

**DELTA COLLEGE  
BOARD OF TRUSTEES  
REGULAR MEETING**

Tuesday, January 13, 2026  
Delta College Board Room B-151  
1961 Delta Road  
University Center, Michigan 48710  
7:00 PM

Board Members are required to participate in person unless absent due to military duty.

Members of the public in need of special accommodations can call Talisa Brown at 989-686-9204 prior to the start of the meeting.

1. Call to Order
2. Approval of the Agenda
3. Public Comment
  - A. Response
4. Treasurer's Report 3
5. Consent Agenda
  - A. Acceptance of Minutes:
    1. Board Special Meeting, November 25, 2025 6
    2. Board Dinner Meeting, December 9, 2025 8
    3. Board Regular Meeting, December 9, 2025 9
  - B. Acceptance of Closed Meeting Minutes
    1. December 9, 2025, Regular Board Meeting
6. Board Action
  - A. Approval of the Board of Trustees 2026 Regular Meeting Calendar (Andrea Ursuy) 15
  - B. Approval of Revisions to Attendance Policy for Administrative/Professional and Support Staff (Wendy Childs) 16  
*It is the recommendation of the Administration that the Board of Trustees approve the proposed revisions to the Administrative/Professional and Support Staff Attendance Policy.*
  - C. Approval of Revisions to Board Policy 8.009 Sexual Misconduct and Gender Discrimination (Allie Martinez) 26  
*It is the recommendation of the Administration that the Board of Trustees approve the revisions to Board Policy 8.009 Sexual Misconduct & Gender Discrimination and allow for updates to the President's contact information as needed.*
  - D. Approval of Revisions to Board Policy 8.010 Title IX — Sexual Harassment Policy (Allie Martinez) 62  
*It is the recommendation of the Administration that the Board of Trustees approve the revision to Board Policy 8.010 Title IX-Sexual Harassment Policy and allow for updates to the President's contact information as needed.*
  - E. Approval of Renewal of College's Learning Management System, D2L (Greg Luczak) 105

CONTACT: Talisa Brown, Secretary Pro Tem to the Board  
1961 Delta Road  
University Center, MI 48710  
(989) 686-9204

*It is the recommendation of the Administration that the Board of Trustees approve a five-year contract agreement for D2L of Kitchener, Ontario Canada, for the College's Learning Management System at a cost of \$1,122,821.*

F. Approval of Water Tower Pump Automation Project from Johnson & Wood (Rob Young) 108

*It is the recommendation of the Administration that the Board of Trustees approve the purchase order with Johnson & Wood in the amount of \$94,200 and authorize a total project budget of \$103,720 to ensure comprehensive project completion of the Water Tower Pump Automation Project.*

7. Administrative Reports

A. President's Report 109

8. Trustee Comments

9. Chair Comments

10. Adjournment

# Delta College

## Statement of Changes in Fund Balance

### General Fund

### Year to Date as of December 31, 2025

|   | Current Month             | Year To Date             | 2025-2026<br>Budget     | Actual Over<br>(Under)<br>Budget |
|---|---------------------------|--------------------------|-------------------------|----------------------------------|
| <b>Revenues</b>                                       |                           |                          |                         |                                  |
| Tuition and Fees                                      | \$ 641,545                | \$ 31,569,708            | \$ 33,734,450           | -6.42%                           |
| State Appropriations                                  | 1,936,391                 | 7,537,192                | 19,534,584              | -61.42%                          |
| Property Taxes  | 649,840                   | 15,827,433               | 29,617,412              | -46.56%                          |
| Auxiliary Svcs & Fund Trans                           | 21,634                    | 129,801                  | 291,822                 | -55.52%                          |
| Investment Income                                     | 34,820                    | 842,702                  | 1,500,000               | -43.82%                          |
| Other Sources   | <u>18,307</u>             | <u>352,270</u>           | <u>349,650</u>          | 0.75%                            |
| <br>Total Revenues                                    | <br>\$ 3,302,537          | <br>\$ 56,259,106        | <br>\$ 85,027,918       | <br>-33.83%                      |
| <br><b>Expenditures</b>                               |                           |                          |                         |                                  |
| Salaries  | 2,984,065                 | 16,383,463               | 36,724,906              | -55.39%                          |
| Part-Time & Student Wages                             | 511,527                   | 2,504,981                | 6,015,027               | -58.35%                          |
| Fringe Benefits                                       | 2,264,340                 | 10,135,197               | 21,844,315              | -53.60%                          |
| Supplies & Services                                   | 1,081,797                 | 7,594,890                | 15,567,293              | -51.21%                          |
| Capital Outlay  | 322,497                   | 1,723,536                | 3,757,183               | -54.13%                          |
| Travel & PDA  | <u>37,662</u>             | <u>484,239</u>           | <u>628,421</u>          | <u>-23.29%</u>                   |
| <br>Total Expenditures                                | <br><u>7,201,888</u>      | <br><u>38,826,306</u>    | <br><u>84,537,145</u>   | <br><u>-54.07%</u>               |
| <br>Revenues Over<br>(Under) Expenditures             | <br>(3,899,351)           | <br>17,432,800           | <br>490,773             | <br>3452.11%                     |
| <br>Estimated Beginning Fund<br>Balance June 30, 2025 | <br><u>-</u>              | <br><u>8,693,130</u>     | <br><u>8,627,145</u>    | <br>0.76                         |
| <br>Projected Fund<br>Balance June 30, 2026           | <br><u>\$ (3,899,351)</u> | <br><u>\$ 26,125,930</u> | <br><u>\$ 9,117,918</u> | <br>186.53%                      |

# Delta College

## Statement of Changes in Fund Balance

### Other Funds

### Year to Date as of December 31, 2025

|   | Designated           | Restricted          | Auxiliary           | Endowment            | Total                |
|---|----------------------|---------------------|---------------------|----------------------|----------------------|
| <b>Revenues</b>                                   |                      |                     |                     |                      |                      |
| Tuition and Fees                                  | \$ 2,251,896         | \$ 9,200            | \$ -                | \$ -                 | \$ 2,261,096         |
| Grants and Gifts                                  | 873,665              | 9,951,267           | -                   | -                    | 10,824,932           |
| Broadcasting                                      | -                    | 721,413             | -                   | -                    | 721,413              |
| Auxiliary Services                                | -                    | -                   | 2,991,759           | -                    | 2,991,759            |
| Investment Income                                 | -                    | 114,259             | -                   | 2,218,147            | 2,332,406            |
| Other Sources                                     | <u>160,204</u>       | <u>44,415</u>       | <u>6,156</u>        | <u>25,393</u>        | <u>236,168</u>       |
| Total Revenues                                    | <u>3,285,765</u>     | <u>10,840,554</u>   | <u>2,997,915</u>    | <u>2,243,540</u>     | <u>19,367,774</u>    |
| <b>Expenditures</b>                               |                      |                     |                     |                      |                      |
| Salaries  | 771,257              | 404,058             | 172,606             | -                    | 1,347,921            |
| Part-Time & Student Wages                         | 111,985              | 137,905             | 162,090             | -                    | 411,980              |
| Fringe Benefits                                   | 506,199              | 255,833             | 145,704             | -                    | 907,736              |
| Supplies & Services                               | 1,091,037            | 10,952,062          | 780,273             | 153,406              | 12,976,778           |
| Capital Outlay                                    | 32,950               | 406,265             | 21,416              | -                    | 460,631              |
| Travel & PDA                                      | 42,162               | 51,083              | 3,703               | -                    | 96,948               |
| Cost of Sales                                     | <u>-</u>             | <u>-</u>            | <u>2,100,263</u>    | <u>-</u>             | <u>2,100,263</u>     |
| Total Expenditures                                | <u>2,555,590</u>     | <u>12,207,206</u>   | <u>3,386,055</u>    | <u>153,406</u>       | <u>18,302,257</u>    |
| Revenues Over<br>(Under) Expenditures             | 730,175              | (1,366,652)         | (388,140)           | 2,090,134            | 1,065,517            |
| Estimated Beginning Fund<br>Balance June 30, 2025 | <u>31,172,364</u>    | <u>9,664,541</u>    | <u>7,063,431</u>    | <u>37,532,174</u>    | <u>92,048,473</u>    |
| Projected Fund<br>Balance June 30, 2026           | <u>\$ 31,902,539</u> | <u>\$ 8,297,889</u> | <u>\$ 6,675,291</u> | <u>\$ 39,622,308</u> | <u>\$ 93,113,990</u> |

# Plant Funds

## Year to Date as December 31, 2025

|   | Building Fund        | Facilities & Improvements | Total Plant Funds    | 2025-2026 Budget      | Actual Over (Under) Budget |
|---|----------------------|---------------------------|----------------------|-----------------------|----------------------------|
| <b>Revenues</b>                           |                      |                           |                      |                       |                            |
| Investments                               | \$ 1,096,555         | \$ 770                    | \$ 1,097,325         | \$ 1,600,000          | \$ (502,675)               |
| Donations                                 | -                    | -                         | -                    | 10,000                | (10,000)                   |
| State Grants                              | 253,396              | -                         | 253,396              | 2,423,195             | (2,169,799)                |
| General Fund Transfers                    | -                    | 1,500,000                 | 1,500,000            | 3,000,000             | (1,500,000)                |
| Other Revenues & Transfers                | <u>289,016</u>       | <u>-</u>                  | <u>289,016</u>       | <u>640,000</u>        | <u>(350,984)</u>           |
| <br>Total Revenues                        | <br><u>1,638,967</u> | <br><u>1,500,770</u>      | <br><u>3,139,737</u> | <br><u>7,673,195</u>  | <br><u>(4,533,458)</u>     |
| <b>Expenditures</b>                       |                      |                           |                      |                       |                            |
| Renovations                               | 4,448,665            | -                         | 4,448,665            | 7,271,481             | (2,822,816)                |
| Student Services Systems                  |                      | -                         | -                    | -                     | -                          |
| Admin Computer Systems                    | 376,812              | -                         | 376,812              | 300,000               | 76,812                     |
| Roof Improvements                         | -                    | 283,342                   | 283,342              | 1,129,843             | (846,501)                  |
| Floor Improvements                        | -                    | 4,335                     | 4,335                | 398,082               | (393,747)                  |
| Site Improvements                         | -                    | 280,112                   | 280,112              | 834,334               | (554,222)                  |
| Mechanical & Electrical                   | -                    | 152,722                   | 152,722              | 886,243               | (733,521)                  |
| Access Improvements                       | -                    | 12,306                    | 12,306               | 110,000               | (97,694)                   |
| Interior Improvements                     | -                    | 20,152                    | 20,152               | 100,000               | (79,848)                   |
| Exterior Improvements                     | -                    | 9,200                     | 9,200                | 265,000               | (255,800)                  |
| Off-Campus Centers                        | -                    | 208,073                   | 208,073              | 373,000               | (164,927)                  |
| Telecommunications                        | -                    | 867                       | 867                  | 20,000                | (19,133)                   |
| Furniture & Equipment                     | <u>-</u>             | <u>39,249</u>             | <u>39,249</u>        | <u>275,000</u>        | <u>(235,751)</u>           |
| <br>Total Expenditures                    | <br><u>4,825,477</u> | <br><u>1,010,358</u>      | <br><u>5,835,835</u> | <br><u>11,962,983</u> | <br><u>(6,127,148)</u>     |
| <br>Revenues Over<br>(Under) Expenditures | <br>(3,186,510)      | <br>490,412               | <br>(2,696,098)      | <br>(4,289,788)       | <br>1,593,690              |
| <b>Estimated Beginning Fund</b>           |                      |                           |                      |                       |                            |
| Balance June 30, 2025                     | <u>59,389,427</u>    | <u>1,997</u>              | <u>59,391,424</u>    | <u>60,700,728</u>     |                            |
| <b>Projected Fund</b>                     |                      |                           |                      |                       |                            |
| Balance June 30, 2026                     | <u>\$ 56,202,917</u> | <u>\$ 492,409</u>         | <u>\$ 56,695,326</u> | <u>\$ 56,410,940</u>  |                            |

D R A F T

**Delta College  
Board of Trustees Special Meeting  
Delta College Board Room B-151  
Tuesday, November 25, 2025  
10:00 am**

|  |  |
|--|--|
| <b>Board Present</b>                             | A. Baldwin, S. Gannon, B. Handley-Miller, D. Middleton, M. Nash, M. Rowley, M. Wood  |
| <b>Board Absent</b>                              | A. Clark, A. Thomas  |
| <b>Others Present</b>                            | T. Brown, W. Childs, P. Clark, C. DeEulis, J. Foco, A. Ginter, L. Govitz, S. Raube, K. Schuler, A. Ursuy   |
| <b>Press Present</b>                             | None   |
| <b>Call to Order</b>                             | Board Chair, S. Gannon called the meeting to order at 10:01 am.  |
| <b>Approval of Agenda</b>                        | <p>Board Chair, S. Gannon, called for the approval of the agenda. M. Wood made a motion to approve the agenda. M. Nash seconded the motion.</p> <p>Motion passed unanimously.</p>  |
| <b>Public Comment</b>                            | Board Chair, S. Gannon called for public comment.  |
| <b>Discussion of Presidential Profile</b>        | <p>D. Middleton, Chair of the Presidential Search Advisory Committee gave the trustees an update on the recent four-hour session with the committee, which was facilitated by Dr. Duncan Harris, President Search Consultant with the Association of Community College Trustees (ACCT). She noted that committee members provided broad and thoughtful input on the presidential profile.</p> <p>S. Gannon led the trustees through each section of the presidential profile as they reviewed the changes proposed by the committee. This resulted in a vigorous discussion and careful revisions by the trustees.</p> |
| <b>(BA5644)</b>                                  | <p>M. Nash made a motion to have consistent language throughout the profile when discussing “belonging, equity, diversity, and inclusion” and the order of counties (Saginaw, Bay and Midland). In addition, the profile should be reviewed by legal. Any minor changes made by legal counsel do not need to come back to the Board. A. Baldwin seconded the motion.</p> <p>The motion passed unanimously.</p> <p>The trustees continued reviewing the remainder of the document.</p>  |
| <b>Approval of Presidential Profile (BA5645)</b> | <p>M. Rowley made a motion to accept the document as it is written incorporating the motion that was made earlier and allowing for non-substantive changes by the administration or legal counsel. A. Baldwin seconded the motion.</p> <p>The motion passed unanimously.</p>   |

## DRAFT

### Trustee Comments

B. Handley-Miller noted the good discussion and thanked committee chair D. Middleton as well as the committee for their work. She is looking forward to some excellent applications from the candidates. She also wished Chris DeEulis a happy birthday.

