

**FLATHEAD VALLEY COMMUNITY COLLEGE**

**Policy Manual**

**CHAPTER I – DOCTRINE**

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## **FLATHEAD VALLEY COMMUNITY COLLEGE**

### **Policy Manual**

#### **CHAPTER I - DOCTRINE**

##### **SECTION 10: LEGAL BASIS AND AUTHORITY\***

Approved: January 23, 2017

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#### **LEGAL BASIS AND AUTHORITY FOR THE COLLEGE**

Flathead Valley Community College was established in compliance with the provisions of Section 75-4416 of the Revised Codes of Montana, by vote of the qualified voters in Flathead County on April 1, 1967. Board of Trustees members were first elected on April 3, 1967.

Subsequently, as a result of an act of the Montana Legislature authorizing creation of a community college service region outside of an existing community college district, the Lincoln County Campus was established by a vote of the qualified electors.

Statutes governing the College are currently codified at Mont. Code Ann. §20-15-101, *et seq.*

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\* History: Effective April 3, 1967; July 1, 1984; entered into Policy Manual March 22, 1999, Revised January 23, 2017; Revised February 24, 2020

## **FLATHEAD VALLEY COMMUNITY COLLEGE**

### **Policy Manual**

#### **CHAPTER I - DOCTRINE**

##### **SECTION 20: EDUCATIONAL PHILOSOPHY\***

Adopted: March 22, 1999

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#### **EDUCATIONAL PHILOSOPHY**

Community colleges are the embodiment of the nation's democratic ideal of opportunity for all and are dedicated to the belief that free citizens succeed through access, effort, and ability. Flathead Valley Community College fulfills that democratic ideal of opportunity through a philosophy of providing open-door admissions, education in the local community at a reasonable cost, continued assistance and guidance to students, and commitment to the comprehensive community college concept.

Flathead Valley Community College, as an integral part of the community it serves, works as a partner with government, business, industry and other educational providers to promote economic, cultural and social development.

The Flathead Valley Community College Board of Trustees is committed to bringing together the resources necessary to implement these ideals for the people of Flathead and Lincoln Counties and northwestern Montana.

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\* History: Adopted by Board of Trustees March 22, 1999, Reviewed January 23, 2017; Reviewed February 24, 2020

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I - DOCTRINE

#### SECTION 30: STATEMENT OF PURPOSE AND GOALS\*

Approved: September 22, 2003

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#### STATEMENT OF PURPOSE

Flathead Valley Community College is a locally controlled community college authorized to provide post-secondary educational services. Academic courses leading to the Associate of Arts (A.A.), Associate of Science (A.S.), and Associate of Applied Science (A.A.S.) degrees, certificate programs in specific occupational and industry-related areas and continuing education form the foundation of the College's instruction.

#### VISION STATEMENT

"Improving Lives Through Learning"

#### INSTITUTIONAL MISSION

Flathead Valley Community College promotes excellence in lifelong learning, focused on student success and community needs.

#### INSTITUTIONAL GOALS

- I. We will provide educational programs and courses that prepare our students for transfer to other postsecondary institutions, for the workforce, and for citizenship.
- II. We will increase lifelong learning opportunities for our students and our community.
- III. We will be responsive to the community's economic and workforce training needs.
- IV. We will promote programs and activities that enhance the cultural and social well-being of our students and communities.
- V. FVCC will foster a positive learning and working environment and provide support services for student success.

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\* History: Revised February 18, 1992; Revised March 22, 1999; Revised September 22, 2003, Reviewed January 23, 2017, Reviewed February 24, 2020

**FLATHEAD VALLEY COMMUNITY COLLEGE**  
**Policy Manual**

**CHAPTER I - DOCTRINE**

SECTION 40: CODE OF ETHICS\*

Approved: April 26, 1999

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**CODE OF ETHICS**

It is the policy at Flathead Valley Community College that all employees will adhere to the College's Code of Ethics and a commitment to the student and the public.

**I. INSTITUTIONAL CODE OF ETHICS**

We will be a staunch advocate of the community college "open door" policy.

We will uphold and enforce all laws, rules and regulations and court orders pertaining to community colleges. Desired changes will be brought about only through legal and ethical procedures.

We will make decisions in terms of the educational welfare of students and will strive to be a community college that can meet the individual needs of all students.

All components of the College will continue to study the nature, value and direction of contemporary education in our society in order to facilitate needed change.

