

DEFINITIONS

For purposes of policy ACAA-2, the following definitions are applicable:

Actual knowledge: “Actual Knowledge” is notice of sexual harassment or allegations of sexual harassment to District’s Title IX Coordinator or any other District employee except for the respondent.

Adjudication: The process by which DACC reaches a judgment on whether a policy violation occurred. As part of the adjudication process, the decision maker examines all of the relevant evidence, makes determinations based on the preponderance of the evidence standard and, considering the presumption that the respondent is not responsible for the alleged violation, reaches a decision. At the conclusion of this phase, the decision maker issues a written determination of responsibility.

Complainant: A “Complainant” is defined as an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Dating Violence (Clery/VAWA (34 CFR 668.45): “Dating Violence” means an act of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

Acts of violence may include, but are not limited to:

- Recklessly causing bodily injury;
- Attempts to cause bodily injury; and
- Causing fear of immediate, physical harm through threat of force.

Day: A “day” is defined as a business day.

Domestic Violence: The term “domestic violence” includes felony or misdemeanor crimes 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 receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Acts of violence may include, but are not limited to:

- Recklessly causing bodily injury;
- Attempts to cause bodily injury; and
- Causing fear of immediate, physical harm through threat of force.

Formal complaint: “Formal complaint” is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that DACC investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in DACC’s education program or an activity of DACC. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator or any additional method designated by DACC. Additionally, a “document filed by a complainant” can be in the form of an electronic submission (such as by electronic mail or through an online portal provided for this purpose by DACC) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. In situations, where the Title IX Coordinator initiates or signs a formal complaint, the Title IX Coordinator is not a complainant and must comply with the guidelines outlined in this section.

Relevance: Under Title IX, only relevant evidence may be considered in making determinations of responsibility. The following may be considered irrelevant:

- Repetition of the same question;
- Evidence that is duplicative of other evidence;
- Information protected by a legally recognized privilege;
- Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior, unless:
 - Such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or;
 - The questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent;
- Any party’s medical, psychological, and similar records, unless the party has given voluntary, written consent, and;
- Party or witness statements that have not been subjected to cross examination at a live hearing.

DACC will not exclude relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts, or constitute character evidence, however, the decision-maker may objectively evaluate such evidence by analyzing whether that evidence warrants a high or low level of weight or credibility.

Respondent: A “Respondent” is defined as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation: Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or the regulations, constitutes retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under the regulations does not constitute retaliation, as described above, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

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

Sexual Assault: The term “sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. The term includes rape, sodomy, sexual assault with an object, fondling, incest and statutory rape.

Stalking: The term “stalking” means 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.

Supportive Measures: “Supportive measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to DACC’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or DACC’s educational environment, or deter sexual harassment.

Supportive measures at DACC may include but are not limited to: counseling, extension of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures.

Title IX Coordinator: The “Title IX Coordinator” is the employee, or employees, designated to coordinate DACC’s efforts to comply with Title IX and its regulations found in Part 106 of Title 34 of the Code of Federal Regulations. The Title IX Coordinators will designate other individuals, regardless of whether such individuals are District employees or neutral third-parties, to perform the duties of investigator(s), decision-maker(s), appeal officer(s) and person(s) who facilitate informal resolutions under Policy ACCA-2. No person can fill more than one of these roles on a particular matter. For instance, the investigator cannot also be the decision-maker in the same case.