M. Nash echoed the thanks to D. Middleton and the entire committee. He enjoyed the good debate and conversation while reviewing the document.

M. Rowley thanked the Board for humoring his thoughts.

M. Wood thanked the committee for their time including the three student committee members. Everyone was involved in the entire process.

D. Middleton is happy with where they have arrived with the presidential profile. She said she appreciated the thoughtful conversation and debate today.

A. Baldwin thanked D. Middleton for her leadership in chairing the committee and allowing the students to feel safe in the meeting to speak up. She also said that we are blessed to have a group of individuals with different opinions. Finally, she asked for prayers for Alexis Thomas with the passing of her father.

### Chair Comments

S. Gannon thanked her fellow trustees for their thoughtfulness and their different opinions and backgrounds. It is a joy to be able to debate with one another respectfully. She noted that she has taken all the input she has received and used it as a checklist against the presidential profile. Finally, she said we are in a good place with the document we have in place and have an experienced board in hiring a new president.

### Adjournment

There being no further business, Board Chair, S. Gannon adjourned the meeting at 11:29 am.

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Talisa Brown, Assistant Board Secretary

DRAFT

**Delta College**  
**Board of Trustees Dinner Meeting**  
**Delta College N7**  
**Tuesday, December 9, 2025**  
**5:30 pm**

**Board Present:** A. Clark, S. Gannon, B. Handley-Miller, D. Middleton, M. Nash, M. Rowley, A. Thomas, M. Wood

**Board Absent:** A. Baldwin

**Others Present:** D. Allen, W. Awad, R. Battinkoff, T. Brown, W. Burns, P. Clark, R. Curry, C. DeEulis, J. Foco, M. Gavin, L. Govitz, M. Haswell, S. Hill, D. Hopkins, T. Johnroe, J. Mulders, J. Perry, S. Raube, K. Schuler, A. Ursuy, R. Young

**Press Present:** None

Board Chair, S. Gannon opened saying that the meeting was intended as a farewell celebration for Dr. Gavin as this would be his last board meeting as President of Delta College. Each trustee took a turn sharing reflections, well-wishes and appreciation for Dr. Gavin's leadership in guiding, shaping and growing the College. Several staff members also provided remarks.

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Talisa Brown, Assistant Board Secretary

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Andrea Ursuy, Board Secretary



D R A F T  
Delta College  
Board of Trustees Regular Meeting  
Delta College Board Room B-151  
Tuesday, December 9, 2025  
7:00 p.m.

|                               |  |
|-------------------------------|--|
| <b>BOARD PRESENT</b>          | A. Baldwin, A. Clark, S. Gannon, B. Handley-Miller, D. Middleton, M. Nash, M. Rowley, A. Thomas, M. Wood   |
| <b>BOARD ABSENT</b>           | None   |
| <b>OTHERS PRESENT</b>         | D. Allen, D. Arthur, R. Battinkoff, T. Brown, W. Burns, P. Clark, R. Curry, C. DeEulis, J. Foco, L. Govitz, S. Hill, D. Hopkins, E. Lazzari, D. Matusiak, J. Mulders, S. Raube, K. Schuler, A. Ursuy, R. Young   |
| <b>PRESS PRESENT</b>          | None   |
| <b>CALL TO ORDER</b>          | Board Chair Gannon called the meeting to order at 7:00 p.m.  |
| <b>APPROVAL OF THE AGENDA</b> | <p>Board Chair Gannon asked for a motion to approve the agenda.</p> <p>D. Middleton made a motion to approve the agenda. A. Baldwin seconded the motion.</p> <p>Motion to approve the agenda passed unanimously.</p>   |
| <b>PUBLIC COMMENT</b>         | <p>Board Chair Gannon called for public comment.</p> <p>The board heard public comment from David Arthur, Bay County Resident, and Vice President of Kawkawlin Roofing who suggested Delta adopt a bid system that allows local vendors to match or amend bids.</p>  |
| <b>TREASURER'S REPORT</b>     | J. Foco said that the Board has received the financial statements for the month ended November 30, 2025. He noted that due to a missed journal entry, because of timing, the interest amount should be \$695,291 instead of the \$532,108 that is reflected on the financial statements.   |
| <b>CONSENT AGENDA</b>         | <p>Board Chair Gannon called for approval of the consent agenda.</p> <p>M. Wood made a motion to approve the consent agenda. A. Baldwin seconded the motion. The Board voted to unanimously approve the consent agenda resulting in:</p> <p>A. Acceptance of Minutes:</p> <ol style="list-style-type: none"><li>1. Board Dinner Meeting, November 11, 2025</li><li>2. Board Regular Meeting, November 11, 2025</li></ol> |

D R A F T

**APPOINTMENT OF  
SECRETARY PRO  
TEM AND  
ASSISTANT  
SECRETARY PRO  
TEM TO THE BOARD  
OF TRUSTEES  
(BA5646)**

It is the recommendation of the Board of Trustees that Talisa Brown be appointed Secretary Pro Tem to the Board of Trustees and that Kay Schuler be appointed Assistant Secretary Pro Tem to the Board of Trustees, effective January 1, 2026, for the duration of the Interim President's term.

D. Middleton made a motion to approve the recommendation. A. Baldwin seconded the motion.

Motion passed unanimously.

**APPROVAL OF  
RENAMING THE  
COLLEGE  
GYMNASIUM  
(BA5647)**

It is the recommendation of the president and the administration that the Board of Trustees rename the College's gymnasium area to be called the "Carlyon Gym", from this point forward. The recommendation would also be for approval to hang signage within the gym that would honor and recognize the impact of Don and Betty Carlyon on Delta College, for all who visit to read and appreciate.

B. Handley-Miller made a motion to approve the recommendation. A. Baldwin seconded the motion.

Motion passed unanimously.

**PRELIMINARY  
APPROVAL OF THE  
BOARD OF  
TRUSTEES 2026  
REGULAR MEETING  
SCHEDULE  
(BA5648)**

It is the recommendation of the Administration that the Board of Trustees approve the preliminary Board of Trustees 2026 Regular Meeting Schedule.

M. Nash made a motion to approve the recommendation. A. Baldwin seconded the motion.

Motion passed unanimously.

**APPROVAL OF  
RENEWAL OF  
COLLEGE NET  
CONTRACT  
(BA5649)**

It is the recommendation of the administration that the Board of Trustees approve the 3-year contract renewal for College Net in the amount of \$104,586.00.

A. Baldwin made a motion to approve the recommendation. M. Nash seconded the motion.

Motion passed unanimously.

**APPROVAL OF  
EASEMENT OF  
COLLEGE PROPERTY  
– MIDLAND  
UNDERGROUND  
ELECTRICAL LINE  
PROJECT  
(BA5650)**

It is the recommendation of the Administration that the Board of Trustees approve the permanent easement on college property in support of the Midland Underground Electrical Line project.

A. Baldwin made a motion to approve the recommendation. M. Nash seconded the motion.

## DRAFT

M. Rowley made a motion to amend the original motion to include an indemnifying clause. B. Handley-Miller seconded the motion.

The motion to amend passed unanimously.

The amended motion passed unanimously.

### PRESIDENT'S REPORT

#### **Enrollment Report**

Winter 2026 registration is underway. As of today, 7,853 students are registered.

We projected 76,999 contact hours for the winter semester and are currently at 102% of projection. Winter semester begins on January 10, 2026.

#### **Information Sharing**

- **Congratulations to Delta College women's soccer team!**  
The team won the 2025 NJCAA National Tournament in Herkimer, New York – second year in a row! This is the ninth consecutive year the team qualified for the national tournament.
- **Food Drive**  
A food drive was held on campus yesterday. It served 148 households, reaching approximately 922 individuals. There are plans underway to host one in Midland and Saginaw during the winter semester.
- **3+1 Articulation Agreement with Central Michigan University (CMU)**  
Delta's Associate in Arts or Associate in General Studies degree programs to CMU's Bachelor of Science in Organizational Leadership  
Benefits to Delta students:
  - Students can save over \$20,000 by completing 90 transferable credits towards their bachelor's degree at Delta tuition rates.
  - Students only need to complete 30 credits at CMU for the bachelors' degree.
  - Students must complete the Delta degree to participate in the agreement.
  - CMU courses for this program will be offered entirely online. Program major is flexible and appropriate for students interested in the areas of leadership communication, public administration and more.
- **35<sup>th</sup> District Senate Candidates' Forum**  
This well-attended event organized by the League of Women Voters was on Tuesday, December 2, from 6-8pm in the Lecture Theater. Thanks to Arshen Baldwin, Barb Handley-Miller and Mike Rowley for attending.
- **Information Technology and Computer Science Facility (K Wing) Dedication**  
The K Wing dedication event late Friday was a fantastic event with many legislators, faculty and staff attending. The renovation looks great and will be a wonderful learning environment for students. Thanks to Stacey Gannon, Barb Handley-Miller, Diane Middleton, Mike Nash and Michael Wood for attending.

## DRAFT

### • Upcoming Events

- OADN Induction Ceremony (Organization for Associate Degree Nursing), Thursday, December 11, 3pm, Pioneer Gym
- RN Pinning Ceremony, Thursday, December 11, 5pm, Pioneer Gym
- Police Academy Graduation, Friday, December 12, 2pm, Lecture Theater

- Happy Birthday to Stacey Gannon (Sunday, December 21)
- Next Board Meeting, Tuesday, January 13, Main Campus, No Dinner Meeting

### Handout

- Latest issue of Delta Collegiate

Enjoy this holiday season and keep safe and healthy!

### TRUSTEE COMMENTS

A. Clark said Happy Holidays. He added that he is sorry to see Dr. Gavin go.

M. Wood thanked Dr. Gavin and said he is going to be missed.

D. Middleton said she can't believe we are saying goodbye to Dr. Gavin.

A. Baldwin shared a thank you message from Karen Lawrence-Webster regarding the candidate forum that the College hosted and facilitated last week.

M. Nash said that he enjoyed the K Wing dedication. He said it was great to see the legislators at the event.

M. Rowley thanked Dr. Gavin for his passion, purpose, and energy.

A. Thomas thanked the Trustees for their support as she buried her father. She said she enjoyed attending the basketball games. A. Thomas thanked Dr. Gavin and said he was the "real deal." She added that he will be missed.

B. Handley-Miller congratulated the soccer team and recognized the theater program and Girls Day Out. She said that the League of Women Voters Candidate Forum was great. In addition, she said that she was happy to hear about the Food Drive. B. Handley-Miller wished Dr. Gavin good luck.

### CHAIR COMMENTS

Chair Gannon wished everyone a Happy Holiday. She thanked Dr. Gavin for his work and said that we will all miss him.

### VOTE TO GO INTO CLOSED SESSION UNDER OPEN MEETINGS ACT SECTION 8(1)(H) TO

A. Baldwin made a motion that the Board go into Closed Session Pursuant to Section 8(1)(h) of the Open Meetings Act to consider material exempt from discussion or disclosure by state or federal statute, specifically an attorney-client privileged written legal opinion. M. Rowley seconded the motion.

D R A F T

**CONSIDER  
MATERIAL EXEMPT  
FROM DISCUSSION  
OR DISCLOSURE BY  
STATE OR FEDERAL  
STATUTE,  
SPECIFICALLY AN  
ATTORNEY-CLIENT  
PRIVILEGED  
WRITTEN LEGAL  
OPINION**

The results of the roll call vote to go into closed session are as follows:

A. Baldwin – Yes  
A. Clark – Yes  
S. Gannon – Yes  
B. Handley-Miller – Yes  
D. Middleton – Yes  
M. Nash – Yes  
M. Rowley – Yes  
A. Thomas – Yes  
M. Wood – Yes

The Board returned to open session at 8:42 p.m.

**REVISIONS TO  
PRESIDENTIAL  
PROFILE  
(BA5651)**

Open session resumed at 8:45 p.m.

M. Nash made a motion to modify the presidential profile as follows:

- Add an equal opportunity hiring statement at the end.
- Add a statement to reflect that any employment offer is contingent on the applicant and a College representative signing a written employment contract and the College Board of Trustees approving that contract.
- In item 4 under “challenges and opportunities,” add “all” before students and strike “of color and other under-represented constituencies.”

A. Thomas seconded the motion.

M. Rowley offered a substitute motion to accept the recommendation consistent with markup and to add a link to the College’s mission, vision, and values.

D. Middleton seconded the motion.

A. Clark said he would be supporting the substitute motion. A. Thomas said she would be standing with the original motion.

Board Chair Gannon called for a vote on the substitute motion. The results of the roll call vote were as follows:

A. Baldwin – No  
A. Clark – Yes  
S. Gannon – Yes  
B. Handley-Miller – No  
D. Middleton – Yes  
M. Nash – No  
M. Rowley – Yes  
A. Thomas – No

D R A F T

M. Wood – No

The substitute motion failed with a vote of 4 in favor, 5 opposed.

Board Chair Gannon called for a vote on the original motion. The motion passed with a vote of 8 in favor. A. Clark voted in opposition to the motion.

**ADJOURNMENT**

There being no further business, Board Chair Gannon adjourned the meeting at 8:57 p.m.

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Andrea Ursuy, Board Secretary

## DELTA COLLEGE BOARD OF TRUSTEES REGULAR MEETING CALENDAR 2026

The Delta College Board of Trustees Meetings are open to the public. Unless otherwise voted upon by the Board of Trustees, the meetings are held the second Tuesday of the month at 7:00 p.m. in the Delta College Board Room (B-151).

| DATE                       | LOCATION                 |
|----------------------------|--------------------------|
| Tuesday, January 13, 2026  | Main Campus              |
| Tuesday, February 3, 2026  | Main Campus              |
| Tuesday, March 10, 2026    | Main Campus              |
| Tuesday, April 14, 2026    | Main Campus              |
| Tuesday, May 12, 2026      | Downtown Midland Center  |
| Tuesday, June 9, 2026      | Main Campus              |
| Tuesday, August 11, 2026   | Downtown Saginaw Center  |
| Tuesday, September 8, 2026 | Main Campus              |
| Tuesday, October 13, 2026  | Downtown Bay City Center |
| Tuesday, November 10, 2026 | Main Campus              |
| Tuesday, December 8, 2026  | Main Campus              |

Information sessions may be held beginning at 5:30 p.m. prior to each Board of Trustees meeting as scheduled above. Those information sessions are held in N007 on Delta's Main Campus (unless the Board Meeting is held at an off-campus site). If the Board Meeting is held at an off-campus site, the information session is also held at the off-campus site.

