

Sexual Misconduct Procedures



Revised July 2016

Delta College holds as its key values; diversity, integrity, respect, excellence, leadership, innovation, teamwork, and existing as a learning-centered community. The safety and security of all members of the College community (students, employees, and visitors) is inextricably part of all of these values.

Sexual misconduct, in any form, is in direct conflict with Delta College's values and diminishes the safety and security of all members of the College community. Delta College's Sexual Misconduct Procedures were developed to take every reasonable measure to prevent, investigate, appropriately respond to, and mitigate the effects of incidents of sexual misconduct. These procedures were created in accordance with State of Michigan and Federal regulations and reflect Delta College's commitment to the safety of its community.

These procedures are subject to revision based upon the needs of the College community, the effectiveness (or lack thereof) of the procedures, identified best practices in the prevention, investigation, sanctioning, and mitigation of sexual misconduct incidents, and any changes in the applicable State of Michigan and/or Federal regulations governing sexual misconduct prevention, investigation, response, and mitigation. As always, the safety and security of Delta College's students, employees, and visitors will be the primary concern.

Sexual Misconduct Procedures Delta College

Table of Contents

1. INTRODUCTION	5
2. SCOPE OF PROCEDURES	5
3. DEFINITIONS	6
a. Sexual Harassment:	6
b. Quid Pro Quo Harassment:	6
c. Sexual Assault/Abuse:	6
d. Gender-Based Harassment:	7
e. Domestic Violence (added in 2015 from Violence Against Women Act):	7
f. Dating Violence (added in 2015 from Violence Against Women Act):	7
g. Sexual Exploitation:	8
h. Stalking:	8
i. Retaliation:	8
j. Intimidation:	8
k. Consent:	8
l. Incapacitation:	9
4. ASSISTANCE OPTIONS	9
a. Immediate Assistance	9
I. Advocates and Counselors	9
II. Emergency Contacts	10
III. Sexual Assault Response Team (SART)	11
IV. Health Care	11
b. Ongoing Assistance	13
I. Counseling, Advocacy, and Support	13
II. Interim Measures and Academic Accommodations	14
5. TITLE IX COORDINATOR	15
6. REPORTING PROTOCOLS	16
a. Reporting Options	16
b. Privileged and Confidential Disclosures	19
c. Clery Act	21
d. Third-Party and Anonymous Reporting	22
e. Retaliation	22

f.	Attempted Violations	22
g.	False Reports.....	22
h.	Amnesty.....	22
7.	INVESTIGATION PROCEDURES AND PROTOCOLS	22
a.	Title IX Coordinator Roles and Responsibilities	22
b.	Investigation	22
I.	Investigation Process	23
II.	Rights and Roles in the Investigation Process.....	24
III.	Possible Results of Investigation Process	24
IV.	Investigation Results/Notice of Outcome.....	26
c.	Time Frame	26
d.	Preserving Evidence	27
e.	Equitable Rights	27
f.	Participation of Advisors in the Resolution Process	27
g.	Notifications of Complaints to Supervisors	28
h.	Parallel Investigations	28
i.	Interim Measures and Academic Accommodations	28
8.	APPEAL PROCEDURES	29
a.	Appeal Process.....	29
9.	PREVENTION, EDUCATION and TRAINING	29
a.	Bystander Intervention Strategies	29
b.	Sexual Violence/Sexual Misconduct -- Risk Reduction Tips	30
10.	APPENDICES	32
	Appendix A: Sexual Misconduct Resolution for Students & Visitors	32
	Appendix B: Sexual Misconduct Resolution for Staff.....	33
	Appendix C: Sexual Misconduct Resolution for Faculty.....	34

1. INTRODUCTION

In compliance with all federal and state laws and regulations, all members of the Delta College community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which may include acts of sexual violence, domestic violence, dating violence, sexual harassment and stalking. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Delta College believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's or "Responsible Employee's" attention, protective and/or other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, as well as have limited effect on the victim and community.

The College's sex/gender harassment, discrimination and misconduct processes are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or are related to academic exploration of matters of public concern.

It is expected that all members of our College community will only engage in sexual activity that includes clear, knowing and voluntary consent prior to and during sexual activity. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want or do not want sexually. Consent to one form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity -- without actions demonstrating permission -- cannot be assumed to be consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). For positions that confer power, these relationships may be less consensual than perceived. The relationship may be viewed in different ways by each of the parties. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of sexual misconduct or violations of the College policies and/or procedures.

All Delta College faculty, staff and students are responsible for knowing the information, policies and procedures outlined in this document. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Faculty, staff, students and visitors are encouraged to check online at www.delta.edu/titleix for the updated versions of all policies and procedures. If government laws and regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

2. SCOPE OF PROCEDURES

The College uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In College resolution proceedings, legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, and the College will not assume a respondent is in violation. College

resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

These procedures apply to all individuals who have an institutional relationship with Delta College (faculty, staff, students, visitors, etc.). They prohibit all behaviors that constitute sexual misconduct between these individuals. These procedures can also apply to any act of sexual misconduct, regardless of location, if it creates a hostile environment. Use of alcohol or other drugs will never excuse behavior.

Sexual misconduct complaints and all related information and notes are confidential.

For purpose of these procedures, a person filing a complaint will be referred to as the “complainant” and the person being accused of a violation will be referred to as the “respondent.”

3. DEFINITIONS

The following is a list of prohibited sexual misconduct behaviors and their definitions. These definitions are in compiled from different resources that are in compliance with all federal and state laws and regulations. Anyone experiencing any of the behaviors listed below is encouraged to report it immediately to the Title IX Coordinator or to the DCDPS. Remedies, investigation of complaints and education and/or training will be provided in response.

- a. **¹Sexual Harassment:** Sexual harassment is a form of discrimination that includes unwelcome behavior (verbal, written, physical) that is directed at someone because of that person’s sex or gender and that meets either of the following criteria:
 - Submission or consent to the behavior is believed to carry consequences for the person’s education or employment.
 - The behavior creates a hostile, intimidating or demeaning environment that is sufficiently severe, pervasive and objectively offensive to substantially interfere with or deny participation in a person’s educational activities and benefits or employment opportunities.
- b. **¹Quid Pro Quo Harassment:**
 - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when either submission to such sexual conduct is made explicitly or implicitly a term or condition of rating or evaluating an individual’s educational [or employment] progress, development, or performance.
 - This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational [or employment] program.
- c. **¹Sexual Assault/Abuse:** Sexual assault includes any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the complainant is incapable of giving consent. Non-forcible sex offenses include unlawful, non-forcible sexual intercourse, incest and statutory rape. Other examples of sexual assault include, but are not limited to the following behaviors or attempted behaviors when consent is not present:
 - ²Rape (the 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)

¹ As defined by ATIXA (Association of Title IX Administrators)

² As defined by the Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook

- ¹Non-consensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force (vaginal, anal and oral). Sexual Contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.
- ¹Non-consensual sexual intercourse is any sexual intercourse however slight, with any object, by a person upon another person that is without consent and/or by force. Intercourse includes: vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.
- Unwanted/forcible ²fondling (the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity) or touching of the genitals, buttocks, breast or other body part
- Coercion or force to make someone else touch one's genitals, buttocks, breast or other body part
- Inducing consent through drugs or alcohol
- Engaging in sexual activity with a person who is unable to provide consent due to the influence of drugs, alcohol or other condition
- ²Incest (non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law)
- ²Statutory Rape (non-forcible sexual intercourse with a person who is under the statutory age of consent)

d. ⁵**Gender-Based Harassment:** Gender-Based harassment includes acts that do not involve conduct of a sexual nature, but which is unwelcome conduct based on a person's actual or perceived sex, including harassing conduct based on a student's gender expression, gender identity, transgender status, gender transition, or nonconformity with sex stereotypes. It includes behaviors that are verbal, nonverbal, graphic, physical aggression, intimidation, or hostile conduct which is sufficiently severe, persistent, or pervasive that interferes with or limits a person's ability to participate in or benefit from the educational or work programs or activities.