We will work unremittingly to help the people of our community understand the importance of public higher education and the need to support it.

We will strive to ensure that people are accurately informed about our college and we will try to interpret the aspirations of the community for its college.

We will create and maintain a positive working environment that encourages and rewards involvement and innovation for the efforts of our employees and supports their work through fair and reasonable institutional policy and practices.

**II. POLICY OF PROFESSIONAL CODE OF ETHICS**

It is the policy at Flathead Valley Community College that all employees will adhere to the following Code of Ethics:

- A. Believe in the worth and dignity of each person;
- B. Recognize the supreme importance of the pursuit of truth, devotion to excellence, and nurturing of democratic citizenship;
- C. Regard as essential to these goals the protection of the freedom to learn and to teach, and the guarantee of equal educational opportunity for all;

- D. Accept the responsibility of practicing this profession according to the highest ethical standards;
- E. Recognize the magnitude of the responsibility accepted by choosing a career in education, and engages individually and collectively with other educators to judge colleagues and to be judged in accordance with the provisions of this code.

### **III. PRINCIPLE 1 - COMMITMENT TO THE STUDENT**

Our objective is to move each student toward the realization of his or her potential as a person, and as an effective citizen. Therefore we work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals. In fulfilling this obligation to the student, the we:

- A. Will not deliberately suppress or distort subject matter;
- B. Will make reasonable effort to protect our students from conditions harmful to learning, or to their health and safety;
- C. Will conduct professional business in such a way that the student is not exposed to embarrassment or disparagement;
- D. Will not discriminate against any student in relation to participation in any College related programs;
- E. Will not use professional relationships with students for private or personal advantage;
- F. Will keep in confidence information that has been obtained in the course of professional services, unless disclosure is professionally appropriate or is required by law;
- G. Will not tutor for remuneration students assigned to classes given through the College.

### **IV. PRINCIPLE 2 - COMMITMENT TO THE PUBLIC**

We believe that patriotism in its highest form requires dedication to the principles of our democratic heritage. In sharing with all other citizens the responsibility of developing a sound public policy, we assume full political and citizenship responsibilities. We bear particular responsibility for the development of policy relating to the extension of educational opportunities, and for interpreting educational programs and policies. In fulfilling this obligation to the public, we:

- A. Will not misrepresent the institution, and will take adequate precautions to distinguish between personal and institutional views;
- B. Will not knowingly distort or misrepresent the facts concerning educational matters through direct or indirect public expressions;
- C. Will not interfere with a colleague's exercise of political and citizenship rights and responsibilities;
- D. Will not use institutional privileges or public time, facilities, equipment, supplies, personnel or funds for private gain, or to promote political candidates or partisan

- political activities;
- E. Will accept no gratuities, gifts or favors that might impair or appear to impair independent professional judgment, nor offer any favor, service, or thing of value to obtain advantage.

## **V. PRINCIPLE 3 - COMMITMENT TO THE PROFESSION**

We believe that the quality of services provided by the education profession, directly influence the nation and its citizens. Therefore we exert every effort to raise professional standards to improve service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions that attract persons to careers in education who are worthy of the trust. In fulfilling this obligation to the profession, the educator:

- A. Will not discriminate on the grounds of race, color, sex, marital status, creed, religion, age, national origin, physical or mental disability, political ideas or sexual orientation, in any professional relationships;
- B. Will accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities;
- C. Will not use coercive means or promise special treatment in order to influence professional decisions of colleagues;
- D. Will safeguard information acquired about colleagues in the course of employment, unless disclosure is professionally appropriate or is required by law;
- E. Will not misrepresent personal or professional qualifications;
- F. Will not knowingly distort evaluations of colleagues.

## **VI. PRINCIPLE 4 - COMMITMENT TO PROFESSIONAL EMPLOYMENT**

### ***PRACTICES***

- A. Regard employment as a pledge to be executed both in spirit and fact in a manner consistent with the highest ideals of professional service;
- B. Believe that sound relationships with governing boards are built upon personal integrity, dignity, and mutual respect;
- C. Discourage the practice of this profession by unqualified persons. In fulfilling this obligation to professional employment practices, the educator:
  - 1. Will apply for, accept, offer or assign a position or responsibility on the basis of professional preparation and qualifications;
  - 2. Will apply for a specific position only when it is known to be vacant, and will refrain from underbidding or making unfounded, adverse comments about other candidates;
  - 3. Will not knowingly withhold relevant information from an applicant regarding a position, or misrepresent an assignment or the conditions of employment;
  - 4. Will adhere to the terms of a contract or appointment, unless said terms have been legally terminated, falsely represented or substantially altered by unilateral action of the employing agency;

5. Will not delegate assigned tasks to unqualified personnel;
6. Will prevent any commercial exploitation of his or her professional position;
7. Will use time granted for the purpose for which it is intended.