### ***Locations***

#### Main Campus:

Delta College Board Room - B151  
1961 Delta Rd.  
University Center, MI 48710

#### Downtown Saginaw Center:

319 East Genesee Avenue  
Saginaw, MI 48607

#### Downtown Midland Center:

419 East Ellsworth Street  
Midland, MI 48640

#### Downtown Bay City Center:

100 Center Avenue  
Bay City, MI 48708

**Contact:** For further information please contact:

Talisa Brown, Secretary Pro Tem to the Board  
(989) 686-9204  
University Center, MI



# Human Resources Memorandum

**To:** Andrea Ursuy, Interim President  
**From:** Wendy Childs, Director of Human Resources  
**Re:** Revision to Attendance Policy for AP and Support  
**Date:** January 5, 2026

Approval is requested for minor revisions to the College's Attendance Policy for AP and Support Staff employees. After implementing the policy in November 2023, we identified several areas where further clarification would enhance consistency in application and strengthen employee understanding.

These proposed updates do not change the policy's original intent, scope, or expectations. Rather, they provide clearer guidance to supervisors and employees, help ensure fairness in implementation, and address scenarios that have arisen since the policy was created.

## **Summary of Revisions:**

### **Addition of Clarifications Regarding Extenuating Circumstances:**

To support fairness and flexibility in situations where employees may have limited or no accrued leave, the following clarifications were added:

#### **1. Employees Returning from Protected Leave:**

Employees returning to work from an approved protected leave (such as FMLA) will have a period of six (6) months following their return to accrue leave time before an unauthorized absence may result in disciplinary action. Such employees may still be disciplined for failing to notify their supervisor of the absence in accordance with this policy.

#### **2. Employees Without Available Leave Due to Illness:**

If an employee is absent due to their own illness and does not have paid leave available, the absence will not result in disciplinary action provided a doctor's note or other acceptable medical documentation is submitted to Human Resources upon their return to work.

#### **3. New Hires Experiencing Serious Health Conditions:**

During the first twelve (12) months of employment, if a new hire experiences a serious health condition for themselves or a qualifying family member, any unauthorized absence(s) related to that condition may be waived by Human Resources. The employee must work with Human Resources to provide the required medical documentation and confirm that the condition would have qualified for FMLA protection if the employee had been eligible.

## **Clarification on Occurrences:**

The original policy stated that "each day an employee is absent shall be considered an occurrence," which could cause a single incident to escalate discipline quickly. To address this, the following clarifying language is proposed:



An “occurrence” is defined as a single day or a continuous string of connected and related unauthorized absences (not protected by FMLA, Workers’ Compensation, or other applicable laws).

- Example: Calling in sick for three consecutive days due to the flu would count as one occurrence.
- Example: Calling in three days in a row for unrelated reasons—car trouble, personal illness, and a child’s illness—would count as three separate occurrences.

The proposed policy revisions have been reviewed and approved by our legal counsel. Furthermore, it has been shared with and reviewed by the leadership of the AP and Support Staff Executive Committees (ECAPS and SSEC). All feedback has been collected and discussed with each group.

Supporting documentation:

- Original Policy
- Original Policy with Track Changes
- Revised policy

It is the recommendation of the Administration that the Board of Trustees approve the proposed revisions to the Administrative/Professional and Support Staff Attendance Policy.

Please let me know if you have any questions. Thank you.

# Attendance Policy

Regular, reliable and in-person attendance is an essential job function for Administrative Professional and Support Staff employees. Employees are expected to report to work as scheduled.

Unauthorized absences place a burden on other employees and on institutional effectiveness. This policy does not apply to absences designated as Family and Medical Leave Act (FMLA) leave or leave provided as a reasonable accommodation under the Americans with Disabilities Act (ADA) or the Michigan Persons with Disabilities Civil Rights Act. These exceptions are described in separate policies.

## Absence

An “absence” is an employee’s failure to report for work when scheduled to work. There are two types of absences: authorized absences and unauthorized absences.

- An “authorized absence” occurs when **all** the following conditions are met:
  - The employee provides to their supervisor notice, as required based on the type of leave, in advance of the absence (e.g., refer to sick, vacation and personal leave policies or procedures).
  - The absence request is approved in writing in advance by the employee’s supervisor (advance notice to supervisors does not necessarily denote approval).
  - Prior to taking the leave, the employee has sufficient accrued leave time to cover the absence or has received approval to borrow time to cover the absence in accordance with Human Resources Procedures.
- An “unauthorized absence” occurs when any of the above conditions are not met. If an unauthorized absence is needed because of an illness or an emergency, the employee must notify their supervisor no later than the employee’s scheduled starting time on that same day. If the employee is unable to call, the employee must have someone make the call, unless the employee is unable to fulfill this

obligation due to the employee's condition.

Please note: Supervisors will work in conjunction with HR for any employee that has exhausted accrued leave balances while on a protected leave (e.g., FMLA).

Every absence will be deducted from employee accrued leave time, unless otherwise allowed by College policies or procedures (e.g., leave of absence, bereavement, jury duty).

Any employee who fails to report to work for a period of four or more consecutive days without proper documentation, as determined by the College, may be considered to have abandoned the job and voluntarily terminated the employment relationship.

In the event of a conflict between this policy and procedure and an applicable individual employment contract or collective bargaining agreement, the applicable individual employment contract or collective bargaining agreement shall govern to the extent necessary to resolve the conflict.

## Disciplinary Action

Unauthorized absences will be tracked by each supervisor based on a twelve (12) month period, which begins on January 1 of each year. Supervisors should follow the corrective action progression described below to address unauthorized absences; each day an employee is absent shall be considered an "occurrence."

- Verbal warning upon one (1) occurrence.
- Written warning upon two (2) total occurrences.
- Final warning\* or three-day unpaid suspension upon three (3) total occurrences (\*Exempt staff receive a final warning in lieu of suspension).
- Termination of employment upon four (4) total occurrences.

Supervisors are responsible for monitoring time and attendance including identifying, documenting and attempting to correct unauthorized absences before they become excessive. Supervisors should document unauthorized absences and any resulting discipline. Excessive unauthorized absences, including partial work day absences, or other violations of this procedure may result in discipline, up to and including discharge.

**Board Action 5512 - November 6, 2023**

**Board Action 5537 - May 14, 2024**

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Every absence will be deducted from employee accrued leave time, unless otherwise allowed by College policies or procedures (e.g., leave of absence, bereavement, jury duty).

### Clarifications Regarding Extenuating Circumstances

## Current Policy with Tracked Changes

To support fairness and flexibility in situations where employees have limited or no accrued leave, the following clarifications apply:

**1. Employees Returning from Protected Leave:**

Employees returning to work from an approved protected leave (such as FMLA) will have a period of six (6) months following their return to accrue leave time before an unauthorized absence may result in disciplinary action. Such employees may still be disciplined for failing to notify their supervisor of the absence in accordance with this policy.

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In the event of a conflict between this policy and procedure and an applicable individual employment contract or collective bargaining agreement, the applicable individual employment contract or collective bargaining agreement shall govern to the extent necessary to resolve the conflict.

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#### **Clarification on Occurrences:**

An "occurrence" is defined as a single day or a continuous string of connected and related unauthorized absences (not protected by FMLA, Workers' Compensation, or other applicable laws).

- Example: Calling in sick for three consecutive days due to the flu would count as **one** occurrence.
- Example: Calling in three days in a row for unrelated reasons—car trouble, personal illness, and a child's illness—would count as **three** separate occurrences.

## Current Policy with Tracked Changes

### Corrective Action Progression:

**Verbal warning upon one (1) occurrence.**

- **Written warning upon two (2) ~~total~~ occurrences.**
- **Final warning\* or three-day unpaid suspension upon three (3) total occurrences**  
**(\*Exempt staff receive a final warning in lieu of suspension).**
- **Termination of employment upon four (4) ~~total~~ occurrences.**

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**Please note: Supervisors will work in conjunction with HR for any employee that has exhausted accrued leave balances while on a protected leave (e.g., FMLA).**

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In the event of a conflict between this policy and procedure and an applicable individual employment contract or collective bargaining agreement, the applicable individual employment contract or collective bargaining agreement shall govern to the extent necessary to resolve the conflict.

### **Disciplinary Action**

Unauthorized absences will be tracked by each supervisor based on a twelve (12) month period, which begins on January 1 of each year. Supervisors should follow the corrective action progression described below to address unauthorized absences; each unauthorized absence shall be considered an "occurrence." **Clarification on Occurrences:**

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Corrective Action Progression:

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- **Written warning upon two (2) occurrences.**



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**Board Action 5512 - November 6, 2023**

**Board Action 5537 - May 14, 2024**

# Equity Office Memorandum

**TO:** Andrea Ursuy, Interim President  
**FROM:** Allie Martinez, Title IX Coordinator & Equity Office  
**RE:** Board Policy 8.009 and Board Policy 8.010  
**Date:** December 19, 2025

This memorandum is to present proposed revisions to Delta College policies in accordance with the resignation of Delta College President Dr. Michael Gavin and the appointment of Andrea Ursuy as Interim President.

Additionally, effective June 23, 2025, the FBI updated the federal definition of “forcible fondling” replacing it with “criminal sexual contact” and expanding the definition. These changes are reflected in the updated versions of both policies.

Enclosed, you will find the following Delta College Board Policies:

- Board Policy 8.009 Sexual Misconduct & Gender Discrimination
  - Page 7: updated definition for “forcible fondling”
  - Page 17: updated contact information for the President
  - Pages 19 and 24: corrected equity office email address
- Board Policy 8.010 Title IX-Sexual Harassment Policy
  - Page 8: updated contact information for the President
  - Page 15: updated definition for “forcible fondling”

It is the recommendation of the Administration that the Board of Trustees approve the revisions to Board Policy 8.009 Sexual Misconduct & Gender Discrimination and allow for updates to the President’s contact information as needed.

It is the recommendation of the Administration that the Board of Trustees approve the revision to Board Policy 8.010 Title IX-Sexual Harassment Policy and allow for updates to the President’s contact information as needed.

# **Sexual Misconduct & Gender Discrimination Policy and Procedures**



Revised April 2021

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 and Gender Discrimination Policy and 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 and Gender Discrimination Policy and Procedures



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# 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.

As outlined in the College's [Amorous Relationship Policy](#), Delta College prohibits any of its employees from exercising authority over other persons with whom the employee has, or has had, an amorous relationship and prohibits amorous relationships between any employee with any student(s) enrolled at Delta College. 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 the Sexual Misconduct and Gender Discrimination Policy and Procedures. 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](http://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. 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 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. Mandated reporters are required to report all known or suspected prohibited behaviors listed below to the Title IX Coordinator within 24 hours. Remedies, investigation of complaints and education and/or training will be provided in response.

- a. **<sup>1</sup>Sexual 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. **<sup>1</sup>Quid 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. **<sup>1</sup>Sexual 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,

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<sup>1</sup> As defined by ATIXA (Association of Title IX Administrators)



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:

- <sup>2</sup>Rape (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)
- <sup>1</sup>Non-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.
- <sup>1</sup>Non-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-<sup>2</sup>fondlingCriminal Sexual Contact (the touching of the ~~private~~ body parts of another person (clothed or unclothed), including compelled touching for the purpose of sexual gratification, degradation or humiliation 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
- <sup>2</sup>Incest (non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law)
- <sup>2</sup>Statutory Rape (non-forcible sexual intercourse with a person who is under the statutory age of consent)

d. <sup>5</sup>**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. <sup>3</sup>**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

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<sup>2</sup> As defined by the Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook

<sup>3</sup> As defined in VAWA (Violence Against Women Act)

<sup>5</sup> As defined in OCR (Office for Civil Rights)

- 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. <sup>3</sup>**Dating Violence:** Dating violence (intimate partner 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 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. <sup>1</sup>**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. <sup>4</sup>**Stalking:** Stalking means a willful course of conduct involving repeating or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
- Course of conduct is a pattern of conduct composed of a series of two or more separate non-continuous acts evidencing a continuity of purpose.
  - Emotional distress is significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
  - Harassment is conduct directed toward a victim that includes, but is not limited to, repeated or continuing unwanted contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.
  - Unwanted contact is any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. *Unwanted contact includes, but is not limited to, any of the following:*
    - (i) Following or appearing within the sight of that individual.
    - (ii) Approaching or confronting that individual in a public place or on private property.
    - (iii) Appearing at that individual's workplace or residence.
    - (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
    - (v) Contacting that individual by telephone.
    - (vi) Sending mail or electronic communications to that individual.
    - (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

- i. <sup>4</sup>**Cyberstalking:** the use of the internet, email, or other electronic communications to stalk (see stalking definition above) and generally refers to a pattern of threatening or malicious behavior.
- j. <sup>1</sup>**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.
- k. <sup>1</sup>**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.
- l. <sup>1</sup>**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.
- m. <sup>1</sup>**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.

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<sup>1</sup> As defined by ATIXA (Association of Title IX Administrators)

<sup>4</sup> As defined by the State of Michigan

<sup>1</sup> As defined by ATIXA (Association of Title IX Administrators)

## 4. ASSISTANCE OPTIONS

### a. Immediate Confidential Assistance

When a complainant requests confidentiality, 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.

Please note: under certain circumstances Delta College must complete an investigation and take appropriate action to stop and prevent prohibited behaviors and provide remedies to the complainant and Delta College community. For example, if the respondent is a Delta College employee we may move forward with an investigation even if the complainant requests confidentiality.

### I. Advocates, Advisors and Counselors

#### 1. On-Campus Licensed Professional Counselors (LPC)

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

In situations where confidentiality is requested, counselors will work with the complainant to employ effective remedies. All services are free to the Delta College community.

#### 2. On-Campus Advisors

Both parties have the right to have an Advisor assist them.

Delta College's Title IX/VAWA Advisors serve all students, as well as faculty and staff members as it relates to sexual misconduct (see section 3 – Definitions for prohibited behaviors). All services are free and private. It is always the party'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 Advisor is a mandatory reporter (see section 6a-III - Reporting to a Mandated Reporter for mandated reporter information).

The Title IX/VAWA Advisor provides a safe, affirming, empowering and private environment for all persons. The advisor 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 Advisor directly or may be referred to the Title IX/VAWA Advisor by another office.