e. ³**Domestic Violence:** Domestic violence is a felony or misdemeanor crime of violence committed by one of the following:

- A current or former spouse or intimate partner of the complainant
- A person with whom the complainant shares a child in common
- A person who is cohabiting with or has cohabited with the complainant as a spouse or intimate partner
- A person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction
- 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 the jurisdiction

f. ³**Dating Violence:** Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall

³ As defined in VAWA (Violence Against Women Act)

⁵ As defined in OCR (Office for Civil Rights)

be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

- g. ¹**Sexual Exploitation:** Sexual exploitation occurs when an individual takes non-consensual advantage of another person, even though the behavior might not constitute one of the other sexual misconduct offenses. Examples can include, but are not limited to the following behaviors:
- Distribution or publication of sexual or intimate information about another person without consent.
 - Electronic recording, photographing or transmitting sexual or intimate utterances, sounds or images without knowledge and consent of all parties (including revenge porn).
 - Indecent exposure.
 - Sexual intimidation.
 - Stalking.
 - Voyeurism which involves both secretive observation of another's sexual activity or secretive observation of another for personal sexual pleasure.
 - Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
 - Sexually-based stalking and/or bullying may also be forms of sexual exploitation
- h. ³**Stalking:** Stalking includes conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or cause substantial emotional distress. It may take many forms including, persistent calling, texting or internet posting, as well as physical stalking, when the context of the communication or the nature of the stalking is of a sexual or intimate nature.
- i. ¹**Retaliation:** Retaliation is any adverse action taken against a person participating in a protected activity or because of that person's participation in that protected activity.
- j. ¹**Intimidation:** Intimidation is an implied or actual threat to commit a sex act against another person or behavior used to coerce participation in a sex act.
- k. ¹**Consent:** In order to give consent, one must be of legal age (in the State of Michigan, only persons age 16 and older may provide consent). Consent is knowing, voluntary and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact. A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Pressuring another person into sexual activity can constitute coercion, force or threat which invalidates consent. Silence or the absence of resistance alone does not constitute consent. A complainant is not required to resist or say "no" for an offense to be proven. Consent to some forms of sexual activity (e.g., kissing, fondling, etc.) should not be construed as consent for other kinds of sexual activities (e.g., intercourse). Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another nor does previous consent to sexual activity imply consent to sexual activity in the future. In addition, someone who is incapacitated (due to alcohol, drugs, is asleep or unconscious, or because of an intellectual or other disability that prevents them from having the capacity to give consent, etc.) cannot give consent.

¹ As defined by ATIXA (Association of Title IX Administrators)

³ As defined in VAWA (Violence Against Women Act)

- l. ¹**Incapacitation:** Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the “who, what, when, where, why, or how” of a situation or interaction. Individuals cannot give sexual consent if they can’t understand what is happening, or if they are disoriented, helpless, asleep, unconscious, or because of any intellectual or other disability that prevents the person from having the capacity to give consent for any reason; that applies even if it is because they voluntarily consumed alcohol or drugs. Those engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct. The possession, use, distribution and/or administration of any incapacitating substances is prohibited.

4. ASSISTANCE OPTIONS

a. Immediate Confidential Assistance

In essence, when a complainant requests confidentiality from one of the following, they are asking that:

- information regarding the incident not be shared with Delta College.
- Delta College does not complete an investigation.
- no action be taken against the respondent.

I. Advocates and Counselors

1. On-Campus Licensed Professional Counselors (LPC)

Name	Contact Information
Delta College Counseling	Personal Counseling: Walk-in or by appointment Fall/Winter Hours: Monday – Thursday: 8a.m.-4:30p.m., Friday: 8a.m. – 4p.m. Spring/Summer Hours: Monday – Thursday: 7:30 a.m. – 5:30 p.m., Friday – Sunday: CLOSED Phone: 989-686-9330 Email: confidentialcounsel@delta.edu Office Location: D-102

In situations where confidentiality is requested, counselors will work with the complainant to employ effective remedies

2. On-Campus Victim Advocate

You have the right to have a Victim Advocate assist you.

Delta College’s Title IX/VAWA Advocate serves all students, as well as faculty and staff members as it relates to sexual misconduct (see page 6 for prohibited behaviors). All services are free and private. It is always the complainant’s decision to pursue any of the available resources or to report an incident to local law enforcement, to the Delta College Department of Public Safety or to the Title IX Coordinator. However, the Title IX/VAWA Advocate is a mandatory reporter (see page 18 for mandated reporter information).

The Title IX/VAWA Advocate provides a safe, affirming, empowering and private environment for all persons. The advocate also brings a non-judgmental, caring approach to problem-solving while exploring all options and resources as it relates to sexual misconduct.

Any person may contact the Title IX/VAWA Advocate directly or may be referred to the Title IX/VAWA Advocate by another office.

¹ As defined by ATIXA (Association of Title IX Administrators)

The Title IX/VAWA Advocate assists all persons by:

- Explaining the options of reporting
- Explaining the College’s investigative process
- Assisting and accompanying the complainants in filing a report with the Department of Public Safety
- Assisting the complainant in accessing on campus resources, including counseling and outside advocacy agencies (and accompanying the complainant to the counseling office)
- Explaining the sexual assault nurse (SANE) examine, evidence collection procedures and options of reporting
- Providing supportive assistance (for example, if requested, the advocate may act as an advisor during the investigative process)

Name	Contact Information
Delta College Title IX/VAWA Advocate	Melissa Wallace Phone: 989-686-9322 Email: melissawallace@delta.edu Office Location: D-102

3. Off-Campus Advocates

County	Contact Information
Bay & Arenac Counties	Bay Area Women’s Center (serves men, women and children) P.O. Box 1458, Bay City, MI 48706 Domestic Violence & Sexual Assault Services Crisis Line: 989-686-4551 Crisis Line Toll-Free: 800-834-2098 TTY/TDD Number: 989-686-0284
Midland & Gladwin Counties	Shelter House P.O. Box 2660, Midland, MI 48640 Domestic Violence & Sexual Assault Services Crisis Line: 989-835-6771
Saginaw County	Underground Railroad, Inc. P.O. Box 2451, Saginaw, MI 48605 Domestic Violence & Sexual Assault Services Crisis Line: 989-755-0411 Crisis Line Toll Free: 888-399-8385 TTY/TDD Number: 989-755-0413
Saginaw, Midland, Bay & Tuscola Counties	Sexual Assault Program of Child & Family Services of Saginaw 2806 Davenport, Saginaw, MI 48602 Sexual Assault Services Only Crisis Line: 989-835-6771

II. Emergency Contacts

1. Delta College Contacts

Name	Contact Information
Title IX Coordinator	Loyce Brown Phone: (989) 686-9547 Office: A-093 Email: equityoffice@delta.edu Fall/Winter Hours: Monday – Thursday: 8a.m.-4:30p.m., Friday: 8a.m. – 4p.m., Saturday – Sunday: CLOSED Spring/Summer Hours: Monday – Thursday: 7:30 a.m.-5:30 p.m., Friday – Sunday: CLOSED

Name	Contact Information
Delta College Department of Public Safety (DCDPS)	1961 Delta Road, University Center, MI 48710 Emergency Phone: (989) 686-9111 (Extension 9111 from any College phone) Non-Emergency Phone: (989) 686-9113 Email: cops@delta.edu Fall/Winter Hours: Monday – Saturday: 7a.m.-11p.m., Sunday: 11a.m. – 7p.m. Spring/Summer Hours: Monday – Saturday: 7a.m.-11p.m., Sunday: CLOSED

Complainants have the right but are not required to notify or file a complaint with any law enforcement agency. If a complainant chooses to notify or file a complaint with law enforcement, a DCDPS staff member or the Title IX Coordinator will assist throughout the process. Under Title IX, all DCDPS staff are classified as responsible people. As a result, any report made to DCDPS will be reported to the Title IX Coordinator. All complaints will follow the Delta College Sexual Misconduct Resolution Process (see Appendices A, B, C). It is anticipated that the Delta College Sexual Misconduct Resolution Process will be resolved in a prompt and timely manner and completed within 60 days.