## **VII. PRINCIPLE 5 - TRUSTEE COMMITMENT TO THE COLLEGE**

We will recognize that our responsibility is not to run the college, but together with our fellow trustees, to see that it is well run.

We understand that the primary function of the board is fiscal responsibility, policy-making, planning, and appraisal, and we will help to frame policies and plans only after the board has consulted those who will be affected by them.

We will arrive at conclusions only after discussing all aspects of the issues at hand with our fellow board members assembled in meeting.

We will recognize that authority rests with the whole board assembled in public meetings and will make no personal promises nor take any private action that may compromise the board.

We will refuse to surrender our independent judgment to special interest or partisan political groups or to use the college for personal gain or for the gain of friends.

We will hold confidential all matters pertaining to the College that are private as a matter of law.

We will vote to appoint, upon proper recommendation by the appropriate administrative officer, the best-qualified technical and professional personnel available.

We will support and protect college personnel in proper performance of their duties.

We will refer all complaints to the chief administrative officer and will act on such complaints at public meetings only if the decision of the chief administrative officer has been appealed to the Board.

## **FLATHEAD VALLEY COMMUNITY COLLEGE**

### **Policy Manual**

#### **CHAPTER I - DOCTRINE**

##### **SECTION 50: EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION\***

Approved: April 4, 2000

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#### **EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION POLICY**

Flathead Valley Community College provides to all people the equal opportunity for education and employment without regard to race, color, religion, creed, political ideas, sex, gender identity, sexual orientation, age, marital status, veteran's status, service in the uniformed services as defined by state and federal law, physical or mental disability, national origin or ancestry except as authorized by law. Responsibility for effecting equal opportunity accrues to all College administrators, faculty, and staff. This responsibility includes assurance that employment and admission decisions, personnel actions, and administration of benefits to students and employees, rests upon criteria that adhere to the principle of equal opportunity.

The College prohibits retaliation against a person for bringing a complaint of prohibited discrimination, for assisting someone with a complaint of discrimination, or for participating in any manner in an investigation nor resolution of a complaint of discrimination.

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\* History: Adopted as policy from Personnel Handbook as "Affirmative Action;" Revised 11/12/86; adopted as "Equal Opportunity" April 4, 2000; Revised 11/25/2013; Revised 4/28/2014; Reviewed February 24, 2020

**FLATHEAD VALLEY COMMUNITY COLLEGE**  
**Policy Manual**

**CHAPTER I - DOCTRINE**

**SECTION 60: DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT,  
STALKING, AND RETALIATION POLICY\***

Approved: March 20, 2017

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**STATEMENT OF INSTITUTIONAL COMMITMENT**

Flathead Valley Community College (FVCC or College) recognizes the importance of the personal dignity and worth of every member of its community and it is therefore committed to providing an environment that is free from harassment and discrimination on the basis of race, color, religion, creed, political ideas, sex, gender identity, sexual orientation, age, marital status, physical or mental disability, national origin, or ancestry. Acts or allegations of discrimination, harassment, sexual misconduct, domestic violence, stalking, and retaliation will be addressed consistent with this policy and Title IX of the Education Amendments of 1972.

Members of the FVCC community understand that the law does not just prohibit discrimination and harassment of employees by employers. The law also prohibits discrimination and harassment between members of the FVCC community more generally: for example, between an instructor and a student, between two students, or between a student and an applicant or campus guest. The policy applies in all College programs and activities, including, but not limited to, discrimination and harassment in athletics, extracurricular, college sponsored activities, instruction, grading, campus housing, and FVCC employment. In addition, the law prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of discrimination or harassment, for assisting someone with such a complaint, for attempting to stop such discrimination or harassment, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. It is central to the values of this College that any individual who believes they may have been the target of unlawful discrimination or harassment feel free to report their concerns for appropriate investigation and response, without fear of retaliation or retribution.

All reports or any concerns about conduct that may violate this policy should be reported to the [Title IX Coordinator](#). Contact information is available online on the [Campus Safety website](#).