The Title IX/VAWA Advisor assists all persons by:

- Explaining the options of reporting
- Explaining the College's investigative process
- Assisting and accompanying a complainant in filing a report with the Department of Public Safety

- Assisting complainant party in accessing on campus resources, including counseling and outside advocacy agencies (and accompanying the party 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, they may act as an advisor during the investigative process)

### 3. Off-Campus Advocates

| County  | Contact Information   |
|---|---|
| <b>Bay &amp; Arenac Counties</b>                    | <b><u>Bay Area Women's Center</u></b> (serves men, women and children)<br>P.O. Box 1458, Bay City, MI 48706<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line:</b> 989-686-4551<br><b>Crisis Line Toll-Free:</b> 800-834-2098<br><b>TTY/TDD Number:</b> 989-686-0284 |
| <b>Midland &amp; Gladwin Counties</b>               | <b><u>Shelterhouse</u></b><br>P.O. Box 2660, Midland, MI 48640<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line:</b> 877-216-6383   |
| <b>Saginaw County</b>                               | <b><u>Underground Railroad, Inc.</u></b><br>P.O. Box 2451, Saginaw, MI 48605<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line:</b> 989-755-0411<br><b>Crisis Line Toll Free:</b> 888-399-8385<br><b>TTY/TDD Number:</b> 989-755-0413                                |
| <b>Saginaw, Midland, Bay &amp; Tuscola Counties</b> | <b><u>Sexual Assault Program of Child &amp; Family Services of Saginaw</u></b><br>2806 Davenport, Saginaw, MI 48602<br>Sexual Assault Services Only<br><b>Crisis Line:</b> 989-790-9118   |

## II. Emergency Contacts

### 1. Delta College Contacts

| Name   | Contact Information   |
|--|---|
| <b>Title IX Coordinator</b>  | <b>Allie Martinez</b><br><b>Phone:</b> (989) 686-9547 <b>Office:</b> J101<br><b>Email:</b> <a href="mailto:equityoffice@delta.edu">equityoffice@delta.edu</a><br><b>Fall/Winter Hours:</b> Monday – Thursday: 8a.m.-4:30p.m.,<br>Friday: 8a.m. – 4p.m., Saturday – Sunday: CLOSED<br><b>Spring/Summer Hours:</b> Monday – Thursday: 7:30 a.m.-5:30<br>p.m., Friday – Sunday: CLOSED   |
| <b>Delta College<br/>Department of<br/>Public Safety<br/>(DCDPS)</b> | 1961 Delta Road, University Center, MI 48710<br><b>Emergency Phone:</b> (989) 686-9111 (Extension 9111 from any<br>College phone)<br><b>Non-Emergency Phone:</b> (989) 686-9113<br><b>Email:</b> <a href="mailto:cops@delta.edu">cops@delta.edu</a><br><b>Fall/Winter Hours:</b> Monday – Saturday: 7a.m.-11p.m.,<br>Sunday: 11a.m. – 7p.m.<br><b>Spring/Summer Hours:</b> Monday – Saturday: 7a.m.-11p.m.,<br>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 Appendix A). 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  |
|---|--|
| <b>Bay City Department<br/>of Public Safety</b> | <b>Law Enforcement Divisions</b><br>501 Third Street, Bay City, MI 48708<br><b>Phone:</b> (989) 892-8571<br><a href="#">Bay City Department of Public Safety Website</a><br><b>Hours:</b> Monday – Friday: 7a.m.-4p.m. |
| <b>Midland Police<br/>Department</b>            | <b>Law Enforcement Center</b><br>2727 Rodd Street, Midland, MI 48640<br><b>Phone:</b> (989) 631-5716<br><a href="#">Midland Police Department Website</a><br><b>Hours:</b> Monday – Friday: 8a.m.-5p.m.                |
| <b>Saginaw Police<br/>Department</b>            | 612 Federal Avenue, Saginaw, MI 48607<br><b>Phone:</b> (989) 797-4580<br><a href="#">Saginaw Police Department Website</a>   |
| <b>Michigan State<br/>Tri-City Post</b>         | 2402 Salzburg Road, Freeland, MI 48623<br><b>Phone:</b> (989) 495-5555<br><a href="#">Michigan State TriCity Post Website</a><br><b>Hours:</b> 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     | <b><u>McLaren Bay Region Healthcare</u></b><br>1900 Columbus Ave, Bay City, MI 48708<br><b>Phone:</b> (989) 894-3000        |
| Midland County | <b><u>My Michigan Medical Center</u></b><br>4000 Wellness Drive, Midland, MI 48670<br><b>Phone:</b> (989) 839-3000          |
| Saginaw County | <b><u>MyMichigan Medical Center</u></b><br>800 S. Washington Ave, Saginaw, MI 48601<br><b>Phone:</b> (989) 907-8000         |
| Saginaw County | <b><u>Covenant Healthcare</u></b><br>900 Cooper Ave, Saginaw, MI 48602<br><b>Phone:</b> (989) 583-0000                      |
| Huron County   | <b><u>Huron Medical Center</u></b><br>1100 S. Van Dyke Road, Bad Axe, MI 48413<br><b>Phone:</b> (989) 269-9521              |
| Arenac County  | <b><u>MyMichigan Medical Center Standish</u></b><br>805 W. Cedar Street, Standish, MI 48658<br><b>Phone:</b> (989) 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 | <b><u>Bay Area Women's Center SANE Program</u></b><br>Bay City, MI 48706<br><b>Phone:</b> (989) 686-2251 <b>Fax:</b> (989) 686-0906 |
| Midland County        | <b><u>Shelterhouse SANE Program</u></b><br>Midland, MI 48640<br><b>Phone:</b> 989-835-6771 <b>Fax:</b> 989-835-7449                 |
| Saginaw County        | <b><u>Saginaw Sexual Assault Response Team</u></b><br>Saginaw, MI 48602<br><b>Phone:</b> (989) 790-9118 <b>Fax:</b> (989) 790-0712  |

| County   | Contact Information   |
|--|---|
| <b>Huron, Lapeer, Sanilac &amp; Tuscola Counties</b> | <b><u>Thumb Area Assault Crisis Center</u></b><br>Caro, MI 48723<br><b>Phone:</b> (800) 292-3666<br><b>Information &amp; Referral Phone:</b> (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   |
|---|---|
| <b>Bay &amp; Arenac Counties</b>                    | <b><u>Bay Area Women's Center</u></b> (serves men, women and children)<br>P.O. Box 1458, Bay City, MI 48706<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line:</b> 989-686-4551<br><b>Crisis Line Toll-Free:</b> 800-834-2098<br><b>TTY/TDD Number:</b> 989-686-0284 |
| <b>Midland &amp; Gladwin Counties</b>               | <b><u>Shelterhouse</u></b><br>P.O. Box 2660, Midland, MI 48640<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line:</b> 877-216-6383   |
| <b>Saginaw County</b>                               | <b><u>Underground Railroad, Inc.</u></b><br>P.O. Box 2451, Saginaw, MI 48605<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line:</b> 989-755-0411<br><b>Crisis Line Toll Free:</b> 888-399-8385<br><b>TTY/TDD Number:</b> 989-755-0413                                |
| <b>Saginaw, Midland, Bay &amp; Tuscola Counties</b> | <b><u>Sexual Assault Program of Child &amp; Family Services of Saginaw</u></b><br>2806 Davenport, Saginaw, MI 48602<br>Sexual Assault Services Only<br><b>Crisis Line:</b> 989-790-9118   |

The following list of advocate resources are for legal advocacy.

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



## 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  |
|---|--|
| <b>Delta College Counseling</b><br><br><i>Licensed Professional Counselor or Licensed Social Worker is a confidential reporting option. Please see 6b-11.</i> | <b>Personal Counseling:</b> Walk-in or by appointment<br><b>Fall/Winter Hours:</b> Monday – Thursday: 8a.m.-4:30p.m., Friday: 8a.m. – 4p.m., Saturday – Sunday: CLOSED<br><b>Spring/Summer Hours:</b> Monday – Thursday: 7:30 a.m. – 5:30 p.m., Friday – Sunday: CLOSED<br><b>Phone:</b> 989-686-9330<br><b>Email:</b> <a href="mailto:confidentialcounsel@delta.edu">confidentialcounsel@delta.edu</a><br><b>Office Location:</b> D-102 |

#### 2. Community Counseling, Advocacy and Support

| County  | Contact Information  |
|---|--|
| <b>Bay &amp; Arenac Counties</b>                    | <b><u>Bay Area Women's Center</u></b><br>P.O. Box 1458, Bay City, MI 48706<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line Primary:</b> 989-686-4551<br><b>Crisis Line Toll Free:</b> 800-834-2098<br><b>TTY/TDD Number:</b> 989-686-0284   |
| <b>Midland &amp; Gladwin Counties</b>               | <b><u>Shelterhouse</u></b><br>P.O. Box 2660, Midland, MI 48640<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line Primary:</b> 877-216-6383  |
| <b>Saginaw County</b>                               | <b><u>Underground Railroad, Inc.</u></b><br>P.O. Box 2451, Saginaw, MI 48605<br>Domestic Violence & Sexual Assault Services<br><b>Crisis Line Primary:</b> 989-755-0411<br><b>Crisis Line Toll Free:</b> 888-399-8385<br><b>TTY/TDD Number:</b> 989-755-0413 |
| <b>Saginaw, Midland, Bay &amp; Tuscola Counties</b> | <b><u>Sexual Assault Program of Child &amp; Family Services of Saginaw</u></b><br>2806 Davenport, Saginaw, MI 48602<br>Sexual Assault Services Only<br><b>Crisis Line Primary:</b> 989-790-9118  |

#### 3. State and National Counseling, Advocacy and Support

| Contact Information   |
|---|
| <b><u>Sexual Assault Hotline</u></b><br>Sexual assault survivors can call toll-free 24 hours a day for confidential support/resources<br><b>Phone:</b> 855-VOICES4 <b>Text:</b> 866-238-1454  |
| <b><u>Legal Resource Center on Violence Against Women</u></b><br>Improving legal representation for domestic violence survivors.<br><b>Phone:</b> 301-270-1550 <b>Survivor Hotline:</b> 800-556-4053<br><b>Email:</b> <a href="mailto:lrc@lrcvaw.org">lrc@lrcvaw.org</a><br><a href="http://LRCVAVWebsite">LRCVAV Website</a> |

| Contact Information  |
|--|
| <b>Michigan 211</b><br>Connects people with information and resources to build healthy, safe communities.<br><b>Phone:</b> 211 or 1-844-875-9211<br><a href="#">Michigan 211 Website</a> |
| <b>The National Domestic Violence Hotline (NDVH)</b><br><b>Phone:</b> 800-799-SAFE (7233) <b>TTY:</b> 800-787-3224<br><a href="#">NDVH Website</a>                                       |
| <b>The Rape, Abuse &amp; Incest National Network (RAINN)</b><br><b>Phone:</b> 800-656-HOPE (4673)<br><a href="#">RAINN Website</a>   |

## II. Interim Measures and Academic Accommodations

### 1. Interim Measures

Upon receiving a report of sexual misconduct, whether the complainant requested confidentiality or not, 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 free on-campus 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 and Gender Discrimination Policy and Procedures. The Coordinator is housed in the Equity Office. Anyone wishing to make a report relating to sexual misconduct, may do so by reporting the concern to the College’s Title IX Coordinator:

Allie Martinez, Title IX Coordinator/Equity Officer  
1961 Delta Road, J101  
University Center, MI 48710  
**Phone:** (989) 686-9547  
**Email:** [equityoffice@delta.edu](mailto:equityoffice@delta.edu)

Additionally, anonymous reports can be made by victims and/or third parties using the [online reporting form](#), or reporting to the College's anonymous Whistleblower's 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](mailto: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. Michael Gavin, President**  
Delta College  
1961 Delta Road  
University Center, MI 48710  
**Phone:** 989-686-9201  
**Email:** [michaelgavin@delta.edu](mailto:michaelgavin@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, while also notifying the College President of investigations and proposed remedies.

- Implement identified remedies.
- Propose sanctions to the appropriate vice president 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 Act (VAWA) and College procedures to address sexual misconduct on campuses.
- Provide or facilitate ongoing training, consultation and informational assistance on Title IX and VAWA for all students, faculty and staff.
- The items listed in section 7 below.

## 6. REPORTING PROTOCOLS

There are multiple options for making complaints, including confidential reports. The Title IX Coordinator will investigate all complaints which are reported within one year from the date of the alleged occurrence or within one year of the complainant's separation from the College, whichever is earlier.

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

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                                       | <b>Allie Martinez</b><br><b>Phone:</b> (989) 686-9547 <b>Email:</b> <del>titleix</del> <a href="mailto:equityoffice@delta.edu">equityoffice@delta.edu</a><br><b>Fall/Winter Hours:</b> Monday – Thursday: 8a.m.-4:30p.m., Friday: 8a.m. – 4p.m., Saturday – Sunday: CLOSED<br><b>Spring/Summer Hours:</b> Monday – Thursday: 7:30 a.m. – 5:30 p.m., Friday – Sunday: CLOSED  |
| Delta College<br>Department of<br>Public Safety<br>(DCDPS) | 1961 Delta Road, University Center, MI 48710<br><b>Emergency Phone:</b> (989) 686-9111 (Extension 9111 from any College phone)<br><b>Non-Emergency Phone:</b> (989) 686-9113<br><b>Email:</b> <a href="mailto:cops@delta.edu">cops@delta.edu</a><br><b>Fall/Winter Hours:</b> Monday – Saturday: 7a.m.-11p.m., Sunday: 11a.m. – 7p.m.<br><b>Spring/Summer Hours:</b> Monday – Saturday: 7a.m.-11p.m., Sunday: CLOSED |

All sexual misconduct complaints filed with the Delta College Department of Public Safety are not confidential complaints and are required to be reported to the Title IX Coordinator. The Delta College Department of Public Safety will not share the complaint with other Delta College employees or departments.

Upon receipt of a non-confidential complaint, the Title IX Coordinator will initiate an investigation. If the complainant chooses to also file a criminal report with the Delta College Department of Public Safety their staff may also participate in the interview of 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.

Upon receipt of a request for confidentiality in a sexual misconduct or gender discrimination complaint, the Title IX Coordinator will confer with the appropriate vice president to determine if the request can be honored. For more information, see section 6b-IV – Requests for Confidentiality.

## 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)
- Admissions Office Staff/Career Planning Staff
- Student Success Advisors and Office Staff

- 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
- Ellucian 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
- Financial Aid Staff
- Finance Staff
- Human Resources Staff
- Judicial/Conduct Officer
- Law Enforcement unit employees, including Student Employees and Public Safety Staff
- Registrar Office Staff
- 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 Advisors
- Title IX Coordinator
- Tutors and Structured Learning Assistants (SLA)

Before a complainant reveals any information to a Mandated Reporter, the Mandated Reporter must 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 Mandated Reporter 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 or designee.