2. Off-Campus Contacts

In the case of emergency, dial 911.

Notifications and complaints can also be made to the following local law enforcement agencies. Office/lobby hours listed below. All have 24 hour dispatch.

Name	Contact Information
Bay City Department of Public Safety	Law Enforcement Divisions 501 Third Street, Bay City, MI 48708 Phone: (989) 892-8571 Bay City Department of Public Safety Website Hours: Monday – Friday: 7a.m.-4p.m.
Midland Police Department	Law Enforcement Center 2727 Rodd Street, Midland, MI 48640 Phone: (989) 631-5716 Midland Police Department Website Hours: Monday – Friday: 8a.m.-5p.m.
Saginaw Police Department	612 Federal Ave, Saginaw, MI 48607 Phone: (989) 797-4580 Saginaw Police Department Website
Michigan State TriCity Post	2402 Salzburg Road, Freeland, MI 48623 Phone: (989) 495-5555 Michigan State TriCity Post Website Hours: Monday – Friday: 8a.m.-4p.m.

III. Sexual Assault Response Team (SART)

Delta College does not have a Sexual Assault Response Team.

IV. Health Care

Delta College does not have a healthcare center.

1. Local Hospitals

Medical attention for injury treatment, preventative treatment for sexually transmitted diseases and other health services can be sought at the following hospitals:

County	Contact Information
Bay County	<u>McLaren Bay Region Healthcare</u> 1900 Columbus Ave, Bay City, MI 48708 Phone: (989) 894-3000
Midland County	<u>Mid-Michigan Medical Center</u> 4005 Orchard Drive, Midland, MI 48670 Phone: (989) 839-3000
Saginaw County	<u>St. Mary's of Michigan</u> 800 S. Washington Ave, Saginaw, MI 48601 Phone: (989) 907-8000
Saginaw County	<u>Covenant Healthcare</u> 900 Cooper Ave, Saginaw, MI 48602 Phone: (989) 583-0000
Huron County	<u>Huron Medical Center</u> 1100 S. Van Dyke Road, Bad Axe, MI 48413 Phone: (989) 269-9521
Arenac County	<u>St. Mary's Standish Community Hospital</u> 805 W. Cedar Street, Standish, MI 48658 Phone: (517) 846-4521

2. *Preserving Evidence*

Seek medical attention early to preserve all evidence and

- i. Do not bathe, shower, or change clothes before seeking medical attention
- ii. Do not wash sheets or other fabrics which may contain critical DNA evidence
- iii. Do not throw away anything
- iv. Do not use any medication

By following the above instructions, you may help in proving that the criminal offense occurred and the collected materials may be helpful in obtaining a protective order.

3. *Sexual Assault Nurse Examiner (SANE)*

Delta College does not have a SANE on-campus.

You may get a rape kit or contact a Sexual Assault Nurse Examiner (SANE) at:

County	Contact Information
Bay & Arenac Counties	<u>Bay Area Women's Center SANE Program</u> Bay City, MI 48706 Phone: (989) 686-2251 Fax: (989) 686-0906
Midland County	<u>Shelterhouse SANE Program</u> Midland, MI 48640 Phone: 989-835-6771 Fax: 989-835-7449
Saginaw County	<u>Saginaw Sexual Assault Response Team</u> Saginaw, MI 48602 Phone: (989) 790-9118 Fax: (989) 790-0712
Huron, Lapeer, Sanilac & Tuscola Counties	<u>Thumb Area Assault Crisis Center</u> Caro, MI 48723 Phone: (800) 292-3666 Information & Referral Phone: (800) 843-6394

The following is a list of other potential advocate resources. By calling the crisis lines, you will be directed to the appropriate advocate to assist you.

County	Contact Information
Bay & Arenac Counties	Bay Area Women's Center (serves men, women and children) P.O. Box 1458, Bay City, MI 48706 Domestic Violence & Sexual Assault Services Crisis Line: 989-686-4551 Crisis Line Toll-Free: 800-834-2098 TTY/TDD Number: 989-686-0284
Midland & Gladwin Counties	Shelter House P.O. Box 2660, Midland, MI 48640 Domestic Violence & Sexual Assault Services Crisis Line: 989-835-6771
Saginaw County	Underground Railroad, Inc. P.O. Box 2451, Saginaw, MI 48605 Domestic Violence & Sexual Assault Services Crisis Line: 989-755-0411 Crisis Line Toll Free: 888-399-8385 TTY/TDD Number: 989-755-0413
Saginaw, Midland, Bay & Tuscola Counties	Sexual Assault Program of Child & Family Services of Saginaw 2806 Davenport, Saginaw, MI 48602 Sexual Assault Services Only Crisis Line: 989-835-6771

The following list of advocate resources are for legal advocacy.

County	Contact Information
Bay County	1230 Washington Avenue, Bay City, MI 48708 Phone: 989-895-4243
Midland County	Courthouse, 301 W. Main Street, Midland, MI 48640 Phone: 989-832-6722
Saginaw County	Courthouse, 111 S. Michigan Avenue, Saginaw, MI 48602 Phone: 989-790-5561
Huron County	County Building, 205 E. Huron, #103, Bad Axe, MI 48412 Phone: (989) 269-9255
Arenac County	120 N. Grove Street, P.O. Box 1309, Standish, MI 48658 Phone: (989) 846-4597
Michigan Crime Victim Services Commission	Crime Victim Assistance and VOCA Grants: Leslie O'Reilly Phone: (517) 241-5249 Email: oreillyl@michigan.gov

b. Ongoing Assistance

I. Counseling, Advocacy, and Support

Whether or not you choose to make an official report or participate in a sexual misconduct investigation or criminal process, you may receive confidential support from the following:

1. On-Campus Counseling and Support

Name	Contact Information
Delta College Counseling <i>LPC is a confidential reporting option.</i>	Personal Counseling: Walk-in or by appointment Fall/Winter Hours: Monday – Thursday: 8a.m.-4:30p.m., Friday: 8a.m. – 4p.m., Saturday – Sunday: CLOSED Spring/Summer Hours: Monday – Thursday: 7:30 a.m. – 5:30 p.m., Friday – Sunday: CLOSED Phone: 989-686-9330 Email: confidentialcounsel@delta.edu Office Location: D-102

