by such individual or on the basis of such individual's participation in an investigation by the College.

3.8. **Due Process** – Due process refers to the right to be heard which shall be provided to all of the parties associated with a Title IX Complaint. Due process includes the right to notification of statements or charges made and reasonable opportunities to respond in a timely manner prior to disciplinary action taken by the College. Student should be informed of standards and regulations regarding student conduct and performance standards. Resolutions and disciplinary actions, which are outcomes of a complaint, shall be clearly explained and fairly administered.

3.9. **Preponderance of Evidence Standard (Title IX, Education Amendments of 1972)** - Standard used to determine whether the allegation(s) more likely than not occurred.

4. **Policy**

4.1. The College prohibits sexual harassment, sexual violence, and related conduct on or in any campus, College operated facility, or program by any student, College employee, or third party. Sexual harassment, sexual violence, and related conduct are considered serious offenses by the College and will be dealt with appropriately.

4.1.5. All persons on College property or participating in College-sponsored events or training are subject to the provisions of this policy.

4.2. Allegations of violations of this policy involving one or more students will be investigated regardless of where they are alleged to have occurred to determine if they were a) in the context of an education program or activity of the College; or b) had continuing effects on campus or in an off-campus education program or activity. If it is determined that either of these conditions has been met, the College will conduct a full investigation and take appropriate action.

4.2.5. Violations of this policy include discrimination, creation of a hostile environment, engaging in physical assaults, verbal assaults, intimidation, or providing false information in an investigation.

4.2.6. Appropriate action can include disciplinary sanctions against perpetrators (including expulsion or dismissal), accommodations for victims, reports to law enforcement or other civil authorities, retraining for students or staff or such other measures as the College believes will address the immediate situation and prevent future offenses.

4.3. Retaliation against a complainant or victim is prohibited and would be cause for sanctions against the retaliator.

4.4. Any individual including students, witnesses, or others may file a report of the violation of this policy if they become aware of a violation of this policy.

4.4.5. College employees must report incidents of sexual violence unless that employee provides or supports the provision of counseling, advocacy, health, mental health, or sexual assault-related services to students who have experience sexual violence.

4.4.6. Participants in any proceeding arising from alleged violations of this policy will treat all information as confidential and will comply with disclosure parameters as set forth in FERPA. Any records relating to such violations or investigations will be protected under GRAMA.

5. Procedures

5.1. Reporting

5.1.1. Anyone wishing to report a violation of this policy may file a complaint with the Director of Campus Safety, the Director of Student Services, the Title IX Coordinator, or a designee.

5.1.1.1. Complaints can be informal or formal.

5.1.1.2. Informal complaints may be written or oral.

5.1.1.3. Formal complaints must be written and must include details about the date, time and location of the alleged violation; the nature of the violation; names and/or descriptions of anyone involved (including witnesses); and a statement of the desired outcome or remediation (if the complainant is the victim.)

5.1.1.4. If a complainant chooses to make an informal complaint, they shall be informed that an informal complaint may limit the College's ability to respond fully. Notwithstanding, the Title IX Coordinator will make his/her best effort to resolve the problem.

5.1.2. The complainant will be given written notice of procedures and options for reporting to campus safety and/or local law enforcement.

5.1.3. Students filing a complaint will be given written notification of available support services both on and off campus regardless of whether or not the complainant chooses to make a report to campus safety or law enforcement. Such information will be given at the time the complaint is filed and is not dependent on the outcome of an investigation.

5.1.4. The College will maintain the complainant's confidentiality unless the situation overrides the obligation of the College to meet any legal or other Title IX obligations.

5.1.4.1. In the event that the College cannot maintain the complainant's confidentiality, the College will notify the complainant of the information which will be disclosed, to whom and why.

5.1.5. If the report is made by a person other than the alleged victim, the College will make every effort to contact the victim to provide the information outlined above and to include the victim in the investigation.

5.1.5.1. Even if the victim cannot be contacted or declines to interact with College personnel, the investigation will continue to determine if it is necessary to take action to prevent additional violations or to eliminate a hostile environment.

5.1.6. The investigation will be completed as quickly as is reasonable, but will be concluded no more than sixty (60) days from the date of the original complaint.

5.2. Investigation

5.2.1. Any report of violations of this policy involving one or more students (either as the victim or the accused) will be to the Title IX Coordinator for investigation.

5.2.1.1. In the event that any employees are named in the investigation, the Title IX Coordinator will work with the Human Resources department to ensure the investigation is conducted in compliance with all appropriate personnel policies and procedures.

5.2.2. Concurrently with the investigation, the College will take steps to support those involved such as schedule changes; academic accommodations; leaves of absence; opportunity to withdraw from or retake a class without penalty; a no-contact agreement; or referrals for counseling and support of victims.

5.2.3. The Title IX Coordinator will conduct a thorough investigation of the allegation in cooperation with the Campus Safety Office, the Director of Student Services, and such other personnel as are deemed necessary to conduct an objective, impartial investigation.

5.2.3.1. If the investigation reveals a violation of law, the Title IX Coordinator will refer the matter to law enforcement, Utah State Risk Management and/or the Attorney General's Office. Such referral will not stop the on-going investigation by the College.

5.2.4. The investigation will be conducted fairly with all named parties having equal opportunities for participation and representation. The investigation will work to the "preponderance of the evidence" standard in determining if there is substance to the allegations.

5.2.4.1. All parties involved will be kept informed of the progress of the investigation as it moves forward.

5.2.4.2. If the investigator (or other College personnel) meet with any of the parties involved during the course of the investigation, the parties may bring people of their choosing for support during the meetings.

5.2.4.3. If the investigation is concurrent with a police investigation, the Title IX Coordinator will coordinate with law enforcement to the extent practical, but is not required to wait for the outcome of the police investigation before concluding the College's investigation.

5.3. When the Title IX Coordinator believes that the investigation is complete, he or she will meet formally with the Director of Campus Safety and the Director of Student Services to discuss the findings of the investigation and to determine a mutually-agreed-upon course of action based upon the preponderance of the evidence standard.

5.3.1. The course of action will include sanctions (as appropriate) for the behavior as well as steps the College will take to prevent future recurrences.

5.4. At the conclusion of the investigation, the College will provide written notice of the outcome of the investigation to the complainant and respondent(s).

5.4.1. The complainant and respondent(s) may grieve the outcome of the investigation using the established College Grievance Policy and Procedures.

6. **Approval and Notes**

6.1.