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 behavior prohibited by these procedures, 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 must 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, 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, and
- 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. Please note that this only applies to an LPC employed in that capacity by Delta College. 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   |
|---------------------------------|---|
| <b>Delta College Counseling</b> | <b>Personal Counseling:</b> Walk-in or by appointment<br><b>Fall/Winter Hours:</b> Mon – Thurs: 8a.m.-4:30p.m., Friday: 8a.m.–4p.m., Saturday – Sunday: CLOSED<br><b>Spring/Summer Hours:</b> Mon – Thurs: 7:30a.m. – 5:30p.m., Friday – Sunday: CLOSED<br><b>Phone:</b> 989-686-9330 <b>Email:</b> <a href="mailto:confidentialcounsel@delta.edu">confidentialcounsel@delta.edu</a><br><b>Office Location:</b> 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.

In certain circumstances, confidentiality may not be able to be maintained. If the College determines it cannot honor the request for confidentiality because of the severity of the misconduct, the complainant will be notified of the decision to move forward in the investigation and the rationale for doing 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 by the Director of the Department of Public Safety 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 Title IX Coordinator and the appropriate College Vice President will together 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 alleged 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, unless requested to a Licensed Professional Counselor. 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, including 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 to CSAs for inclusion in the annual security report without personal identifiable information. 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 submitted an [online report](#), by emailing [report@delta.edu](mailto: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 [titleix@delta.edu](mailto:titleix@delta.edu), calling 989-686-9547, or by making an anonymous complainant at [report@delta.edu](mailto: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 and Gender Discrimination Policy and 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 or gender discrimination. 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**

In addition to the items listed in Section 5 above, 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 Appendix A), 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 complainant and respondent, 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 allow them a two business day period of comment before a report is finalized;
- Share the findings with both parties.
- If a finding is made where there are adverse sanctions based solely on credibility, the respondent will have the opportunity to cross-examine the complainant and any adverse witnesses (see Appendix B: Cross-Examination Rules and Procedures).
- If multiple people are involved in one incident, each person's involvement will be investigated and decided separately.
- Share the findings without including personal identifiable information with the College President.

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 and Gender Discrimination Policy and 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 Appendix A.)
- 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 should 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, unless a finding results in adverse sanctions that is based solely on credibility (see Appendix B: Cross-Examination Rules and Procedures). 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 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 and Gender Discrimination Policy and Procedures have been violated, the Title IX Coordinator has the right to terminate the investigation and end resolution proceedings.
  - v. Neither party, or their advisors, shall be permitted to record any interview or meeting. The Title IX Coordinator, or designee, will record all interviews for transcription purposes. Transcripts will be provided to the parties, typically within one week following their interview, and will have 2 business days to review and comment. Any comments received after 2 business days will not be considered.

## 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

For full descriptions of the sanctions listed below, please see the [Student Handbook](#).

#### 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. In the case of expulsion, the Equity Office will request OIT to terminate the student's electronic access.

#### 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 it deems appropriate. In the case of termination, the President has sole authority to terminate an employee.

| Employee Class                                | Verbal Warning | Written Discipline/<br>Warning | Final Warning & Suspension | Termination/<br>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                           | X              | X                              | X                          | X                         |

Please note, 3.021 of the Senate Handbook (Progressive Discipline for Faculty for Reasons Other Than Teaching Effectiveness) is not part of this process.

#### iii. Visitors

Disciplinary actions may include suspension or expulsion from College buildings and/or properties and/or events as the College deems appropriate.

## 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. Should either individual be under the age of 18, the notice of outcome will also be sent to the parents of that individual.
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.

3. The notice of outcome will include any initial, interim, or final decision by the College; any sanctions imposed by the College; and the rationale for the result and the sanctions.

#### 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

The complainant should preserve all evidence that relates to sexual misconduct and gender discrimination. 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; except as otherwise indicated below. 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. Advisors who are from outside of the College cannot have access, written or otherwise, to any identifiable student information.

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(s) 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 by off-campus law enforcement of sexual misconduct, the Title IX Coordinator must initiate and complete an investigation of any non-confidential complaint. 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, or designee, will participate in the College investigation and processes. Human Resources role is to ensure all internal policies and procedures are followed and will 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.

See also, section 4b-II Interim Measures and Accommodations.

## **8. APPEAL PROCEDURES**

### **a. Appeal Process**

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

- Students and visitors will file an appeal with the Dean of Students or Dean of Enrollment\*
- Faculty will file an appeal with the Dean of Teaching and Learning or the Academic Dean of Career Education & Learning Partnerships\*
- Staff will file an appeal with the Executive Director of Administrative Services & Institutional Effectiveness or the Executive Director of Institutional Advancement\*

\*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. 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
2. For a substantive procedural error include how the institution's procedures were not followed and how that impacted the outcome
3. For a conflict of interest include specific information on the conflict of interest or substantiated bias and how it impacted the outcome

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 appendix A). The appropriate designee shall notify the person filing an appeal in writing of the decision of the appeal within 20 business 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. <sup>2</sup>Bystander 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 safely 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. <sup>1</sup>Sexual 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 being a victim of a non-consensual sexual act:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.

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<sup>1</sup> As defined by ATIXA (Association of Title IX Administrators)

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

- 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.
- 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.

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:

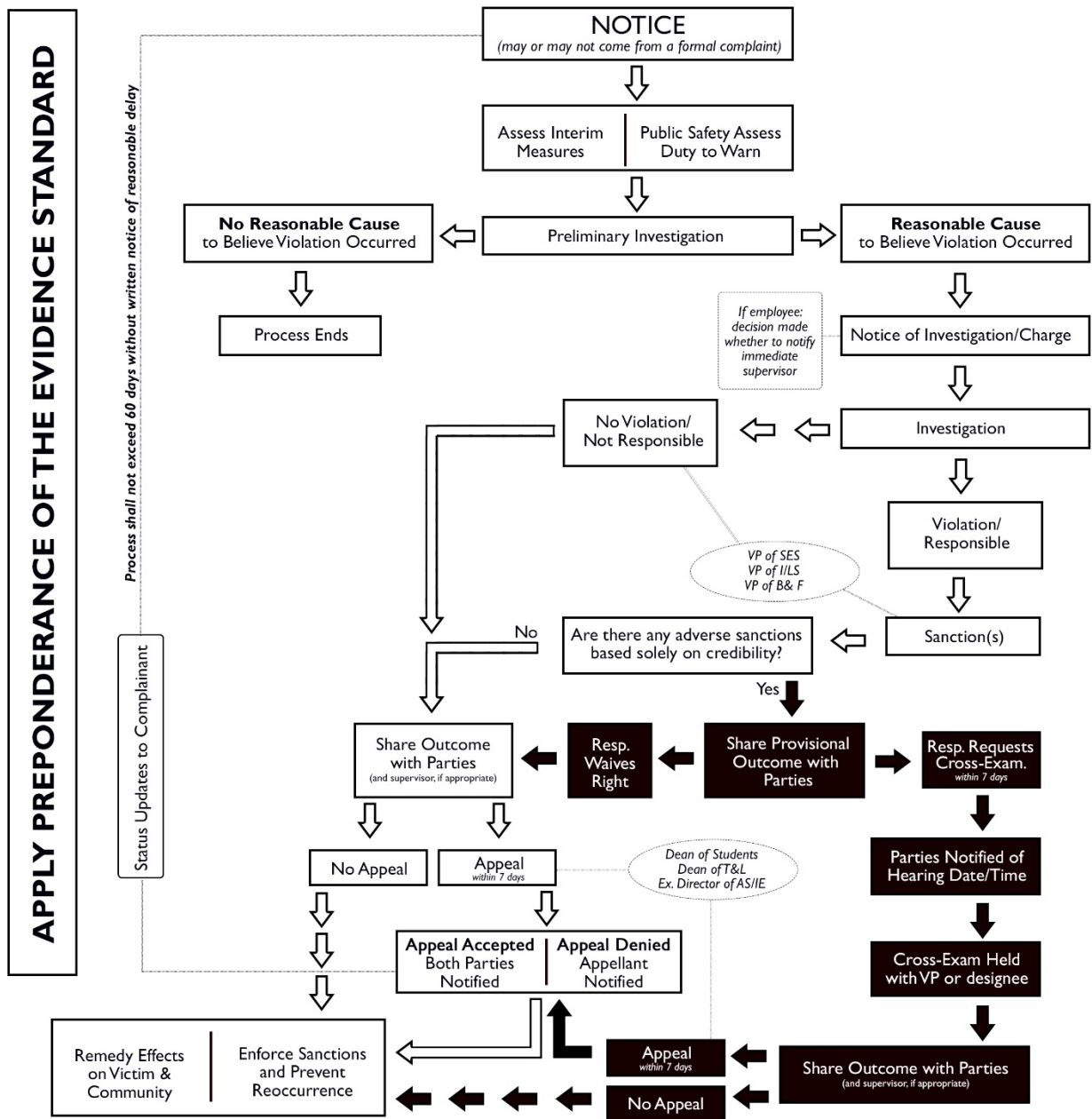
- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how 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 Process

#### SEXUAL MISCONDUCT RESOLUTION PROCESS

Title IX Investigations are separate from legal investigations but may run concurrently with a police and HR investigation



## Appendix B: Cross-Examination Rules and Procedures

In circumstances when the credibility of the respondent, complainant, and/or witness(es) is disputed and relevant to the outcome of an investigation, the parties will be given the opportunity for cross-examination of the respondent, complainant, and/or witness(es). Cross-examination may or may not occur face-to-face; may or may not be accomplished through the use of another individual chosen by the College; and may be subject to additional rules, depending on the specific facts of the case. The following general rules apply:

1. In cases where the College's decision that an individual violated the College's Sexual Misconduct and Gender Discrimination policy and procedures does not rely on testimonial evidence at all, cross-examination of a witness may not be permitted.
2. Cross-examination may apply only in cases in which the respondent is claimed to have violated the College's Sexual Misconduct and Gender Discrimination policy and procedures.
3. Cross-examination may, at the discretion of the College, be accomplished in person, through the use of electronic means, or in any other manner deemed appropriate by the College in the particular case which allows for live questioning in front of a fact-finder.
4. The College's representatives may terminate cross-examination that they believe victimizes or harasses the person being questioned.
5. The College reserves the right to assign or require another person to conduct the cross-examination on behalf of the person requesting cross-examination.
6. The College reserves the right to limit the scope of cross-examination.
7. Strict compliance with the Michigan or Federal Rules of Evidence is not required, and the College reserves the right to make evidentiary rulings in any due process hearing.

This document includes general guidance. The College will examine the specific facts of each case to determine whether cross-examination will be permitted. Cross-examination will not be permitted in all cases.

# **Title IX Sexual Harassment Policy**



Delta College developed this as an independent policy separate from the Sexual Misconduct and Gender Discrimination Policy and Procedures in order to comply with the newly-revised requirements of 20 U.S.C. 1681 and 34 CFR part 106. This policy was adapted and modified from an ATIXA model policy and is used with permission. ATIXA 2020 One Policy, Two Procedures Model: Use and Adaptation of this Model with Citation to ATIXA is permitted through a limited license to Delta College. All other rights reserved. © 2020. ATIXA.

Any questions or concerns regarding this policy should be directed to the Delta College Title IX Coordinator.

# Title IX Sexual Harassment Policy



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# 1. RATIONALE FOR POLICY

Delta College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment and retaliation on the basis of sex.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Delta College has developed this policy in compliance with 20 U.S.C. 1681, "Title IX", including the revisions of 34 CFR part 106. Delta College policies are committed to providing prompt, fair, and impartial processes for those involved in an allegation of discrimination, harassment or retaliation on the basis of sex.

Delta College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## 2. DEFINITIONS

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Appellate* means the individual with the power and authority to make the decision regarding an appeal.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Education program or activity* means locations, events, or circumstances where College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College.
- *Final Determination*: A conclusion by the standard of proof that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* is a method of formal resolution designated by Delta College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Hearing Decision-Maker* refers to those who have decision-making and sanctioning authority within the College’s Formal Grievance process.
- *Investigator* means the person or persons charged by a College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the College explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of Delta College.

- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an Informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. See Section 3-k Sexual Harassment below for greater detail.
- *Student* means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the College.

### 3. PROCEDURES

#### a. APPLICABLE SCOPE

The core purpose of this policy is the prohibition of sexual harassment as defined by Title IX. Sometimes, sexual harassment involves exclusion from or different treatment in activities, such as admission, athletics, or employment. At other times, that harassment can encompass sexual harassment, sexual assault, stalking, dating violence, or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to resolution using this process as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the Delta College community, a formal complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Delta College community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, and contractors. All vendors serving the College through third-party contracts are subject to these policies and procedures here within, policies and procedures of their employers, and their agreed upon bound contract with the College. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

#### b. TITLE IX COORDINATOR

Allie Martinez serves as the Title IX Coordinator and oversees implementation of the College's policies on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Allie Martinez, Title IX Coordinator/Equity Officer

1961 Delta Road, J101

University Center, MI 48710

**Phone:** (989) 686-9547

**Email:** [equityoffice@delta.edu](mailto:equityoffice@delta.edu)

#### c. INDEPENDENCE AND CONFLICT OF INTEREST

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. Investigators, College trained advisors, Decision-Makers and appellates are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. The Title IX Coordinator will use a checklist based on the best practices to prevent and/or evaluate any potential conflicts of interest.

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator, and Decision-Maker may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another designee will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Delta College President, [Dr. Michael Gavin](mailto:Dr.MichaelGavin@delta.edu) or [Andrea Ursuy](mailto:Andrea_Ursuy@delta.edu) at [alnadols@delta.edu](mailto:alnadols@delta.edu). Concerns of bias or a potential conflict of interest by any other grievance process participant should be raised with the Title IX Coordinator. In addition, reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the College President, [Dr. Michael Gavin](mailto:Dr.MichaelGavin@delta.edu) at [michaelgavin@delta.edu](mailto:michaelgavin@delta.edu) or [Andrea Ursuy](mailto:Andrea_Ursuy@delta.edu) at [alnadols@delta.edu](mailto:alnadols@delta.edu).