2. Community Counseling, Advocacy and Support

County	Contact Information
Bay & Arenac Counties	<u>Bay Area Women's Center</u> P.O. Box 1458, Bay City, MI 48706 Domestic Violence & Sexual Assault Services Crisis Line Primary: 989-686-4551 Crisis Line Toll Free: 800-834-2098 TTY/TDD Number: 989-686-0284
Midland & Gladwin Counties	<u>Shelterhouse</u> P.O. Box 2660, Midland, MI 48640 Domestic Violence & Sexual Assault Services Crisis Line Primary: 989-835-6771
Saginaw County	<u>Underground Railroad, Inc.</u> P.O. Box 2451, Saginaw, MI 48605 Domestic Violence & Sexual Assault Services Crisis Line Primary: 989-755-0411 Crisis Line Toll Free: 888-399-8385 TTY/TDD Number: 989-755-0413
Saginaw, Midland, Bay & Tuscola Counties	<u>Sexual Assault Program of Child & Family Services of Saginaw</u> 2806 Davenport, Saginaw, MI 48602 Sexual Assault Services Only Crisis Line Primary: 989-835-6771

3. State and National Counseling, Advocacy and Support

Contact Information
<u>Legal Resource Center on Violence Against Women</u> Improving legal representation for domestic violence survivors. Phone: 301-270-1550 Survivor Hotline: 800-556-4053 Email: lrc@lrcvaw.org LRCVAW Website
<u>Michigan 211</u> Connects people with information and resources to build healthy, safe communities. Phone: 211 or 1-844-875-9211 Michigan 211 Website
<u>The National Domestic Violence Hotline (NDVH)</u> Phone: 800-799-SAFE (7233) TTY: 800-787-3224 NDVH Website
<u>The Rape, Abuse & Incest National Network (RAINN)</u> Phone: 800-656-HOPE (4673) RAINN Website
<u>National Teen Dating Abuse Hotline Number – Just for Teens</u> Trained advocates available 24/7 to talk one-on-one to offer support and resources. Phone: 866-331-9474 TTY: 866-331-8453 Love is Respect Website

II. Interim Measures and Academic Accommodations

1. Interim Measures

Upon receiving a report of sexual misconduct, the College will immediately apply interim measures to stop the misconduct, keep complainants safe and ensure equal access to educational programs and activities. All measures will be implemented without penalty to

the complainant and will be provided while an investigation is pending. Possible interim measures include:

- Medical and mental health services, including counseling
- Assistance in arranging for alternative College employment arrangements and/or changing work schedules
- A “No contact” directive pending the outcome of an investigation. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another
- A “No Trespass” directive pending the outcome of an investigation.
- Providing an escort to ensure that the person(s) can move safely between school programs and activities
- Assistance identifying an advocate and/or help securing additional resources or assistance including off-campus and community advocacy, support, and services

2. Academic Accommodations

Requests for academic accommodations may include assistance in:

- Transferring to another course section
- Rescheduling an academic assignment or test without penalty
- Accessing academic support (e.g., tutoring)
- Arranging for incomplete grades, a leave of absence, or withdrawal from campus without penalty
- Preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or other experiential venues

5. TITLE IX COORDINATOR

In compliance with all federal and state laws and regulations, the College’s Title IX Coordinator oversees compliance with all aspects of sex/gender harassment, discrimination and sexual misconduct procedures. The Coordinator is housed in the Office of Equity and reports directly to Dr. Jean Goodnow, President of Delta College. Anyone wishing to make a report relating to sexual misconduct, may do so by reporting the concern to the College’s Title IX Coordinator:

Loyce Brown, Equity Officer/Title IX Coordinator
1961 Delta Road, A-093
University Center, MI 48710
Phone: (989) 686-9547
Email: equityoffice@delta.edu

Additionally, anonymous reports can be made by victims and/or third parties using the [online reporting form](#), or the reporting hotline at 989-758-3619. These anonymous reports may prompt a need for the College to investigate.

Individuals experiencing harassment or discrimination always have the right to also file a formal grievance with government authorities:

Office for Civil Rights,
Cleveland Office
U.S. Department of Education
1350 Euclid Avenue, Suite 325

Cleveland, OH 44115
Phone: (216) 522-4970
Fax: (216) 522-2573
Email: OCR.Cleveland@ed.gov

In the event that an incident involves alleged sexual misconduct by the Title IX Coordinator, reports should be made directly to:

Dr. Jean Goodnow, President
Delta College
1961 Delta Road
University Center, MI 48710
Phone: 989-686-9200
Email: jeangoodnow@delta.edu

The College's Title IX Coordinator has primary responsibility for coordinating the College's efforts to comply with its responsibilities under Title IX, which prohibits sex discrimination or harassment in all operations of the College, as well as investigate complaints of retaliation as a result of making or participating in a Title IX investigation. In addition, the Title IX Coordinator oversees the College's response to reports and complaints, monitors outcomes, identifies, and addresses any patterns and assesses effects of sexual misconduct at the College, so it can address issues that affect the College climate.

The Title IX Coordinator's functions and responsibilities include the following:

- Conduct adequate, reliable and impartial investigations of reports and complaints of sexual misconduct.
- Recommend to the appropriate vice president or designee requests for confidentiality by those who report or complain about sexual misconduct in the context of the College's responsibility to provide a safe and nondiscriminatory environment.
- Take prompt steps to ensure the complainant's equal access to the College's programs and activities, and protect the complainant as necessary.
- Consult with the appropriate vice president and implement identified remedies.
- Review proposed sanctions before they are imposed to ensure that they are reasonably calculated to stop the sexual misconduct and prevent its recurrence.
- Ensure ongoing compliance with Title IX, Violence Against Women's Act (VAWA) and College procedures to address sexual misconduct.
- Provide or facilitate ongoing training, consultation and informational assistance on Title IX and VAWA for all students, faculty and staff.

6. REPORTING PROTOCOLS

There are multiple options for making complaints, including confidential reports.

a. Reporting Options

I. Criminal Complaint

In the case of an emergency, call 911.

To file a criminal complaint, please contact one of the following law enforcement agencies. Law enforcement may share with the Title IX Coordinator information that may help with Delta College's investigation. Office/lobby hours are listed below. All have 24 hour dispatch.

Name	Contact Information
Delta College Department of Public Safety (DCDPS)	1961 Delta Road, University Center, MI 48710 Emergency Phone: (989) 686-9111 (Extension 9111 from any College phone) Non-Emergency Phone: (989) 686-9113 Email: cops@delta.edu Fall/Winter Hours: Monday – Saturday: 7a.m.-11p.m., Sunday: 11a.m. – 7p.m. Spring/Summer Hours: Monday – Saturday: 7a.m.-11p.m., Sunday: CLOSED
Bay City Department of Public Safety	Law Enforcement Divisions 501 Third Street, Bay City, MI 48708 Phone: (989) 892-8571 Hours: Monday – Friday: 7a.m.-4p.m. Bay City Department of Public Safety Website
Midland Police Department	Law Enforcement Center 2727 Rodd Street, Midland, MI 48640 Phone: (989) 631-5716 Hours: Monday – Friday: 8a.m.-5p.m. Midland Police Department Website
Saginaw Police Department	612 Federal Ave, Saginaw, MI 48607 Phone: (989) 797-4580 Saginaw Police Department Website
Michigan State Police TriCity Post	2402 Salzburg Road, Freeland, MI 48623 Phone: (989) 495-5555 Hours: Monday – Friday: 8a.m.-4p.m. Michigan State Police TriCity Post Website

Upon receiving a complaint, law enforcement will follow their procedures which could result in prosecution of the respondent. Outcome of a criminal investigation may or may not have a bearing on an internal investigation and results.