## **REPORTING OF DISCRIMINATION, HARASSMENT AND/OR SEXUAL MISCONDUCT**

To enable FVCC to respond proactively and effectively to stop instances of discrimination, harassment and sexual misconduct involving members of the FVCC community, any person must promptly report information they have about discrimination, harassment and/or sexual misconduct to the Title IX Coordinator. Employees, such as licensed health-care professionals who have a statutory privilege under Montana law, are exempt from this reporting requirement to the extent that the information communicated to them regarding discrimination, harassment or misconduct is privileged as a matter of law.

Upon receiving a report or notice of discrimination, harassment, or sexual misconduct, the Title IX Coordinator, or designee will evaluate the information within a reasonable timeframe and determine what further action should be taken, following the procedures described in the [Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Grievance Procedures](#). The Title IX Coordinator will take steps, either directly or through a reporter, to provide information about FVCC's Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Grievance Procedures, as well as available health and advocacy resources and options for criminal reporting.

Complaints or notice of discrimination, harassment, and/or retaliation should be made using any of the following options:

- 1) File a complaint with, or give verbal notice to, the [Title IX Coordinator](#). Such a report may be made at any time (including during non-business hours) by using the telephone number 406-756-3812, or email address [titleix@fvcc.edu](mailto:titleix@fvcc.edu), or by mail to Title IX Coordinator, 777 Grandview Dr. Kalispell MT 59901,
- 2) Report online, using the [reporting form](#).

Anonymous reports are accepted and can give rise to a need to investigate. The College tries to provide supportive measures to all Complainants, which may not be possible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss complaints, unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

A formal complaint is a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s). As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by FVCC) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint. If notice is submitted in a method that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure they are aware of the correct filing procedure.

## **CONFIDENTIALITY**

FVCC will maintain confidentiality of the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sex discrimination, any respondent, and any witness, except as may be permitted by FERPA statute or as required by law, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

## **DISCRIMINATORY HARASSMENT**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. FVCC's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under FVCC policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of FVCC policy, though supportive measures will be offered to those impacted.

### **A. Discriminatory Harassment**

Discriminatory harassment constitutes a form of discrimination that is prohibited by FVCC policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

FVCC does not tolerate discriminatory harassment of any employee, student, visitor, or guest. FVCC will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.<sup>1</sup> This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive *and* objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, FVCC may also impose sanctions on the Respondent through application of the [Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Grievance Procedures](#).

### **B. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Montana regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

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FVCC has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

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

- 1) Quid Pro Quo: an employee of the recipient, conditions the provision of an aid, benefit, or service of the recipient, on an individual's participation in unwelcome sexual conduct; and/or
  - 2) Sexual Harassment: unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and, objectively offensive, that it effectively denies a person equal access to the FVCC's education program or activity.
  - 3) Sexual assault, defined as:
    - a) Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
    - b) Forcible Rape: 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 Complainant.
    - c) Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age<sup>2</sup> or because of temporary or permanent mental or physical incapacity.
    - d) Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
    - e) Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
    - f) Sex Offenses, Non-forcible:
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- i) Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Montana law.
  - ii) Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of sixteen.
- 4) Dating Violence, defined as: 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 determined based on the Complainant'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.
  - a. For the purposes of this definition—Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- 5) Domestic Violence, defined as: violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Montana or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Montana.
  - a. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- 6) Stalking, defined as: 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.
  - a. For the purposes of this definition— Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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 Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### **C. Force, Coercion, Consent, and Incapacitation**

As used in the offenses above, the following definitions and understandings apply:

1. **Force:** 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.”).

- a. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
2. **Coercion:** 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 certain 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.
  3. **Consent is:** knowing, and voluntary, and clear permission by word or action to engage in sexual activity.
    - a. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.
    - b. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.
    - c. 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 within a reasonable time. 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.
  4. **Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent. It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.
    - a. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).
    - b. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

- c. This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

## **RETALIATION**

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. FVCC is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for the College or any member of FVCC's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made 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 procedure.

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 of that nature, for the purpose of interfering with any Title IX right or privilege, constitutes retaliation. The exercise of rights protected under the First Amendment does not constitute 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 this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **FALSE REPORTING**

Intentionally submitting a deliberately false report or providing false information is prohibited and is grounds for disciplinary action.