Delta College operates with the presumption that the Respondent is not responsible for the reported

misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

#### d. MANDATED REPORTERS

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 that may violate this policy, 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)
- Admissions Office/Career Planning Staff
- 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
- Ellucian 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
- Financial Aid Staff
- Finance Staff
- Human Resources Staff
- Judicial/Conduct Officer
- Law Enforcement unit employees, including Student Employees and Public Safety Staff
- Registrar Office Staff
- Student and Civic Engagement Department Staff
- Student Success Advisors and Office 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 Advocates
- Title IX Coordinator
- Tutors and Structured Learning Assistants (SLAs)

Before a complainant reveals any information to a Mandated Reporter, the Mandated Reporter must 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 Mandated Reporter 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 or designee.

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 behavior prohibited by these procedures, 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 must not share information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement.

## e. FILING A COMPLAINT

- I. Notice or complaints of alleged policy violations may 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 or email address, or by mail to the office address, listed for the Title IX Coordinator above in section 3-b Title IX Coordinator.
  2. Report online, using the reporting form posted at [https://cm.maxient.com/reportingform.php?DeltaCollege&layout\\_id=6](https://cm.maxient.com/reportingform.php?DeltaCollege&layout_id=6).
  3. Report to any mandated reporter, including Public Safety.
- II. Anonymous reports are accepted and can be submitted through any of the above options but can give rise to a need to investigate. Regardless of the type of report made, the College provides supportive measures to all Complainants, however, the College will be unable to do so with an anonymous report. The Complainant should not fear a loss of privacy by making a report as the Complainant is largely in control of the decision to move forward with a formal complaint. Unless there is a compelling threat to the health and/or safety of anyone within the college community, reporting carries no obligation to initiate a formal response from the College.
- III. A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Delta College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information above in section 3-b Title IX Coordinator, or as described in this section. 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 form) that contains the Complainant's (or Title IX Coordinator's) physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the College investigate the allegations. In the event that the Title IX Coordinator signs a complaint, the Title IX Coordinator is neither the complainant or a party. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## f. SUPPORTIVE MEASURES

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

Delta College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Arranging education for the Delta College community
- Altering work arrangements for employees or student-employees
- Access to safety planning templates/resources
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- No trespass directives
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders and no trespass directives will be investigated and adjudicated by the Title IX Coordinator.

## g. EMERGENCY REMOVAL

### I. Students

- a. The College can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and reviewed by the appropriate Decision-Maker.
- b. In all cases in which an emergency removal is imposed, the student will be given written notice of the action, including a summary of the basis for removal, and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the



action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within three business days of receiving notice, objections to the emergency removal will be deemed waived. There is no appeal process for emergency removal decisions.

- c. A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.
- d. The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.
- e. The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: temporarily re-assigning a student employee, restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate athletics. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

## II. Employees

- a. The College can act to remove an employee Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the appropriate Decision-Maker, President and the Director of Human Resources.
- b. The College will implement the appropriate emergency actions possible in light of the circumstances and safety concerns. These actions could include, but are not limited to: temporarily re-assigning an employee, restricting an employee's access to or use of facilities or equipment, or authorizing an administrative leave.

## h. PROMPTNESS

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints can take 90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in College procedures will be delayed, the College will provide written notice to the parties (and advisors with prior consent) of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## i. CONFIDENTIALITY/PRIVACY

Every effort is made by the College to preserve the confidentiality of reports. The College will not share the identity of any individual who has made a report or complaint of harassment or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any

Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under Delta College policies and procedures.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so. For all parties under 18, parents will be copied on all communications.

For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the College’s Student Records Policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Delta College has designated individuals who have the ability to have privileged communications as Confidential Resources. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

## j. JURISDICTION OF THE COLLEGE

### I. Jurisdiction Requirements

This policy applies when all of the following are true:

- a. The alleged conduct occurred in the educational program and/or activities of Delta College. As defined by this policy, educational programs or activities are locations, events, or circumstances where College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by Delta College, including online classes.
- b. Delta College has control over the Respondent at the time of the complaint.
- c. The alleged conduct occurs in the United States.
- d. The complainant is participating or attempting to participate in a Delta College educational program or activity at the time the formal complaint is filed.
- e. The alleged conduct if proved true would meet the definition outlined in 34 CFR part 106.30.

### II. Jurisdiction Extended to Off-Campus Misconduct

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. The College may also extend jurisdiction to off-campus and/or non-academic social networking when the Title IX Coordinator determines that the conduct affects a substantial College interest including:

- a. Any action that constitutes a criminal offense, within the scope of this Policy, 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.

III. Non-Jurisdiction Support

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

## k. PROHIBITED BEHAVIORS

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. This policy prohibits the following definition of sexual harassment including online manifestations of any of the below prohibited behaviors, when those behaviors occur in or have an effect on Delta College's education program and activities or when they involve the use of Delta College networks, technology, or equipment.

I. Sexual Harassment

Sexual harassment is conduct on the basis of sex<sup>1</sup> or that is sexual in nature that satisfies one or more of the following:

1) Quid Pro Quo:

- a. an employee of the recipient,
- b. conditions<sup>2</sup> the provision of an aid, benefit, or service of the recipient,
- c. on an individual's participation in unwelcome sexual conduct.

2) Sexual Harassment:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the College's education program

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<sup>1</sup> Including sexual orientation and sex stereotypes.

<sup>2</sup> Implicitly or explicitly.

or activity.<sup>3</sup>

3) Sexual assault, defined as:

Any sexual act<sup>4</sup> directed against another person<sup>5</sup>,

- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.<sup>6</sup>
- Incest:
  - 1) Non-forcible sexual intercourse,
  - 2) between persons who are related to each other,

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<sup>3</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances (“in the shoes of the Complainant”), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

<sup>4</sup> A “sexual act” is specifically defined by federal regulations to include one or more of the following:

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.

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 or because of temporary or permanent mental or physical incapacity.

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.

~~Forcible Fondling~~ Criminal Sexual Contact:

- The touching of the private body parts of another person (buttocks, groin, breasts), (clothed or unclothed)
- Including compelled touching
- for the purpose of sexual gratification, degradation or humiliation,
- 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.

<sup>5</sup> This would include having another person touch you sexually, forcibly, and/or without their consent.

<sup>6</sup> This definition set is not taken from SRS/NIBRS verbatim. ATIXA has substituted Complainant for “victim,” has removed references to his/her throughout, has defined “private body parts,” has removed the confusing and unnecessary term “unlawfully,” and has inserted language clarifying that the Recipient interprets “against the person’s will” to mean “non-consensually.” These are liberties ATIXA thinks are important to take with respect to the federal definitions, but users should consult legal counsel before adopting them.

- 3) within the degrees wherein marriage is prohibited by Michigan law.
  - Statutory Rape:
    - 1) Non-forcible sexual intercourse,
    - 2) with a person who is under the statutory age of consent of 16.
- 4) Dating Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. 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. For the purposes of this definition—
    - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - iii. Dating violence does not include acts covered under the definition of domestic violence.
- 5) Domestic Violence\*, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant,
  - d. by a person with whom the Complainant shares a child in common, or
  - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan or
  - g. 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 Michigan.

\*To categorize an incident as Domestic Violence under this Policy, 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:
  - a. engaging in a course of conduct,
  - b. on the basis of sex,
  - c. directed at a specific person, that
    - i. would cause a reasonable person to fear for the person's safety, or
    - ii. the safety of others; or
    - iii. Suffer substantial emotional distress.

For the purposes of this definition—

  - (i) 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.
  - (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
  - (iii) Substantial emotional distress means significant mental suffering or

anguish that may but does not necessarily require medical or other professional treatment or counseling.

## II. Force, Coercion, Consent, and Incapacitation

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

**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,” which elicits the response, “Okay, don’t hit me, I’ll do what you want.”).

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.

**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.

### **Consent is:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, 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.

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.

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.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on Delta College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of

a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM<sup>7</sup> or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so Delta College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**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 that assumes that a reasonable person is both sober and exercising sound judgment.

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, and how” of their sexual interaction).

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.

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.

## I. TIME LIMITS ON REPORTING

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College’s jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

## m. RETALIATION

Delta College and any member of Delta College’s community are prohibited from taking or attempting 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.

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<sup>7</sup> Bondage, discipline/dominance, submission/sadism, and masochism.

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation.

#### **n. FALSE ALLEGATIONS AND EVIDENCE**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline.

#### **o. WHEN A COMPLAINANT DOES NOT WISH TO PROCEED**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether Delta College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires Delta College to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Delta College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Delta College's ability to pursue a Formal Grievance Process fairly and effectively. When Delta College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that Delta College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing Delta College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Delta College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.



If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by College, and to have the incidents investigated and properly resolved through these procedures.

## p. FEDERAL WARNING AND REPORTING OBLIGATIONS

### I. 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, unless requested to a Licensed Professional Counselor. 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, including 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 to CSAs for inclusion in the annual security report without personal identifiable information. 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.

### II. 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

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Delta College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. Delta College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

#### q. AMNESTY

The Delta College community encourages the reporting of misconduct by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process. To encourage reporting and participation in the process, College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

**Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.** The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

#### r. PRESERVATION OF EVIDENCE

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and is particularly time-sensitive. Delta College will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at a hospital, ideally within 120 hours of the incident (sooner is better).
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

#### s. TITLE IX PROCESS

##### I. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the College needs to take.

1. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator or designee will conduct an initial assessment as soon as possible. The initial assessment will include:

- a. Determining if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety to the College community.
- b. Reaching out to the Complainant to offer supportive measures and ensuring they are aware of their right to have an Advisor.
- c. Working with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - i. If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - ii. If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - iii. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    1. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - a. an incident, and/or
      - b. a pattern of alleged misconduct, and/or
      - c. a culture/climate issue, based on the nature of the complaint.
    2. If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the College’s authority to address a complaint with an appropriate process and remedies.

2. Response

The initial assessment will conclude with the Title IX Coordinator initiating at least one of the following responses:

- a. Offering supportive measures because the Complainant does not want to file a formal complaint ; and/or
- b. An informal resolution (upon submission of a formal complaint); and/or
- c. A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

d. Refer to another policy/procedure

The College uses the Formal Grievance Process to determine whether or not this Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment, their potential recurrence, or their effects.

## II. Dismissal

The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the College.

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the College; or
- 3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below.

## III. Counterclaims

Counterclaims made with retaliatory intent will not be permitted. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

## IV. Advisors

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Parties may not choose an advisor who is also a witness in the process as doing so creates potential for bias and conflict-of-interest. If at any time the College becomes aware that an advisor is also a witness, all parties can anticipate that an issue of potential bias will be explored by the hearing Decision-Maker(s).

Unless permitted by law, each party may only have one (1) advisor present at meetings, interviews and/or hearings. No other persons will be permitted to participate in any portion of the resolution process.

1. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the College community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with College's policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

2. Advisors in Hearings/College-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-Maker(s) during the hearing.

3. Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The College cannot guarantee equal Advisory rights, 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 an attorney.

4. Pre-Interview Meetings

Advisors may request to meet with the Title IX Coordinator in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and the College's policies and procedures.

5. Advisor Violations of College Policy

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee<sup>8</sup> during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-Maker(s) except during a hearing proceeding, during cross-examination. In addition, no persons, including any party or an advisor, may audio or video record any meeting, interview or hearing proceeding.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### 6. Sharing Information with the Advisor

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The College also provides a [release form](#) that authorizes the College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, the College will not comply with that request.

#### 7. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

#### 8. Expectations of an Advisor

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

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<sup>8</sup> Subject to the state law provisions or College policy above.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### 9. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Title IX Coordinator of the identity of their Advisor at least two (2) business days before the date of their first meeting with the investigator (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

For parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in grievance process interviews or meetings.

In complaints against employees, the director of human resources will be present at all meetings, interviews, and hearings. The director of human resources may ask additional questions. The director of human resources is present to prevent duplicative processes for employment decisions and is not considered an advisor in this process.

#### 10. Assistance in Securing an Advisor

- a. A list of current, trained on campus Advisors can be found on the public website on the [Title IX page](#) under the Title IX/VAWA Advisors dropdown.

- b. Off Campus Advisors/Resources

Please note that the following services are not affiliated with the College and may not be local. Please consider your choice of an advisor so that it does not create any unnecessary delays in due process.

Click the link(s) below for a listing of local legal support services that may offer discounted or pro bono services. The College does not endorse any of the off-campus legal support services. Use the following services at your own risk.

- Michigan Legal Help (<https://michiganlegalhelp.org/>)
- State Bar of Michigan (Legal Aid) ([https://www.michbar.org/public\\_resources/legalaid](https://www.michbar.org/public_resources/legalaid))

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>)
- The National Center for Victims of Crime

(<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association

- The Time's Up Legal Defense Fund (<https://nwlc.org/times-up-legal-defense-fund/>)

## V. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Delta College Policy.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose as part of an Informal Resolution, discussed below. Delta College encourages parties to discuss with their Advisors any sharing of information before doing so.

The Formal Grievance Process is Delta College's primary resolution approach, unless Informal Resolution is elected by all parties and Delta College. Three options for Informal Resolution are detailed in this section, and the Formal Grievance Process is detailed starting in the next section. The Informal Resolution process is not offered when resolving complaints alleging that an employee sexually harassed a student.

### 1. Informal Resolution

- Supportive Resolution: When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- Alternative Resolution: When the parties agree to resolve the matter through an alternative resolution mechanism as described below, , usually before a formal investigation takes place; see discussion in b., below.
- Accepted Responsibility: When the Respondent accepts responsibility for violating policy, and desires to accept a sanction(s) and end the resolution process; see discussion in c., below.

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The parties may agree as a condition of engaging in Informal Resolution that statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, Delta College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by Delta College. Delta College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

### 2. Alternative Resolution Approaches

Alternative Resolution is an informal approach by which the parties reach a mutually



agreed upon resolution of an allegation. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may look to the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the parties:

- The parties' amenability to Alternative Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternative Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator is authorized to negotiate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternative Resolution are not appealable.

### **3. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and Delta College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Delta College policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written consent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on

the Complainant and the community.

## VI. Formal Grievance Process Participants

In addition to the Title IX Coordinator who will be the Investigator, the Formal Grievance Process is carried out by the Decision-Maker, Appellate, Advisors and in some instances, the Director of Human Resources (or designee).