II. Institutional Complaint

To file a complaint with Delta College, please contact the Title IX Coordinator or the Delta College Department of Public Safety at the contact information below:

Name	Contact Information
Title IX Coordinator	Loyce Brown Phone: (989) 686-9547 Email: equityoffice@delta.edu Fall/Winter Hours: Monday – Thursday: 8a.m.-4:30p.m., Friday: 8a.m. – 4p.m., Saturday – Sunday: CLOSED Spring/Summer Hours: Monday – Thursday: 8 a.m. – 6 p.m., Friday – Sunday: CLOSED
Delta College Department of Public Safety (DCDPS)	1961 Delta Road, University Center, MI 48710 Emergency Phone: (989) 686-9111 (Extension 9111 from any College phone) Non-Emergency Phone: (989) 686-9113 Email: cops@delta.edu Fall/Winter Hours: Monday – Saturday: 7a.m.-11p.m., Sunday: 11a.m. – 7p.m. Spring/Summer Hours: Monday – Saturday: 7a.m.-11p.m., Sunday: CLOSED

If a complaint is filed with the Delta College Department of Public Safety, they are required to inform the Title IX Coordinator of the complaint. The Delta College Department of Public Safety will not share the complaint with other Delta College employees or departments.

Upon receipt of a complaint, the Title IX Coordinator and/or the Delta College Department of Public Safety will interview the complainant, any possible witnesses and the respondent. Based upon the information received, there may be multiple interviews with all parties. At the completion of the interviews, the Title IX Coordinator and the Delta College Department of Public Safety will determine next steps, which may include a recommendation of disciplinary actions. If the complaint involves criminal actions, prosecution in a criminal court could result (See Appendices A, B, C).

III. Reporting to a Mandated Reporter

1. A “Mandated Reporter” (also known as a Responsible Employee) is a College employee who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. The Title IX Coordinator is also a Mandated Reporter who also has the responsibility to investigate and address sexual misconduct.

The following categories of employees are designated as the College’s Mandated Reporters:

- Administrators (including, Executive staff)
- Academic Advisors
- Athletic Director and staff (to include coaches, assistant coaches, athletic trainer, and volunteer staff)
- Coordinators and other employees at all off location sites, including in Saginaw, Bay City and Midland
- Counselors (however, if confidentiality is requested to Licensed Professional Counselors, they are not required to report to the Title IX Coordinator)
- Disability Resources Staff
- Faculty (including faculty teaching on-line and at off location dual enrollment sites and service learning sites)
- Faculty and staff advisors to students and /or student organizations
- Human Resources Staff
- Judicial/Conduct Officer
- Law Enforcement unit employees, including student employees
- Student and Civic Engagement department staff
- Study Abroad Coordinators and all College sponsored trip leaders (to include travel within the State of Michigan and the USA)
- Supervisors (all those who are in a supervisory role)
- Title IX Coordinator

Before a complainant reveals any information to a Mandated Reporter, the Mandated Reporter should ensure that the complainant understands the employee’s reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to confidential resources. Mandated Reporters will not pressure a complainant to pursue any reporting options, but will maintain neutrality.

If the complainant still wants to tell the Mandated Reporter what happened but also maintain confidentiality, the employee must tell the complainant that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Mandated Reporter will also inform the Title IX Coordinator of the complainant’s request for confidentiality. In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the reporting party

requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. Regardless if a complainant does or does not request confidentiality, a Mandated Reporter must not share any reported information with anyone outside the Title IX Coordinator.

When a complainant tells a Mandated Reporter about an incident of sexual misconduct, the complainant has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Within 24 hours of seeing, knowing of or being told of any illegal behavior (sexual misconduct), a Mandated Reporter must report to the Title IX Coordinator all relevant details about the alleged sexual misconduct shared by the complainant, including:

- the name(s) of the complainant
 - if the person has not experienced a sexual assault, ask them for their telephone number, address and email address
- alleged respondent(s)
- any witnesses
- plus any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Mandated Reporter will be shared only with people responsible for handling the College's response to the report. A Mandated Reporter should not share information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement.

IV. Reporting to the Title IX Coordinator

A person should contact the Title IX Coordinator in order to:

- file a complaint or make a report of sex discrimination, and/or sexual misconduct,
- seek information or training about personal rights and courses of action available to resolve reports or complaints that involve potential sexual misconduct,
- notify the College of an incident or policy or procedure that may raise potential Title IX concerns,
- provide ongoing support during the disciplinary or criminal process
- get information about available resources (including confidential resources) and support services relating to sexual misconduct
- ask questions about the College's policies and procedures related to sexual misconduct.

All Mandated Reporters, including the Licensed Professional Counselors, Human Resources Staff and the Delta College Public Safety Department, will receive adequate and ongoing training on how to report incidences of sexual misconduct. The Title IX Coordinator will also receive adequate and ongoing training on how to respond to and investigate sexual misconduct cases.

b. Privileged and Confidential Disclosures

I. Professional Counselors

1. Michigan Licensed Professional Counselors (LPC) who provide mental-health counseling to members of the College community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a complainant's permission. With the complainant's permission, the LPC becomes a Mandatory Reporter.

Following is the contact information for Delta College's Michigan Licensed Professional Counselors:

Name	Contact Information
Delta College Counseling	Personal Counseling: Walk-in or by appointment Fall/Winter Hours: Mon – Thurs: 8a.m.-4:30p.m., Friday: 8a.m.–4p.m., Saturday – Sunday: CLOSED Spring/Summer Hours: Mon – Thurs: 7:30a.m. – 5:30p.m., Friday – Sunday: CLOSED Phone: 989-686-9330 Email: counsel@delta.edu Office Location: D-102

II. On Campus Non-Professional Counselors and Advocates

At this time, Delta College does not have non-professional counselors and advocates on staff. Complainants may be referred to outside agencies.

For a listing of off-campus confidential counselors and advocates, please see the Assistance Options on page 9.

III. Confidential Disclosures

A complainant who speaks to a Licensed Professional Counselor must understand that, if the complainant wants to maintain confidentiality, the College may be unable to conduct an investigation into the particular incident, provide immediate remedies or pursue disciplinary action against the respondent.

Even so, Delta College counselors will still assist the complainant in receiving other necessary protection and support, such as complainant advocacy, academic support or accommodations, disability, health or mental health services, and changes to working or course schedules.

A complainant who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated. Delta College Licensed Professional Counselors will provide the complainant with assistance if the complainant requests to do so.

NOTE: While Licensed Professional Counselors may maintain a complainant’s confidentiality vis-à-vis the College, they may have reporting or other obligations under state law, such as mandatory reporting to law enforcement in case of minors; imminent harm to self or others and requirement to testify if subpoenaed in a criminal case.

ALSO NOTE: If the College determines that the alleged respondent(s) poses a serious and immediate threat to the College community the following roles may be called upon to provide information to assist with the determination to issue a timely warning:

- Law enforcement unit employees, including student employees
- Administrators
- Athletic director and coaches
- Faculty and staff advisors to student organizations
- Student and Civic Engagement department staff
- Coordinators at College off location sites in Saginaw, Bay City and Midland
- Study abroad coordinators and College sponsored trip leaders
- Title IX Coordinator

IV. Request for Confidentiality

Complainants may make confidential reports directly to the Title IX Coordinator. (The appropriate College Vice President will determine the extent to which Delta College can honor the request as limits our ability to investigate the particular matter.) If possible, Delta College will determine how

to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged respondent or revealing the identity of the complainant. Examples include, but are not limited to: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the school's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

c. Clery Act

Campus Security Authorities (CSAs), as defined by the Clery Act, have an obligation to report allegations of Clery Act-defined crimes they conclude are made in good faith. These crime allegations should be reported to the Delta College Public Safety Department. In the event of an allegation of sexual misconduct, the Title IX Coordinator will also be informed. The Clery Act definition of Campus Security Authorities includes Delta College personnel beyond Delta College Public Safety Department police officers. An official of Delta College who has significant responsibility for student and campus activities, includes but is not limited to, coaches, student organization advisors, and those involved in student discipline or campus judicial proceedings are a Campus Security Authority. The intent of including non-law enforcement personnel as Campus Security Authorities is to acknowledge that many individuals, and students in particular, are hesitant about reporting crimes to the police, but may be more inclined to report incidents to other campus-affiliated individuals. Crimes may be reported confidentially to CSAs for inclusion in the annual security report. Individuals should report sex discrimination and/or sexual misconduct crimes immediately to the Delta College Public Safety Department or the Title IX Coordinator for the purposes of having the incident assessed for a timely warning notice and for the purpose of annual statistical disclosure.