## **JURISDICTION**

This policy applies to conduct that takes place in the education program and activities of FVCC, on the campus or on property owned or controlled by FVCC, or at College-sponsored events. The Respondent must be affiliated with the FVCC's community in order for its policies to apply.

This policy can be applicable to the effects of off-campus misconduct that effectively deprives someone of access to FVCC's educational programs. The College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial college interest.

Regardless of where the conduct occurred, the college will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial college interest may include:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the college.

This may include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the college's education program and activities or use FVCC networks, technology, or equipment.

While FVCC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the Title IX Coordinator, the College will engage in a variety of means to address and mitigate the effects.

Members of the College community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the FVCC community.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the college's control (e.g., not on FVCC networks, websites, or between FVCC email accounts) will be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the college when such speech is made when such speech is shown to cause substantial in-program disruption.

## **AMNESTY FOR DRUG OR ALCOHOL POSSESSION AND CONSUMPTION**

The College strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students or staff. Therefore, students who provide information in good faith about sex-based discrimination, sexual harassment or sexual misconduct involving students or staff will not be disciplined by the College for any violation of

FVCC's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

## **CONSENSUAL RELATIONSHIPS**

There are inherent risks in any personal or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the person whose position confers power. A consensual romantic relationship in which one party has a supervisory, evaluative, or probable evaluative responsibilities for the other is a conflict of interest (COI), and the party in the evaluative or supervisory position must promptly disclose the relationship to his or her supervisor and to the Executive Director of Human Resources. The supervisor and the Executive Director of Human Resources shall take steps to ensure that the situation is appropriately managed. This could result in the removal of the employee or student from the supervisory or evaluative responsibilities by their romantic partner. An employee's failure to promptly disclose a conflict of interest may result in discipline.

## **SANCTIONS**

Violations of this policy will be addressed through the [Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Grievance Procedures](#). Consequences for violating this policy will depend upon the facts and circumstances of each particular situation.

The severity of sanctions or corrective action will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct. A finding of discrimination, harassment that creates a hostile environment or results in a tangible employment or educational action, or sexual misconduct may be cause for disciplinary action up to and including the discharge of employees and the expulsion of students, in accordance with applicable FVCC policies, procedures and collective bargaining agreements. The College may also take appropriate action if it does not find discrimination or harassment that creates a hostile environment or results in a tangible employment or educational action, but (a) the College found that the respondent engaged in disruptive behavior or (b) to prevent the creation of a hostile environment.

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\*History: Adopted November 12, 1986; Revised January 8, 1991; Revised February 18, 1992; Revised September 27, 1999; Revised March 22, 2010; Revised October 27, 2014; Revised March 20, 2017; Revised September 18, 2018, Revised February 24, 2020, Revised July 27, 2020

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I - DOCTRINE

#### SECTION 70: DRUG-FREE WORKPLACE POLICY\*

Approved: June 28, 1999

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#### DRUG-FREE WORKPLACE POLICY

In compliance with the Drug-Free Workplace Act of 1988, Flathead Valley Community College is committed to providing a drug-free workplace. The unlawful manufacture, distribution, sale, possession or use of a controlled substance in the workplace or while conducting college business is prohibited. Conducting college business while under the influence of a controlled substance is likewise prohibited.

Employees using prescription or non-prescription drugs which may impair their work performance must notify their immediate supervisor of this use and of any possible effects.

Employees must, as a condition of employment, comply with this policy and notify their immediate supervisor of any criminal drug statute conviction or nolo contendere plea for a violation occurring in the workplace no later than five (5) days after such conviction. The supervisor shall notify the Human Resources Office immediately upon notice from the employee. The Human Resources Office shall notify the federal granting agency, when appropriate, of the conviction within ten (10) days of learning of the conviction.

Violations of this policy will result in disciplinary action up to and including termination and may have legal consequences. At the discretion of the employer, an employee violating this policy may be required to satisfactorily complete a drug abuse assistance or rehabilitation program as a condition of employment.

Drug dependency is a major health problem and interferes with workplace productivity, safety, and security. Employees are encouraged to seek assistance in dealing with drug problems. Conscientious efforts to seek help for drug dependency will not jeopardize an employee's job status.

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\* History: Adopted May 9, 1989; Revised June 28, 1999; Revised March 22, 2010, Revised January 23, 2017, Reviewed February 24, 2020

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I - DOCTRINE

#### SECTION 80: ALCOHOL-FREE WORKPLACE

Approved: April 24, 2000

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#### ALCOHOL-FREE WORKPLACE POLICY

Flathead Valley Community College is committed to providing an alcohol-free workplace and learning environment. The possession, use or distribution of any alcoholic beverage by employees or students in the workplace and/or while conducting college business is prohibited.