### 1. Investigator

The Title IX Coordinator, or designee if the Title IX Coordinator has a conflict of interest, will be the Investigator and begin to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

### 2. Decision-Maker

The Decision-Maker role held by the individuals employed by Delta College in the following positions and appointed to a complaint based on the respondent's affiliation:

- a. Vice President of Student & Educational Services for complaints alleging student/visitor misconduct
- b. Vice President of Instruction/Learning Services for complaints alleging faculty (including tutors and SLAs) misconduct
- c. Vice President of Business & Finance for complaints alleging all other staff misconduct

### 3. Appellate

The Appellate role is held by the individuals employed by Delta College in the following positions and appointed to a complaint based on the respondent's affiliation:

- a. Dean of Student Success or Dean of Enrollment Management for complaints alleging student/visitor misconduct
- b. Dean of Teaching & Learning or the Academic Dean of Career Education and Learning Partnerships for complaints alleging faculty (including tutors and SLAs) misconduct
- c. Executive Director of Administrative Services & Institutional Effectiveness or Executive Director of Institutional Advancement for complaints alleging all other staff misconduct

### 4. Advisors

College-appointed advisors are other employees of Delta College who have been trained on this policy and are willing to assist parties through the Formal Grievance Process. A list of current Advisors and their contact information can be found online at...

### 5. Director of Human Resources

When a complaint is filed against an employee, the Director of Human Resources, or designee, will participate in the College investigation and processes. Human Resources involvement is to ensure all internal policies and procedures are followed and to have first hand knowledge should sanctions result if violations are found by the Decision-Maker.

The Grievance Process participants are required to receive annual training on the following topics, as appropriate to their role. The materials used to train all members of the Pool are publicly posted here: <https://www.delta.edu/equity/title-ix/index.html>.

- The scope of Delta College's Title IX Policy and Sexual Misconduct and Gender Discrimination Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by Delta College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

## VII. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (NOIA) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that Delta College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about Delta College's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that Delta College's Policy prohibits knowingly making false

- statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- Information about relevant on and off campus resources,
- The name of the Investigator, along with a process to identify, in advance of the interview process, any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and will be emailed to the parties' Delta College-issued email. If the letter remains unopened by a party an attempt will be made to deliver the notice in person. If that attempt is unsuccessful or not possible, the notice will be mailed to the home address of the party on file with Delta College. Once emailed, received in-person or mailed, notice will be presumptively delivered.

## VIII. Recording of Interviews/Hearings

No audio or video recording of any kind is permitted during investigation meetings or hearings by any party. The Investigator or designee will audio and/or video record all interviews and hearings for transcription purposes. All involved parties will be made aware of the audio and/or video recording.

## IX. Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

An Investigation will typically consist of the following steps:

- Determine the identity and contact information of the Complainant
- In coordination with campus partners initiate or assist with any necessary supportive measures Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Conduct a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose

- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence.
- The Investigator will gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report. Prior to the conclusion of the investigation, provides the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which Delta College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent).
- The Investigator may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator should document all rationales for any changes made after the review and comment period
- The Investigator shares the report with legal counsel for their review and feedback, as needed
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

## X. Role and Participation of Witnesses

Witnesses (as distinguished from the parties) who are employees of Delta College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, pandemic) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. Delta College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

## XI. Investigation Evidentiary Considerations

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent

committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## XII. Title IX Hearing

### 1. Scheduling

Once the final investigation report is shared with the parties, the Title IX Coordinator will schedule the matter for a hearing.

- a. The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-Maker—unless all parties and the Decision-Maker agree to an expedited timeline.
- b. The Decision-Maker is determined by the Respondent's affiliation with the college as outlined above in V – Formal Grievance Process Participants. The Decision-Maker will not have had any previous involvement with the investigation.
- c. No less than ten (10) business days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- d. The notice will contain:
  - A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions that could result.
  - The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
  - Technology that will be used to facilitate the live hearing with the parties located in separate rooms that enables the Decision-Maker and parties to see and hear a party or witness answering questions.
  - A list of all those who will attend the hearing, along with an invitation to object to the Decision-Maker on the basis of demonstrated bias. This must be requested with the Title IX Coordinator at least two (2) business days prior to the hearing.
  - Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
  - A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-Maker. For compelling reasons, the Decision-Maker may reschedule the hearing.
  - Notification that the parties will be required to have an Advisor present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.
  - A copy of all the materials provided to the Decision-Maker(s) about the matter, unless they have been provided already.
  - An invitation to each party to submit to the Decision-Maker an impact statement pre-hearing that the Decision-Maker will review during any sanction determination.
  - An invitation to contact the Title IX Coordinator to arrange any disability

accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

- A statement restricting parties from recording the hearing.
- A statement requiring the parties to bring their own copies of any evidence, reports, etc. that may be referenced during the hearing

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 90 business day goal for resolution.

## 2. Preparation

- Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator unless all parties and the Decision-Maker consent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Decision-Maker do not consent to the admission of evidence newly offered at the hearing, the Decision-Maker may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.
- The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and at least two (2) days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).
- The Title IX Coordinator will give the Decision-Maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-Maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.
- The Decision-Maker will request the parties and/or their Advisors to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Decision-Maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Decision-Maker must document and share with each party their rationale for any exclusion or inclusion.

## 3. Proceedings

### a. Evidentiary Considerations

Any evidence that the Decision-Maker determines is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about

the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming Delta College uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker(s) at the sanction stage of the process when a determination of responsibility is reached.

b. Participants at the Hearing

Participants at the hearing will include the Decision-Maker, the Investigator who conducted the investigation, the parties (or three (3) organizational representatives when an organization/group is the Respondent), Advisors to the parties, the Director of Human Resources if the respondent is an employee, any called witnesses and anyone providing authorized accommodations or assistive services.

At the hearing, the Decision-Maker has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in connection with the sexual harassment and/or retaliation, even though they may not specifically fall within this policy. The Decision-Maker or Title IX Coordinator will answer all questions of procedure.

Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

c. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

d. Introductions and Explanation of Procedure

The Decision-Maker explains the procedures and introduces the participants. The Decision-Maker then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by Equity Office staff. The Equity Office staff may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended, as appropriate, etc.

e. Presentation of Investigation Report

The Investigator will present a summary of the final investigation report, including



items that are contested and those that are not, and will be subject to questioning by the Decision-Maker and the parties (through their Advisors). The Investigator will be present during the entire hearing process, but not during deliberations. Neither the parties nor the Decision-Maker should ask the Investigator their opinion on credibility, recommended findings, or determinations, and the Investigator, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-Maker will direct that it be disregarded.

f. Testimony and Questioning

Once the Investigator presents their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision-Maker. The parties/witnesses will submit to questioning by the Decision-Maker and then by the parties through their Advisors ("cross-examination").

g. Relevance Considerations

All questions are subject to a relevance determination by the Decision-Maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision-Maker upon request if agreed to by all parties and the Decision-Maker), the proceeding will pause to allow the Decision-Maker to consider it (and state it if it has not been stated aloud), and the Decision-Maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision-Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision-Maker has final say on all questions and determinations of relevance. The Decision-Maker may consult with legal counsel on any questions of admissibility. The Decision-Maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Decision-Maker has ruled on a question.

h. Deliberation and Standard of Proof

The Decision-Maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used (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."

When there is a finding of responsibility on one or more of the allegations, the Decision-Maker may then consider the previously submitted party impact statements in determining appropriate sanction(s). The Decision-Maker will review the statements and any pertinent conduct history provided by the Title IX Coordinator or Administrator and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

i. Decision

The Decision-Maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator within five (5) business days, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions or recommendations.

j. Notice of Outcome

Using the deliberation statement, the Equity Office staff will work with the Decision-Maker to prepare a Notice of Outcome. The Equity Office will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within three (3) business days of receiving the Decision-Maker's deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Delta College records, or emailed to the parties' Delta College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the following:

- Specific policy(ies) reported to have been violated, including the relevant policy section
- A description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.
- The finding on each alleged policy violation
- The findings of fact that support the determination
- Conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent Delta College is permitted to share such information under state or federal law; any sanctions issued which Delta College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to Delta College's educational or employment program or activity, to the extent Delta College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final and the relevant procedures and bases for any available appeal options.

### XIII. Sanctions

1. Sanction Considerations

Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-Maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

## 2. Possible Sanctions

### a. 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. In the case of expulsion, the Equity Office will request OIT to terminate the student's electronic access.

### b. 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 it deems appropriate. In the case of termination, the President has sole authority to terminate an employee.

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

Please note, 3.021 of the Senate Handbook (Progressive Discipline for Faculty for Reasons Other Than Teaching Effectiveness) is not part of this process.

c. Visitors

Disciplinary actions may include suspension or expulsion from College buildings and/or properties and/or events as the College deems appropriate.

3. Failure to Comply

All Respondents are expected to comply with the assigned sanctions within the timeframe specified by the final Decision-Maker and/or Appellate. Sanction compliance will be determined by the Title IX Coordinator. Failure to abide by the sanction(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s), including suspension, expulsion, and/or termination from the College. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## XIV. Withdrawal or Resignation while Charges Pending

1. Students

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Delta College, the resolution process ends, as Delta College no longer has disciplinary jurisdiction over the withdrawn student.

However, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation. A hold will be placed on the account of the student who withdraws or leaves while the process is pending and may not return to Delta College until the resolution process is complete. They may also be barred from College property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to Delta College unless and until all sanctions have been satisfied.

2. Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.

However, the College will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment.

The employee who resigns with unresolved allegations pending is not eligible for rehire with Delta College without completing the resolution process, and the records retained by the Title IX Coordinator will reflect that status.

## XV. Appeals

1. Appeal Process

All parties will have five (5) business days from receipt of the Notice of Outcome letter to file a request for an appeal of the Decision-Maker's determination by completing the online appeals form in its entirety (identifying the approved reason and providing an explanation) and providing supporting documentation, if required. If this time period lapses, then the Decision-Maker's determination becomes final.

- Students and visitors will file an appeal with the Dean of Students (or Dean of Enrollment)\*
- Faculty will file an appeal with the Dean of Teaching and Learning or Academic Dean of Career Education and Learning Partnerships\*
- Staff will file an appeal with the Executive Director of Administrative Services & Institutional Effectiveness (or Executive Director of Institutional Advancement)\*

\*Contact information for the position above will be included in the Notice of Outcome letter sent to the complainant and the respondent. In the event that a conflict of interest is identified between one of the parties and the appropriate appellate listed above, the Title IX Coordinator will designate an alternate appellate.

## 2. Grounds for Appeal

Appeals are limited to the following grounds:

1. Procedural irregularity (failure to follow institution's procedures) that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter.

The appellate will review the appeal to determine if the request meets the grounds for appeal. This review is not a review of merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed. The original finding(s) and sanction(s) will stand if the appeal request is not timely and/or substantively validated.

If any of the grounds in the request for appeal do not meet the grounds in this Policy, that request will be denied by the Appellate and the parties and their Advisors will be notified in writing of the denial and the rationale. Any sanctions will be immediately imposed.

If any of the grounds in the request for appeal meet the grounds in this Policy, the Appellate will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-Maker in writing of the request for appeal with the approved grounds. All parties will then have five (5) business days to submit a response to the portion of the appeal that was approved and involves them to provide their support or challenge of the determination and/or dismissal. Once the five (5) business days lapses, the Appellate will forward any responses received to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in the Policy of the

Appellate and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator and/or original Decision-Maker, as necessary, who will submit their responses in five (5) business days. Once the five business days lapses, the Appellate will forward any responses received to all parties for review and comment.

Neither party may submit any new requests for appeal after this time period. The Appellate will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and render a decision in no more than 12 business days, barring exigent circumstances. If it is deemed by the Appellate that more time is needed to fully investigate the new evidence, a written notice of an extension will be sent to all parties. The Appellate's decision is binding and final.

A Notice of Appeal Outcome will be sent in writing to all parties simultaneously (via email) including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the institution is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the institution is permitted to share under state or federal law.

3. Sanctions During the Appeal

Any sanctions imposed as a result of the Decision-Maker's determination will not be imposed until the appeal process is complete. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If the original sanctions include separation in any form, the institution may place a hold on official transcripts, diplomas, graduations, and course registrations pending the outcome of the appeal. The respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the Notice of Outcome. The request will be evaluated by the Title IX Coordinator or designee, who determination is final.

4. Appeal Considerations

The timeline for the appeals process is not included in the investigation timeline.

- The recording of the live hearing will be available, upon request, to all parties during the appeal process.
- Appeals are not intended for a full re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for the Appellate to substitute their judgment for that of the original Decision-Maker merely because they disagree with the finding and/or sanction(s).
- The Appellate may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

- Appeals granted based on new evidence should normally be remanded to the original Investigator and Decision-Maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited, circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured by the original Decision-Maker (as in cases of bias), the appeal may order a new hearing with a new Decision-Maker.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the institution or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## XVI. Long-Term Remedies

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies with respect to the parties and/or the campus community that are intended to stop the harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies may include, but are not limited to:

- Referral to counseling and Employee Assistance Program (EAP)
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term remedies may also be provided to the parties even if no policy violation is found. When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access. Delta College will also maintain the privacy of any long-term remedies, provided privacy does not impair the College's ability to provide these services.

## 4. RECORDKEEPING

Delta College will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;

5. All materials used to train Title IX Coordinators, Investigators, Decision-Makers and Advisors. Delta College will make these training materials publicly available on the College's website; and
6. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to Delta College's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Delta College will also maintain any and all records in accordance with state and federal laws.

## 5. REVISION OF THIS POLICY

This Policy will be reviewed and updated annually by the Title IX Coordinator. Delta College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

Revised: August 25, 2021 - *Per the decision issued in the case of Victim Rights Law Center et al. v. Cardona, No. 1:20-cv-11104, 2021 WL 3185743 (D. Mass. July 28, 2021), sub-section h. Refusal to Submit to Cross Examination was removed from section XII. Title IX Hearing.*



# Memo

To: Andrea Ursuy, Interim President

From: Greg Luczak

Date: January 13, 2026

Re: Purchase Exceeding \$100,000 – Five-Year Renewal D2L, College's Learning Management System

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The purchasing policy of the College stipulates purchases of \$100,000 or more be approved by the Board prior to commitment to purchase being made by any college employee.

Delta College has used Brightspace by D2L as the College's Learning Management System (LMS) since 2010. A LMS is a software platform for creating, delivering, tracking, and managing online learning, centralizing content, user management, and progress reporting. The key components of an LMS are as follows:

- **Course Management:** Build, organize, and deliver courses, quizzes, and assessments.
- **Content Delivery:** Provide access to materials like videos, documents, and interactive modules.
- **User Management:** Assign roles (admin, instructor, learner) and manage user access.
- **Progress Tracking:** Monitor learner completion, performance, and engagement.
- **Reporting & Analytics:** Generate insights to improve learning programs.
- **Communication:** Facilitate interaction between learners and instructors.