- **Timely Warnings**

Timely Warnings are used for crimes that have already occurred but still pose a potential threat. The timely warning is triggered when the Delta College Public Safety Department identifies a reported crime that poses a potential ongoing or serious threat to students, faculty, staff and/or guests. The College community will be notified in these instances. These incidents must have been reported to Delta College Public Safety Department or the information must have been relayed to Delta College Public Safety Department after having been taken by another local law enforcement agency. Warnings will be provided to students, employees, and the College community in a manner that is timely, that withholds the names of complainants as confidential and that will aid in the prevention of similar occurrences. Reports will be evaluated on a case-by-case basis based on the circumstances and timeliness of the report, proximity to a College campus, and the nature of the Clery-reportable crime. Based on the evaluation of the report, a timely warning may be issued. Those crimes that could initiate a timely warning include, but are not limited to:

- Murder
- Non--Negligent Manslaughter
- Sexual Offenses
- Robbery
- Aggravated Assault
- Arson
- Motor Vehicle Theft
- Hate Bias Crimes

d. Third-Party and Anonymous Reporting

Complainants and witnesses can report misconduct on a voluntary, confidential and anonymous basis by submitting an [online report](#), by emailing report@delta.edu, or calling and leaving a message with the College's Anonymous Whistleblower's Reporting Line at 989-758-3619.

e. Retaliation

Retaliation is strictly prohibited by law and Delta College. Any retaliatory action of any kind taken by or against any member of the Delta College community seeking a remedy under these procedures, cooperating in an investigation or otherwise participating in any proceeding, including disciplinary process under these procedures, is prohibited and must be reported to the Title IX Coordinator immediately.

Complaints of retaliation can be filed directly with the Title IX Coordinator by emailing equityoffice@delta.edu, calling 989-686-9547, or by making an anonymous complainant at report@delta.edu. Complainants and witnesses can also report retaliation by calling and leaving a message with the College's Anonymous Whistleblower's Reporting Line at 989-758-3619. Upon a report of retaliation, the Title IX Coordinator will conduct an investigation. Delta College will take strong responsive action if an investigation confirms retaliation.

f. Attempted Violations

The College will treat attempts to commit any of the violations listed in the Sexual Misconduct procedures as if those attempts had been completed and deemed as violations of Delta College policies and procedures.

g. False Reports

The College will not tolerate intentional false reporting of incidents of sexual misconduct. It shall be a violation of other Delta College policies and procedures to make an intentionally false report of any violation and it may also violate state criminal statutes and civil defamation laws.

h. Amnesty

For any person making a complaint or participating in an investigation, Delta College will consider amnesty from drug, alcohol, and other student conduct policies, on a case-by-case basis.

7. INVESTIGATION PROCEDURES AND PROTOCOLS

a. Title IX Coordinator Roles and Responsibilities

The Title IX Coordinator has primary responsibility for all aspects of the investigation procedures and protocols. The Title IX Coordinator or College designee will conduct an investigation to determine whether a violation occurred. Based upon the evidence collected, the Title IX Coordinator and the appropriate College vice president will determine the disciplinary action given to all policy violators. All investigations and proceedings of sexual misconduct shall be conducted by the Title IX Coordinator who receives annual training on the nature and types of cases, how to conduct an investigation and how to conduct a proceeding in a manner that protects the safety of survivors and promotes accountability.

b. Investigation

All investigations and proceedings of sexual misconduct shall be conducted by the Title IX Coordinator. Upon receipt of a complaint of sexual misconduct, the following procedures will be followed (see also Appendices A, B, and C), but not necessarily in order:

- In coordination with campus partners, initiate any necessary and immediate actions;
- Determine the identity and contact information of the complainant;
- Identify the policies allegedly violated;

- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the respondent, and what policy violations should be alleged as part of the report;
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Meet with the complainant to finalize their statement and
- Prepare the notice of charges on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews of all witnesses and the respondent, who will be given notice (prior to or at the time) of the interview;
- Complete the investigation promptly;
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation;
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not)
- Share a draft report with the parties and allowing them a period of comment before a report is finalized;
- Present the findings to the respondent, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Share the findings and update the complainant on the status of the investigation and the outcome.
- If multiple people are involved in one incident, each person’s involvement will be investigated and decided separately.

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy/procedure has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

All investigations will:

- Be consistent with Delta College’s Sexual Misconduct procedures
- Be consistent and transparent to both the complainant and the respondent
- Be timely; the complainant and the respondent will receive timely notices for meetings
- Be conducted by a person who will not have a conflict of interest or bias for or against the complainant or respondent

Other procedural processes may be utilized as required by the circumstances.

I. Investigation Process

At Delta College, mediation is not an option in sexual misconduct cases.

1. Standard of Proof

In every sexual misconduct investigation, the standard of proof required is a preponderance of evidence (the evidence demonstrates that it is more likely than not that the conduct occurred). This standard is often referred to as a “50% plus a feather.”

2. Investigator

- i. The Title IX Coordinator is the trained individual who conducts the investigation of complaints and determines whether the alleged sexual misconduct occurred. (See also appendices A, B and C.)

- ii. At the conclusion of an investigation, the Title IX Coordinator makes a determination based on the information gathered and proposes recommended sanctions to one of the following:
 - Vice President of Student and Educational Services or designee (student/visitor complaints)
 - Vice President of Business and Finance or designee (staff complaints)
 - Vice President of Instruction/Learning Services or designee (faculty complaints)

The appropriate designee will then make the final determination of sanctions.

- iii. The College is committed to ensuring that its resolution processes are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. Any person who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest and why the petitioner believes the bias or conflict could materially impact the outcome. Such petitions must be made to the Title IX Coordinator, or to Dr. Jean Goodnow, President in the event that the potential conflict of bias involves the Title IX Coordinator.

II. Rights and Roles in the Investigation Process

The complainant and the respondent have the following rights and roles in the investigation process:

1. Both parties will receive a Notice of Investigation

- i. Both parties will have an opportunity to present witnesses and evidence. Neither party will be allowed to cross-examine others. The respondent or witnesses will not be able to question or bring evidence about the complainant's prior sexual conduct with anyone other than the alleged respondent.
- ii. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct. (See also definition of Consent 5-k).
- iii. All rights given to the respondent will also be extended to the complainant.
- iv. At any point during the investigation, if it is determined there is no reasonable cause to believe that the sexual misconduct procedures have been violated, the Title IX Coordinator has the right to terminate the investigation and end resolution proceedings.

III. Possible Results of Investigation Process

1. Remedies/Accommodations for the Complainant

Upon receiving a report of sexual misconduct, the College will provide the complainant with a written explanation of available on campus and local community resources. Some possible remedies are listed below, and the College determines which measures

are appropriate on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep complainants safe and ensure equal access to educational programs and activities. If the complainant identifies an interim measure that is not already provided by the College, the College will consider whether the request can be granted.

