

603.1 – Harassment, Discrimination and Retaliation

Purpose:

The purpose of this policy is to comply with federal and state laws and North Dakota State Board of Higher Education (ND SBHE) policy 603.1 Harassment and Discrimination.

Policy:

Bismarck State College (BSC) is committed to providing a safe and non-discriminatory learning, living and working environments for all members of the College community. BSC is committed to take actions to stop and prevent harassment and discrimination and educating individuals of their rights and responsibilities regarding harassment and discrimination.

BSC is an equal opportunity institution that does not discriminate on the basis of race, color, sex, gender, gender identity, national origin, age, religion, sexual orientation, genetic information, pregnancy, marital status, disability, veteran's status, or any other status protected by law, North Dakota State Board of Higher Education (ND SBHE) policy, or BSC policy in its admissions, student aid, employment practices, education programs or other related activities.

BSC prohibits harassment or discrimination in any form or from any source and specifically prohibits sexual harassment. BSC also prohibits retaliation by its employees and students against a person who exercises their rights or responsibilities under any provision of state or federal law, ND SBHE policy, BSC policy or BSC procedure. All employees, students, customers, contractors, and visitors to BSC's campus are expected to comply and take appropriate measures to ensure that prohibited conduct does not occur. Anyone who knowingly allows or tolerates harassment, discrimination or retaliation and fails to report such behavior, or fails to take immediate, appropriate action is in violation of this policy. Employees or students who violate this policy may face disciplinary action up to and including separation from BSC. Third parties who violate this policy may have their relationships with BSC terminated and their privileges of being on campus withdrawn.

Knowingly submitting a false report of harassment or discrimination is prohibited. Anyone submitting a false report is subject to disciplinary action as listed above.

BSC's Sexual Harassment and Title IX Compliance Policy addresses sexual harassment and discrimination on the basis of sex as defined by Title IX.

This policy addresses sexual harassment and discrimination on the basis of sex occurring

outside the scope of Title IX.

Definitions:

Discrimination – Unfair or unequal treatment of an individual or group based upon the individual or group's actual or perceived membership in a protected class, except as where permitted or required by law, that negatively affects their education, employment or other participation in educational programs or activities.

BSC may respond to conduct or speech that does not meet this definition by taking non-punitive action designed to promote a welcoming, inclusive environment.

Harassment – a form of discrimination; unwelcome verbal, written, graphic or physical conduct directed at an individual or group because of the individual or group's actual or perceived membership in a protected class, which creates a hostile environment, as defined by this policy.

Examples of harassment may include, but are not limited to: threats, physical contact or violence, offensive jokes, insults, slurs, name calling, vandalism, offensive objects or pictures, negative stereotyping, etc.

BSC may respond to conduct or speech that does not meet this definition by taking non-punitive action designed to promote a welcoming, inclusive environment.

Protected Class – A group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. Protected classes under this policy include race, color, national origin, religion, sex, age, disability, sexual orientation, gender identity, genetic information, pregnancy, marital or parental status, veteran's status, and political belief or affiliation, participation in lawful activity off BSC's premises during nonworking hours, which is not in direct conflict with the essential business-related interests of BSC, and any other status protected by federal or state law or ND SBHE policy.

Hostile Environment - Unwelcome conduct determined by a reasonable person to be objectively offensive and sufficiently severe and pervasive to alter the conditions of participation in a BSC sponsored program or activity, including employment and academic pursuits, and create an abusive environment. In evaluating whether a hostile environment exists, BSC will promptly consider the totality of known circumstances, including, but not limited to:

- The degree to which the conduct affected one or more individuals' education or employment;
- The type, frequency, and duration of the conduct;
- Whether the conduct was physically threatening;

- The identity of and relationship between the respondent and the complainant;
- The number of individuals involved;
- Whether the conduct arose in the context of other discriminatory conduct; and
- Whether the conduct unreasonably interfered with the complainant's educational or work performance or BSC programs or activities.

Sexual Harassment. Conduct on the basis of sex that satisfies one or more of the following:

1. Unwelcome verbal, nonverbal, or physical conduct that creates a hostile environment.
2. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on actual or perceived sex, sexual orientation, or gender identity, even if the acts do not involve conduct of a sexual nature, that creates a hostile environment; or
When an individual's participation in unwanted conduct of a sexual nature is made, explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any BSC sponsored programs or activities or is used as the basis for the college's decisions affecting the individual.

Examples of sexual harassment include, but are not limited to: unwelcome sexual advances, requests for sexual favors, non-consensual sexual contact, sexual assault, sexual exploitation, offensive remarks about a person's sex, lewd remarks and threats, leering, obscene gestures, jokes of a sexual nature, etc.

Retaliation - Retaliation occurs when an adverse action is taken against an individual for engaging in protected activity. Intimidation, threats, coercion or discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy is prohibited.

Adverse Action - Any act or omission that results in a materially adverse impact on the terms, conditions and privileges of employment, academic pursuits or any other BSC sponsored activity. Examples of adverse actions include, but are not limited to: hiring, firing, promotion, demotion, selection for admission, assigned grades, etc.

Protected Activity - Protected activity consists of, but is not limited to:

- Opposing in good faith and consistent with BSC policy an action reasonably believed to constitute a violation of this policy; or
- Filing an internal or external complaint about such practice; or
- Testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination or other complaint; or
- Any other activity protected by federal or state civil rights laws.

References:

- [SBHE Policy 603.1: Harassment and Discrimination](#)
- [Title VII of the Civil Rights Act of 1964](#)
- [Title IX of the Education Amendments of 1972](#)
- [520.0 - BSC Sexual Harassment and Title IX Compliance](#)
- [308.1.1 - BSC Code of Conduct](#)
- [308.1.2 - BSC Code of Ethical Conduct](#)
- [BSC Student Code of Conduct](#)

History of This Policy:

First policy draft July 1, 1985.

Revisions - December 24, 1987; March 23, 1990; June 1, 1990; November 21, 1991; June 16, 1993; October 21, 1993; May 2, 1994; August 7, 1997; June 18, 1998; May 12, 2000; June 6, 2000; March 26, 2002; January 7, 2003; September 8, 2003; September 16, 2003, January 12, 2004, October 17, 2005; May 27, 2008; February 18, 2010; April 7, 2011; August 9, 2012; June 5, 2015; The Hostile Work Environment policy was removed and combined in the Harassment policy. Reviewed by the Operations Council on November 14, 2018 and approved by the Executive Council on November 14, 2018; February 5, 2020; XXXX, XX, 2024.

Reviewed by Campus Council on May 10th, 2023, and reviewed by the Executive Council on May 18th, 2023, and approved by the President on June 26th, 2023. Reviewed by Campus Council on August 14, 2024, Executive Council on August 8, 2024, and approved by the President on August 16, 2024.