Public and college events which occur on campus outside of regular working hours and at which alcohol may be sold and/or distributed require approval by the College President.

Alcohol impairment is a major health problem that interferes with workplace productivity, safety and security. The College shall reasonably assist any employee who voluntarily seeks help in dealing with alcohol dependency.

In accordance with (Board Policy, Chapter VI, Section 20) any violation of this policy may result in disciplinary action up to and including discharge and may subject an employee to criminal penalties. At the discretion of the College, an employee violating this policy may be required to satisfactorily complete an alcohol abuse assistance or rehabilitation program as a condition of continued employment.

Exceptions to this policy may be made by the College President.

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History: Adopted by Board of Trustees April 24, 2000; Revised March 22, 2010, Revised January 23, 2017, Reviewed February 24, 2020

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I– DOCTRINE

#### SECTION 85: Smoking and Tobacco Free Policy

Approved: April 26, 2010

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The College is committed to complying with the Montana Clean Indoor Air Act, and further supports a healthy, comfortable and productive work environment for all students, employees and visitors to the campus. Therefore, FVCC prohibits any form of smoking including the use of electronic cigarettes (e-cigarettes) or any form of tobacco usage in all of its campus facilities and properties as well as at all points of entrance and exit from its facilities, including all walkways and parking lots.

Failure to comply will result in disciplinary action as stipulated by College Policy for student infractions and the appropriate disciplinary process as set forth in collective bargaining agreements or Board of Trustees policy for faculty and staff.

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\* History: Adopted April 26, 2010, Revised October 22, 2012, Revised January 23, 2017, Reviewed February 24, 2020

**FLATHEAD VALLEY COMMUNITY COLLEGE**

**Policy Manual**

**CHAPTER I - DOCTRINE**

**SECTION 90: DISABILITY ACCESSIBILITY\***

Approved: July 23, 2001

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**DISABILITY ACCESSIBILITY POLICY**

Flathead Valley Community College is committed to compliance with federal and state laws and regulations prohibiting discrimination on the basis of disability. The College strives to create an accessible and inclusive campus environment for individuals with disabilities.

FVCC will provide reasonable accommodations and ensure programs, services, and activities are accessible to disabled individuals. Accessibility extends to equal and effective electronic and information technology.

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\* History: Adopted by Board of Trustees June 27, 1994 (formerly “Americans with Disabilities Act”); Revised July 23, 2001; Revised March 22, 2010; Revised January 26, 2015, Reviewed February 24, 2020

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I – DOCTRINE

#### SECTION 92: ANIMALS ON CAMPUS

Adopted: May 22, 2017

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The College enforces a no animals on campus policy in College buildings and facilities including student housing with the exception of service animals as noted below.

The College is committed to full and equitable access to its programs, services and facilities by people with disabilities, including those who require the assistance of service, therapy, or companion animals. The College is also mindful of the health and safety concerns of the campus community. The College strives to balance the rights of the individual with a disability and the potential impact of animals and other campus patrons in accordance with all applicable state and federal laws.

Reference: [MCA 49-4-214](#)

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History: Adopted May 22, 2017, Reviewed February 24, 2020

**FLATHEAD VALLEY COMMUNITY COLLEGE**  
**Policy Manual**

**CHAPTER I - DOCTRINE**

**SECTION 95: WEAPONS**

Approved: October 27, 2014

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**POLICY**

No person, including students, employees, college patrons and vendors may bring, possess, conceal, brandish, use or be in possession of a weapon, or give the appearance of being in possession, on college-owned or controlled property or at activities under the jurisdiction or sponsorship of the college.

A weapon is defined as an instrument, article or substance that is designed, used or likely to be used to commit a criminal offense, cause bodily harm or property damage including, but not limited to, any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nunchucks, or brass or other metal knuckles, or other potentially dangerous items.

Allowable exceptions include use in conjunction of an instructional program with prior presidential approval and in accordance with state and federal law enforcement. Violation of the policy will result in discipline, up to and including employee dismissal, student expulsion, or any other remedy provided by law. Violation by third parties may result in exclusion from campus, events, and any other remedy provided by law.