- Academic accommodations
- Counseling services
- Assistance in arranging for alternative College employment arrangements and/or changing work schedules
- A “No contact” directive pending the outcome of an investigation
- A “No Trespass” directive pending the outcome of an investigation
- An escort to ensure that the person can move safely between school/work programs and activities

The College will work with complainants to identify which interim measures are appropriate in the short term (e.g., during the investigation), and will continue to work collaboratively throughout the College’s process and as needed thereafter to assess whether the instituted measures are effective, and if not, what additional or different measures are necessary to keep the complainant safe. In those instances where interim measures affect both a complainant and the respondent, the College will minimize the burden on the complainant wherever appropriate.

2. Additional Remedies for the College Community

Remedies for the complainant may also be appropriate for the College community as well. The Title IX Coordinator and the appropriate Vice President will determine, on a case-by-case basis, appropriate remedies for the College community.

3. Conduct Sanctions and Penalties

i. Students

Delta College may impose any sanction, penalty, remedial action, educational activity or community-service requirement that it deems appropriate. Those consequences may include, but are not limited to:

- verbal or written warnings
- probation or expulsion
- permanent revocation of recognition
- suspension of eligibility to represent the College in athletic competitions or other events or programs
- removal of officers and members
- fines
- loss of specified privileges
- restitution and/or other compensatory requirements
- letter(s) of apology
- no trespassing letter
- assignment of organizational or campus-wide education initiatives

Any sanction may be with or without other restrictions, or may be in any combination thereof. **Failure to comply with the terms of the sanction(s) may result in additional disciplinary action.** Copies of the notice for any penalty or sanction may be sent to appropriate College offices.

ii. Employees

Discipline will ordinarily follow the progressive steps described below, except that the College reserves the right to add to, repeat, skip or omit steps as appropriate.

Employee Class	Verbal Warning	Written Discipline/ Warning	Final Warning & Suspension	Termination/ Discharge
Administrative Professional Staff	X	X	X	X
Facilities Management	X	X	X	X
Faculty (Full Time)	X	X	X	X
FoodServices	X	X	X	X
Part Time Employees Including Adjunct Faculty	X	X	X	X
Support Staff	X	X	X	X
Temporary Employees				

iii. Visitors

Discipline will include suspension or expulsion from College buildings and/or properties and/or events.

IV. Investigation Results/Notice of Outcome

1. Both the complainant and the respondent will receive the written notice of outcome of the results of the investigation.
2. Delta College will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent that re-disclosure of information related to the outcome of the proceeding.

c. Time Frame

It is anticipated that the disciplinary proceedings will be completed within 60 days of the initial complaint. The Title IX Coordinator will provide an explanation of the procedures for disciplinary action in cases of all sexual misconduct. If for good cause a delay occurs, there could be an extension of timeframes. Additionally, the Title IX Coordinator will provide a written notice of the delay and the reason(s) for the delay to the complainant(s) and the respondent(s).

d. Preserving Evidence

Preserve all evidence that relates to sexual misconduct. Appropriate evidence includes, but is not limited to:

- emails
- text messages
- messages or images posted to social media sites
- history of telephone calls, including voicemail messages
- pictures of bruises/scratches, etc. (with date and time stamps)
- journal or diary entries (with date and time stamps)
- law enforcement reports
- medical reports

e. Equitable Rights

All complainants and respondents of sexual misconduct will receive due process. This includes timely and specific notice of charges; an investigation that includes interviews with all witnesses and the complainant, respondent, and a notice of outcome of the investigation. The complainant and the respondent will both be provided with the same opportunity to have a support person/advisor of his/her choice accompany him/her to meetings. Procedures conducted by the Title IX Coordinator will be prompt, fair and impartial to ensure due process from the initial investigation to the final result/application of sanctions.

f. Participation of Advisors in the Resolution Process

All parties are entitled to choose one advisor to guide and accompany them throughout the College resolution process. The advisor may be a friend, colleague, family member, attorney or another person a party chooses to advise them. People who will be called as witnesses may not serve as advisors. The College has no responsibility to inform advisors of meetings, procedures, etc.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College cannot guarantee equal advisors, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting or participate in interviews. Advisors may confer quietly and quickly with their advisees, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

Advisors cannot participate or interfere with the College investigation and resolution. Any advisor who steps out of their role in any meeting will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be required to leave the meeting. When an advisor is removed from a meeting, the meeting will continue without the advisor. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

Where an employee is a member of a union and entitled to a union representative in the process, that employee may be accompanied by the union representative as their advisor or may choose an advisor in addition to their union representative. If this occurs, the other party may have two advisors as well.

The parties must advise the Title IX Coordinator of the identity of their advisor at least two (2) business days before the date of their first meeting. The parties must provide subsequent timely notice to the Title IX Coordinator if they change advisors at any time. A party may elect to change advisors during the process, and is not locked into using the same advisor throughout. Advisors cannot record any meeting or portions of the investigations.

g. Notifications of Complaints to Supervisors (Only Delta College faculty, staff and student employees)

During the preliminary process stage of the investigation, the Title IX Coordinator will ask the complainant and the respondent if they would like their supervisor to be informed of the complaint. Each parties' decision will be upheld at this point within the process. If the investigation ensues and a violation is found, the applicable vice president will determine the appropriateness of informing the employee's supervisor.

h. Parallel Investigations

With Law Enforcement: At this time, Delta College does not have a Memorandum of Understanding (MOU) with any law enforcement agency. Upon notification of sexual misconduct, the Title IX Coordinator must initiate and complete an investigation. If the complainant wishes to pursue a criminal complaint via law enforcement, the Title IX Coordinator investigation may run parallel to a law enforcement investigation. Through a subpoena, law enforcement may request information pertaining to the investigation from Delta College. Delta College will comply with all state and federal laws pertaining to subpoenas.

With Human Resources (for faculty, staff and student employees): If a complaint is filed against an employee, the Director of Human Resources may participate in the College investigation and processes. Human Resources role is to ensure all internal policies and procedures are followed and may be involved in the decision and implementation of any sanctions given for violations.

i. Interim Measures and Academic Accommodations

In addition to those protective measures previously described, the Title IX Coordinator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to a College order of no contact, adjustment of course schedules, a leave of absence or reassignment to a different supervisor, position or location. These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures may constitute related violations that could lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by Delta College.

*Also see, page 14.

8. APPEAL PROCEDURES

a. Appeal Process

All sanctions imposed will be in effect during an appeal. Both parties will have seven calendar days from receipt of the investigation results to file an appeal on the grounds of the imposed sanctions, or new evidence or a procedural error.

- Students will file an appeal with the Dean of Students*
- Faculty will file an appeal with the Dean of Teaching and Learning*
- Staff will file an appeal with the Director of Human Resources*

*Contact information for the position above will be included in the Notice of Outcome letter sent to the complainant and the respondent.

For each appeal option, the following information must be included:

1. Appropriateness of the sanctions imposed.
2. For the consideration of new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction, include a summary of this new evidence and its potential impact
3. For a substantive procedural error that significantly impacted the outcome of the hearing, include information on the substantiated bias, material deviation from established procedures, etc.

The original finding(s) and sanction(s) will stand if the appeal request is not timely and/or substantively validated. The person(s) requesting appeal must show clear error and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the investigation.

Different designees for appeals are assigned to faculty, staff and students/visitors (see appendixes A, B and C). The appropriate designee shall notify the person filing an appeal in writing of the decision of the appeal within 30 days of receipt of the appeal. If it is deemed by the designee that more time is needed to fully investigate the new evidence, a written notice of an extension will be sent to both parties. The designee's decision shall be final. If an appeal is approved or new evidence is found, a new Notice of Outcome will be sent to both parties.