While built primarily for online learning, the LMS can be used for in-person courses to post course syllabus, course content, course assignments and testing schedule, track attendance, and assign grades.

The College has an eLearning committee which reviews feedback from faculty on how well D2L is meeting the needs of instructors and students. The feedback supports continuing our contract with D2L. Additionally, there would be significant monetary and time costs involved with switching platforms.

The College obtained three-year and five-year pricing from D2L under the Group Purchasing Organization E and I Cooperative. Annual increases associated with the three-contract are 5% and 3% with the five-year contract. Over a five-year period, the five-year contract results in almost \$59,000 savings to the College.

Our current contract with D2L does not include an accessibility feature. We use a third-party software called Ally to provide the accessibility review. The new D2L contract includes an accessibility feature called Accessibility + Enterprise which is more robust than Ally. Accessibility + Enterprise provides tools for automated detection of accessibility issues in course content (documents, pages, images, and multimedia), identification of common barriers such as missing captions or transcripts, improper heading structure, and inaccessible PDFs or images without alternative text.

The College is also adding a feature called Lumi Pro. Lumi Pro is an instructional content creation and enhancement tool that allows faculty to transform existing course materials into interactive, accessible learning activities within D2L Brightspace. Lumi Pro supports reduced faculty workload for creating high-quality materials and allows for consistent course quality across online, hybrid and in-person courses.

The cost of the five-year contract is as follows.

|  | Current<br>FY<br>2526 | D2L Five-Year Contract |                |                |                |                |                              |
|--|-----------------------|------------------------|----------------|----------------|----------------|----------------|------------------------------|
|  |                       | FY<br>2627             | FY<br>2728     | FY<br>2829     | FY<br>2930     | FY<br>3031     | Total 5-<br>year<br>Contract |
| Brightspace Core with Performance Plus                 | 95,236                | 98,093                 | 101,036        | 104,067        | 107,189        | 110,405        | 520,790                      |
| Plus Admin Support                                     | 16,960                | 21,334                 | 21,974         | 22,634         | 23,313         | 24,012         | 113,267                      |
| Basic End User Support                                 | 12,210                | 0                      | 0              | 0              | 0              | 0              | 0                            |
| Legacy Creator + Creator +                             | 17,828                | 25,184                 | 25,939         | 26,717         | 27,519         | 28,345         | 133,704                      |
| Multi profile widget                                   | 2,122                 | 2,185                  | 2,251          | 2,319          | 2,388          | 2,460          | 11,603                       |
| Bongo Premium  | 13,973                | 14,393                 | 14,824         | 15,269         | 15,727         | 16,199         | 76,412                       |
| Lumi Pro (New Feature)                                 |                       | 17,226                 | 17,743         | 18,275         | 18,823         | 19,388         | 91,456                       |
| Accessibility and Enterprise (50% discount FY 2627)    |                       | 18,022                 | 37,125         | 38,239         | 39,386         | 40,568         | 173,339                      |
| Implementation Fee for Accessibility                   |                       | 2,250                  |                |                |                |                | 2,250                        |
| Ally (not be needed with Accessibility and Enterprise) | 27,000                | 0                      | 0              | 0              | 0              | 0              | 0                            |
| <b>Total</b>   | <b>185,329</b>        | <b>198,687</b>         | <b>220,893</b> | <b>227,520</b> | <b>234,345</b> | <b>241,376</b> | <b>1,122,821</b>             |
| <b>% Increase</b>                                      |                       | <b>7%</b>              | <b>11%</b>     | <b>3%</b>      | <b>3%</b>      | <b>3%</b>      |                              |

**It is the recommendation of the Administration that the Board of Trustees approve a five-year contract agreement for D2L of Kitchener, Ontario Canada, for the College's Learning Management System at a cost of \$1,122,821.**

If you have any questions, please contact me at 989 686-9228 or email [gpluczak@delta.edu](mailto:gpluczak@delta.edu).

# Memo

**To:** Andrea Ursuy, Interim President  
**From:** Rob Young, Director of Facilities Management  
**Date:** January 13<sup>th</sup>, 2025  
**Re:** Water Tower Pump Automation

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The Water Tower Pump Automation Project has been under development for an extended period of time. Currently, technicians are required to manually fill the water tower each day using an inefficient, labor-intensive process. This project will introduce a new level of automation and modern control capabilities to the existing pressure-based system. The scope includes removing outdated equipment and upgrading to Trane's digital control software, allowing for improved system interaction, increased reliability, and significantly reduced manual technician involvement.

On November 10th, 2025, we issued an RFP for competitive bidding for this project. The bidding period remained open until December 4<sup>th</sup>, 2025. Throughout this process, we received multiple bids for this work from our local vendors.

- **John E Green** – \$120,000
- **Johnson & Wood** – \$94,200
- **Mechanical System Services** – \$104,285
- **Remer Mechanical** – \$124,900
- **Smillie Mechanical** – \$114,900

During the bid review process, it was determined that the Johnson & Wood proposal aligns with the project's scope, material requirements, and overall expectations. The submitted bid does not include contingency funds or owner-related costs, which are necessary for successful project execution. Industry standards recommend a project contingency of 10% (\$9,420), and owner-related expenses for permitting and inspections are estimated at a maximum of \$1,000.

It is the recommendation of the Administration that the Board of Trustees approve the purchase order with Johnson & Wood in the amount of \$94,200 and authorize a total project budget of \$103,720 to ensure comprehensive project completion of the Water Tower Pump Automation Project.

If you have any questions, please feel free to contact me at (989) 686-9210 or via email at [robyoung@delta.edu](mailto:robyoung@delta.edu).

TO: Delta College Board of Trustees  
 FROM: Pam Clark  
 DATE: December 10, 2025  
 SUBJECT: Delta College Foundation – Quarterly Update



This report is submitted to the Board of Trustees, in response to Article II, Section 7.F. Reports, in the Foundation ByLaws. The Delta College Foundation Board of Directors held its **quarterly meeting on Wednesday, December 3, 2025** at the College's main campus. This memo reports our financial outcomes, as well as key information shared with the Directors at the meeting. The Foundation Board includes three Trustee members (Stacey Gannon, Barb Handley-Miller and Alexis Thomas).

## **TREASURER'S REPORT**

### **Financial Report (July 1, 2025 to September 30, 2025)**

|   |                   |
|---|-------------------|
| INVESTMENT EARNINGS                                     | \$ 4,797          |
| DONATIONS   |                   |
| IN-KIND CONTRIBUTIONS (Equipment, Materials & Services) | 35,283            |
| DONOR RESTRICTED (Foundation)                           | 146,661           |
| DONOR RESTRICTED (Broadcasting)                         | 191,694           |
| WITHOUT DONOR RESTRICTION                               | <u>3,170</u>      |
| TOTAL DONATION REVENUE                                  | \$ 376,808        |
| SPECIAL EVENTS  |                   |
| SPECIAL EVENTS REVENUES                                 | 100,480           |
| SPECIAL EVENTS EXPENSES                                 | <u>(2,767)</u>    |
| SPECIAL EVENTS NET REVENUE                              | 97,713            |
| Less: Amount raised on behalf of others (Broadcasting)  | (191,694)         |
| <b>TOTAL REVENUE</b>                                    | <b>\$ 287,624</b> |

Fundraising and management expenses were \$299,935, while program services and transfers to the College were \$56,596. Total expenditures/transfers were \$356,531, with an ending fund balance of \$1,550,315.

## **FINANCIAL REPORTS**

Each Director received a copy of the 2024-2025 Management Information and Audited Financial Statements for the Delta College Foundation provided by Andrews, Hooper, and Pavlik, PLC. Jon Foco shared that the Foundation was given an unqualified opinion on the findings, which is the highest finding possible. He then provided a brief explanation of the figures and endowment fund composition.

The Finance Committee met via Zoom on November 25, 2025 to review the 2024-2025 Foundation audited financial statements and the IRS 990 form. The Board took action to accept the Finance Committee minutes from that meeting.

*Endowment Results* - Pam Clark shared the performance summary for the Foundation Endowment with an ending value of just over \$39 million as of September 30, 2025. The Investment Advisory Committee meets with Morgan Stanley Wealth Management staff, which serves as the Endowment investment advisor. The meetings occur at least three times a year to review the portfolio. The full board accepted the minutes from this committee, from their last meeting on November 12, 2025. Two members of the Foundation Board – Dick Dolinski and Christian Velasquez – serve on this committee.

The Foundation board was also presented with the endowment fund results in chart form, which demonstrated the fund's twenty-year growth and performance. In 2006 the Endowment fund was made up of 127 endowments; 20 years later in 2025 it grew to 231 separate funds.

## **PRESIDENT'S REPORT**

Due to his recently announced resignation, Dr. Gavin told the Foundation Board of Directors that this would be his last meeting with the group. He felt the members were a valuable source of information for the president and he considered most of the individuals as friends, after 4-1/2 years in the position.

*Delta College Women's Soccer* - The Delta College women's soccer team are the NJCAA 2025 Division III Champions. The national championship took place mid-November in upstate New York.

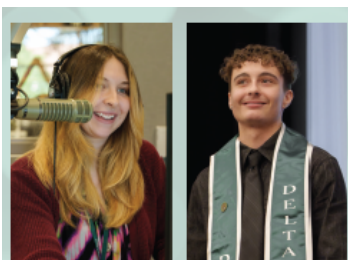


*K-Wing Ribbon Cutting* - Dr. Gavin invited the directors to the dedication of its newly renovated Information Technology and Computer Science facility on Friday, December 5.

## **NEW ENDOWMENTS**

The Delta Foundation Board approved a resolution to establish the **M. Andersen and Donna Rapp Public Media Quasi Endowment**. This endowment will support both WDCQ-TV and WUCX-FM 90.1. There was also discussion of the difference in this agreement, since the donors asked that it be considered a quasi endowment, allowing the corpus to be available in the future, if needed, to support the stations' operations.

## EXECUTIVE DIRECTOR'S REPORT



You can help students succeed.  
**Give today!**



*Capital Campaign* - Pam Clark shared that college staff have discussed the need for capital improvements. A major project would be the library/resource center, in the A-wing. It is an estimated \$23.6 million expense with a goal of having the state of Michigan contribute \$10 million of these funds. The College would then need to provide the remaining \$13.6 million. A major source of those funds would be private sector dollars, raised through a capital campaign. The next step is to conduct a feasibility study in winter of 2026 to determine the viability of fundraising from the community.

*Foundation Year End 2025 Letter and Employee Giving Analysis* - The Foundation Year End campaign letter was mailed out to over 8,000 donors and alumni asking them to consider giving to the Student Special Assistance, Public Media or one of many other student programs the Foundation supports. The Executive Director also shared a 4-year employee giving analysis for the Foundation and Public Media.

*Student Travel Report* - Each year, Delta College offers international and/or domestic travel opportunities for its students. Many of these students cannot afford the entire cost of the experience, and they are assisted with private dollars through the Delta College Foundation. During Fiscal Year 2024-2025, 19 students received \$25,100 for various trips within the college.



## COMMITTEE REPORTS

*2025 A Chocolate Affair* – The board received a recap of the event, which was held on Thursday, November 6, 2025, at Horizons Conference Center. The Directors were thanked for their attendance and selling tickets for this event. The Directors' impact is significant helping the staff grow awareness for the Possible Dream Program and its students in the program.

**A CHOCOLATE AFFAIR**  
**HORIZONS CONFERENCE CENTER | NOVEMBER 6, 2025**

Delta College's *A Chocolate Affair* is one of the region's top fundraising events. Proceeds benefit Delta's Possible Dream Program, which encourages promising young students, who may not view college as a possibility, to graduate high school and attend college. They will engage in cultural and educational opportunities, and be exposed to college life, so they may explore higher education. Once these students decide to attend Delta College, your support will also award them with a Possible Dream Scholarship!



*Scholarships* - The 2026-2027 scholarship application process began December 3, 2025 and remains open through February 4, 2026. It is an online straightforward application with two essay questions for the students to answer. Staff are now seeking volunteers to serve as scholarship reviewers, for those interested in helping.

*Nominations Committee* - The nominations committee presented a slate of candidates, which was approved. Changes included:

- Renewal of current members Magen Samyn and Dr. Roslyn McQueen
- Addition of new members Ed Spence and Kristen Wenzel
- Leadership changes include: Heather Gallegos as Chair, Magen Samyn as Vice Chair, Paul Barbeau as Immediate Past Chair and Julie Dorcey as Interim Secretary

*Recognition of Departing Board Members* - Chair

Barbeau and Vice Chair, Gallegos shared well wishes for the board members that have served their term and will be departing the board at the end of 2025 including: Guy Moulthrop, Patricia Shaheen, Herb Spence III, and Dr. Dick Dolinski. It was also Paul Barbeau's last meeting as chair and Dr. Mike Gavin's last meeting as president.

A green poster for Delta College Scholarships. At the top, it says "Apply for a Delta College Scholarship" in white. Below this is a large graphic of a green banknote with a white dollar sign in a circle. At the bottom, it says "Apply Starting December 3" in white, followed by "Deadline is February 4, 2026" and "Go to delta.edu/scholarships". A QR code is in the bottom right corner. At the very bottom, in small white text, it says "Don't wait! Last year, Delta College awarded \$1,107,500 in scholarships." followed by "delta.edu/scholarships • 989-686-9224 • foundation@delta.edu" and the Delta College logo.



# Delta College

## Employee New Hires / Separations

### Board of Trustees Report

December 2025

#### NEW HIRES

| Employee Group                 | Name and Position                         | Department  | Comments |
|--------------------------------|---|-------------|----------|
| Administrative<br>Professional | Juliet Nicholls - Planetarium Coordinator | Planetarium |          |

#### RETIREMENTS

| Employee Group | Name and Position                                      | Department       | Comments                       |
|----------------|--|------------------|--------------------------------|
| Faculty        | E. Michele Whitaker - Associate Professor              | Criminal Justice | Length of Service: 25.54 years |
| Support Staff  | Tina Gwizdala - Coordinator Library - Evening/Weekends | Library          | Length of Service: 33.05 years |

#### SEPARATIONS

| Employee Group                 | Name and Position                           | Department        | Comments                      |
|--------------------------------|---|-------------------|-------------------------------|
| Administrative<br>Professional | Michael Gavin - President                   | Presidents Office | Length of Service: 4.42 years |
| Support Staff                  | Chelsea Keat - Writing & Reading Consultant | WRIT Center       | Length of Service: 1.32 years |