Ref: MCA 45-8-361

# **FLATHEAD VALLEY COMMUNITY COLLEGE**

## **Policy Manual**

### **CHAPTER 1 – DOCTRINE**

#### **SECTION 100: Trespassing on College Property Policy**

Approved: January 28, 2019

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#### **I. POLICY**

Flathead Valley Community College (FVCC) is a public institution of higher education that can be visited by the general public. Even though FVCC is an open campus, the college has the ability to determine the expectations and parameters for a person's presence on College property. Individuals do not have a right to be on College property. Consistent with applicable laws, the college has the ability to restrict, withhold, or remove a person's access to or presence on College property.

Persons who violate College policies, regulations, or rules or pose a threat or risk to the safety and security of the college community or College property may be advised to leave. Such individuals may be trespassed from College property pursuant to M.C.A. 45-6-203 or as authorized by this policy.

#### **II. DEFINITIONS**

1. "College property" means property owned or leased by FVCC or the FVCC Foundation, event/activity space, and also includes any form of FVCC transportation.

**REFERENCE:** M.C.A. 45-6-203, Trespassing on College Property Procedures

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I – DOCTRINE

#### SECTION 110: HEALTH RELATED CONDITIONS AND COMMUNICABLE DISEASES

Approved: May 18, 2009

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#### I. COMMUNICABLE DISEASES

Flathead Valley Community College (FVCC) will comply with all applicable statutes and regulations that protect the privacy of persons who have a communicable disease. Every effort will be made to ensure procedurally sufficient safeguards to maintain the personal confidence about persons who have communicable diseases. FVCC will not discriminate against any employee or student based on the individual having a communicable disease.

The College's decisions involving individuals who have communicable diseases shall be based on current and well-informed medical judgments concerning the disease, the risks of transmitting the illness to others, the symptoms and special circumstances of each individual who has a communicable disease, and a careful weighing of the identified risks and the available alternative for responding to an individual with a communicable disease.

The College reserves the right to exclude an individual with a known communicable disease from the workplace, facilities, programs, and functions if the college finds, based on a medical determination, such restriction is necessary to protect the work and academic environment from potential exposure.

#### II. DEFINITION

Communicable diseases are infectious diseases transmissible (as from person to person) by direct contact with an affected individual or the individual's discharges or by indirect means (as by a vector). They include, but are not limited to, Measles, Mumps, Rubella, Varicella, Influenza, Viral Hepatitis-A (infectious hepatitis), Viral Hepatitis-B (serum hepatitis), MRSA infection, Enterovirus, Severe Acute Respiratory Syndrome (SARS), including the SARS-CoV-2 (coronavirus) and active Tuberculosis.

Flathead Valley Community College may choose to broaden this definition within its best interest and in accordance with information received through the Centers for Disease Control and Prevention (CDC) and the Flathead City County Health Department.

The communicable period is that period of time or times during which the infectious agent may be transferred directly or indirectly from an infected person to another person.

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History: Adopted October 11, 1998; Revised October 22, 2001; Revised May 18, 2009; Revised November 23, 2015; Reviewed July 22, 2019; Revised 9/21/2020 (Moved from Chapter VI, Human Resources, Section 100)

# **FLATHEAD VALLEY COMMUNITY COLLEGE**

## **Policy Manual**

### **CHAPTER I – DOCTRINE**

#### **SECTION 115: FREEDOM OF SPEECH**

Approved: September 21, 2020

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Flathead Valley Community College (FVCC) supports every individual's right to freedom of expression consistent with the forum in which the expression is made. FVCC also recognizes the importance of fostering a culture of tolerance and civility that is a cornerstone for the accomplishment of its educational goals.

Constitutionally protected rights of free expression must not unreasonably interfere with the right of the College to conduct its affairs in an orderly manner and to maintain its property, nor may they interfere with the College's obligation to protect the rights of all to teach, study, conduct business, and fully exchange ideas.

# FLATHEAD VALLEY COMMUNITY COLLEGE

## Policy Manual

### CHAPTER I – DOCTRINE

#### SECTION 120: RECORDING AND INTELLECTUAL PROPERTY RIGHTS

Approved: July 26, 2021

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This policy seeks to balance legitimate Recording of Learning Activities, the privacy of students and instructors, and the intellectual property rights of instructors. FVCC is committed to providing appropriate accommodations to students who require recorded lectures and auxiliary aids for documented disabilities registered with the Coordinator for Disability Services.