9. PREVENTION, EDUCATION and TRAINING

Delta College provides many programs and training opportunities to enhance awareness of sexual misconduct. We commit to continue to offer a variety of programs that allow our students, faculty, staff, and community members the opportunity to better understand sexual misconduct, available resources, risk reduction, safety tips, and effective bystander strategies. Please check our [Annual Security Report \(ASR\)](#) for detailed information on these programs. You may also find additional education information at our [website](#).

a. ²Bystander Intervention Strategies

If you see or feel that someone could become a complainant of sexual misconduct or is being victimized, you are a bystander. Sometimes as bystanders, we don't know what we should or can do to prevent, stop or mitigate sexual misconduct. However, when bystanders get involved, their interventions can

save a person from further trauma and/or save a person's life. Bystander interventions can be very effective. Please consider the situation and your safety before intervening.

The following list of intervention tips are not meant to be exhaustive, but to provide suggested strategies that may protect someone and that can keep the environment safe for everyone.

Bystander intervention tips:

1. Call law enforcement.
2. Don't just be a bystander—if you see something, intervene in any way you can.
3. Register your lack of approval for harassment or sexist comments by walking away from the offensive person or group.
4. Offer your presence. If you see or feel that someone is being targeted, simply stand near him or her so the person is not alone.
5. Trust your gut. If something looks like it might be a bad situation, it probably is.
6. Be direct. Ask someone who looks like they are in need of help if they're okay.
7. Get other bystanders to assist.
8. Keep an eye on someone who has had too much to drink.
9. If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely.
10. Recognize the potential danger of someone who talks about planning to target another person.
11. Be aware if someone is deliberately trying to intoxicate, isolate or corner someone else.
12. Create a distraction; draw attention to the situation or separate the people you are concerned about.
13. Understand that if someone does not, or cannot, consent to sex; it is rape.

b. ¹Sexual Violence/Sexual Misconduct -- Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below are suggestions to avoid committing a non-consensual sexual act:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Give thought before sharing your intimate content, pictures, images and videos with others, even those you may trust. If you do choose to share, clarify your expectations as to how or if those images may be used, shared or disseminated.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

¹ As defined by ATIXA (Association of Title IX Administrators)

² As defined by itsonus.org (It's On Us to Stop Sexual Assault)

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or substances.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.
- Do not share intimate content, pictures, images and videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

10. APPENDICES

Appendix A: Sexual Misconduct Resolution for Students & Visitors

Title: [“Sexual Misconduct Resolution Process for Students/Visitors”](#)

1. Top of chart begins with “Notice is received – may or may not come from a formal complaint”
 - a. “Status updates to complainant made throughout entire process”
 - b. “Process shall not exceed 60 days without written notice of reasonable delay”
 - c. “Preponderance of the evidence standard is applied throughout the process”
 - d. “Unless noted, all steps are completed by the Title IX Coordinator”
2. “Initial immediate actions”
 - a. “Assess duty to warn”
 - b. “Assess interim measures”
3. “Preliminary investigation” Question: “Is there reasonable cause to believe a violation occurred?”
 - a. If No, then “Process Ends”
 - b. If Yes, then “Notice of Investigation”
 - i. “If student employee: decision made whether to notify immediate supervisor”
 - ii. “Investigation conducted; notice of charge” Question: “Is there a violation?”
 1. If No, then “Share Outcome with Parties (and supervisor, if appropriate)” and “Appeal by Complainant Optional with No Violation”
 2. Question: “Has an appeal been made?”
 - a. If No, then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”
 - b. If Yes, then “Appeal is made to the Dean of Students” and “Share Final Outcome with Parties (and supervisor, if appropriate)” then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”
 3. If Yes, then “Sanction recommendation made to the Vice President of Student & Education Services” then “Share Outcome with Parties (and supervisor, if appropriate)” and “Appeal by Complainant Optional with No Violation”
 - a. Question: “Has an appeal been made?”
 - i. If No, then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”
 - ii. If Yes, then “Appeal is made to the Dean of Students” and “Share Final Outcome with Parties (and supervisor, if appropriate)” then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”

Appendix B: Sexual Misconduct Resolution for Staff

Title: [“Sexual Misconduct Resolution Process for Staff”](#)

1. Top of chart begins with “Notice is received – may or may not come from a formal complaint”
 - a. “Status updates to complainant made throughout entire process”
 - b. “Process shall not exceed 60 days without written notice of reasonable delay”
 - c. “Preponderance of the evidence standard is applied throughout the process”
 - d. “Unless noted, all steps are completed by the Title IX Coordinator”
2. “Initial immediate actions”
 - a. “Assess duty to warn”
 - b. “Assess interim measures”
3. “Preliminary investigation” Question: “Is there reasonable cause to believe a violation occurred?”
 - a. If No, then “Process Ends”
 - b. If Yes, then “Notice of Investigation”
 - i. “If student employee: decision made whether to notify immediate supervisor”
 - ii. “Investigation conducted; notice of charge” Question: “Is there a violation?”
 1. If No, then “Share Outcome with Parties (and supervisor, if appropriate)” and “Appeal by Complainant Optional with No Violation”
 2. Question: “Has an appeal been made?”
 - a. If No, then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”
 - b. If Yes, then “Appeal is made to the Director of Human Resources” and “Share Final Outcome with Parties (and supervisor, if appropriate)” then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”
 3. If Yes, then “Sanction recommendation made to the Vice President of Business and Finance” then “Share Outcome with Parties (and supervisor, if appropriate)” and “Appeal by Complainant Optional with No Violation”
 - a. Question: “Has an appeal been made?”
 - i. If No, then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”
 - ii. If Yes, then “Appeal is made to the Director of Human Resources” and “Share Final Outcome with Parties (and supervisor, if appropriate)” then “Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn” then “Process Ends”

Appendix C: Sexual Misconduct Resolution for Faculty

Title: "Sexual Misconduct Resolution Process for Faculty"

1. Top of chart begins with "Notice is received – may or may not come from a formal complaint"
 - a. "Status updates to complainant made throughout entire process"
 - b. "Process shall not exceed 60 days without written notice of reasonable delay"
 - c. "Preponderance of the evidence standard is applied throughout the process"
 - d. "Unless noted, all steps are completed by the Title IX Coordinator"
2. "Initial immediate actions"
 - a. "Assess duty to warn"
 - b. "Assess interim measures"
3. "Preliminary investigation" Question: "Is there reasonable cause to believe a violation occurred?"
 - a. If No, then "Process Ends"
 - b. If Yes, then "Notice of Investigation"
 - i. "If student employee: decision made whether to notify immediate supervisor"
 - ii. "Investigation conducted; notice of charge" Question: "Is there a violation?"
 1. If No, then "Share Outcome with Parties (and supervisor, if appropriate)" and "Appeal by Complainant Optional with No Violation"
 2. Question: "Has an appeal been made?"
 - a. If No, then "Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn" then "Process Ends"
 - b. If Yes, then "Appeal is made to the Dean of Teaching and Learning" and "Share Final Outcome with Parties (and supervisor, if appropriate)" then "Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn" then "Process Ends"
 3. If Yes, then "Sanction recommendation made to the Vice President of Instruction/Learning Services" then "Share Outcome with Parties (and supervisor, if appropriate)" and "Appeal by Complainant Optional with No Violation"
 - a. Question: "Has an appeal been made?"
 - i. If No, then "Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn" then "Process Ends"
 - ii. If Yes, then "Appeal is made to the Dean of Teaching and Learning" and "Share Final Outcome with Parties (and supervisor, if appropriate)" then "Remedy Effects on Victim and Community are Evaluated, Sanctions are Enforced and Steps to Prevent Reoccurrence are Determined and Reassess Duty to Warn" then "Process Ends"