#### **Definitions:**

**Recording:** The capturing of any Learning Activity including visual aids and multimedia presentations for instruction utilizing the Recording function of any technology or device (e.g., video collaboration platform, lecture capture, camera, cell phone, tape recorder, digital recorder, tablet, etc.).

**Learning Activity:** A lecture, discussion, laboratory, field study, or other activity facilitated by an instructor while teaching a course offered by FVCC to its students.

#### **Use of Recordings**

1. Use of any permitted Recording made by a student, including a Recording permitted as a reasonable accommodation, is limited to personal use for private study and/or research purposes (not for commercial, marketing, promotional, or third party use) by the student granted permission to make the Recording, unless written permission from the instructor explicitly allows otherwise.
2. Students are not permitted to record a Learning Activity on behalf of an absent student without receiving prior written permission from the instructor.
3. Use of a Recording made by an instructor is limited to the intended use(s) of which the instructor notified participants in writing through the course syllabus before making the Recording.

#### **Recording:**

If a student is not registered with Disability Services for Students (DSS) and wishes to record classroom activity, discussions, and lectures, they must discuss this with their instructor. Students should be aware of the following laws and policies:

- A. Recordings of classroom lectures are the intellectual property of the instructor.
- B. Instructors have the right to prohibit audio and video recording of their lectures, unless the requesting student is registered with Coordinator for Disability Services and recording of class sessions is a reasonable modification for that student, (see below).
- C. Sharing of or selling recordings of classroom activity, discussions or lectures with any other person or medium without permission of the instructor is a violation of the FVCC Code of Student Conduct, FVCC Policy, and possibly applicable federal and international copyright laws.
- D. Recording human conversations without all party's knowledge of the recording is illegal under Montana Law. Mont. Code Ann. § 45-8-213(1)(c) (2013). Privacy in Communication.

Instructors may prohibit audio and video recording of their class sessions to protect their proprietary interest in their intellectual property, unless the student wishing to record the lectures is registered with Coordinator for Disability Services, and Coordinator for Disability Services has recommended the recording of class sessions as a form of reasonable modification for that student. 34 C.F.R. § 104.44.

- A. Audio recording of classroom activity, lectures, and discussions is a form of reasonable modification for students with disabilities under the Rehabilitation Act of 1973. 29 U.S.C. § 701 et seq.; 34 C.F.R. § 104.44.
- B. Coordinator for Disability Services will only recommend audio recording as a form of reasonable modification if audio recording of classroom activity will specifically address a student's functional limitations.
- C. In limited situations, Coordinator for Disability Services may recommend video recording of classroom activity as a form of reasonable modification, but only if video recording will specifically address a student's functional limitations.
- D. A student registered with the Coordinator for Disability Services must inform the instructor of their modification request to record classroom lectures in a timely manner before they record any classroom lectures or activity.
- E. The instructor can require a student to use the Classroom Recording Contract for any of their classes to protect their proprietary interest in their classroom lectures.
- F. The instructor must inform the other students in the class that audio or video recordings will be made of classroom activity prior to any recording taking place. Mont. Code Ann. § 45-8- 213(1)(c) (2013). Privacy in Communication. However, the instructor should make reasonable efforts to protect the privacy of the student requesting the modifications.

- G. If the instructor is concerned that recording of the class activity, discussions, and lectures by a student registered with DSS will fundamentally alter the classroom experience, they should contact DSS to discuss other means of providing the accommodation.

**Intellectual Property Rights:**

- A. Works which are produced by an employee in connection with an approved and sponsored research project are treated in accordance with the agreement negotiated with the sponsor. In the absence of such agreement or to the extent such an agreement does not fully address ownership of works produced, such works shall be treated in accordance with sections B or C of this policy.
- B. When an employee is assigned work or responsibilities for the specific purpose of developing computer programs, visual aids, manuals, public relations material, or other copyrightable works, the works produced pursuant thereto and all royalties therefrom shall be the property of the campus. Assignment of the copyright shall be indicated either on the individual employment contract or in a separate document countersigned by the employee. Should the campus and the employee agree to a division of royalties such division must be included in the contract or in a separate document countersigned by the employee. If the campus does not wish to copyright the work, the employee may obtain a written release from the president and may then copyright the work in his/her own name. Upon written request for release by the employee the campus will respond within thirty (30) days.
- C. When an employee develops copyrightable works other than those defined in paragraphs A or B above, he/she shall refer to Chapter VIII Section 10- Academic Freedom.