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Status **Active** PolicyStat ID **14769559**

 Print  Share



Origination	02/2016
Last Approved	02/2016
Effective	02/2016
Last Revised	02/2016
Next Review	02/2019

Owner	Curry, Tameka: Director of Engagement and Advocacy
Area	Student Affairs
Applicability	Shared Documents

Title IX Sexual Misconduct, Sexual Assault, and Sexual Harassment Policy

POLICY STATEMENT

Delta State University expects that all members of the University community – students, faculty, staff – should be able to pursue their work and education in a safe environment, free from sex/gender-based misconduct. To this end, the University is committed to maintain a working and learning environment free of sexual misconduct. The term sexual misconduct includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, stalking, dating violence, and domestic violence. The University aims to eradicate sexual

misconduct through education, training, clear policies, and serious consequences for violations of this policy.

DEFINITIONS

Accused – In this process, the person who is alleged to have violated campus policy.

Age – There is no consent for purposes of this policy where a person is too young to give effective consent under applicable law. Under Mississippi law, persons under fourteen cannot give effective consent to sexual activity with any older person, where the age difference is greater than twenty-four months. Persons between the ages of fourteen and sixteen cannot give consent to sexual activity with any older person where the age difference is greater than thirty-six months.

Bystander – Any person present but not involved.

Coercion – There is no consent when a person intentionally uses coercion to cause another person to agree to sexual activity. Coercion is threatening an adverse consequence that is sufficiently severe as to prevent a reasonable person from exercising free will in the decision whether to consent. Examples of coercion may include but are not limited to threatening self-harm if a person does not agree to sexual activity, threatening to "out" another person's sexual orientation, or threatening an adverse employment action. Coercion is not merely words of persuasion one might reasonably use to seek voluntary consent to sexual activity.

Complainant – In this process, the person reporting a violation of this campus policy.

Consent – Clear and unmistakable agreement, expressed in mutually understandable words or actions, to engage in a particular activity. Consent can be withdrawn by either party at any point. Consent must be voluntarily given and may not be valid if a person is being subjected to actions or behaviors that elicit emotional or psychological pressure, intimidation, or fear. Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed to constitute consent to engage in a different sexual activity or to engage again in a sexual activity. Consent cannot be validly given by a person who is under the influence of alcohol and/or drugs.

Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship

- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Domestic Violence – A pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors/actions that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Employee – Any person employed by Delta State University including students, staff (includes full-time, part-time, temporary), faculty (includes adjunct), and administrative personnel.

Evidence – Anything that proves or disproves something. Evidence may include but is not limited to: Any form of social media, text messages, any electronic format.

Incapacity or Impairment – There is no consent if a person is mentally or physically incapacitated or impaired such that they cannot understand the fact, nature, or extent of the sexual situation. This includes impairment or incapacitation due to alcohol or drug consumption if it prevents the person from having such an understanding, as well as being asleep or unconscious. It also includes instances in which a person lacks the required understanding due to medical conditions, or cognitive or other disabilities.

In some instances, a person may give what appears to be consent, despite being incapacitated. For example, a person may speak despite having "blacked out." In such cases, the objective standard for consent applies, meaning that a policy violation occurs unless a reasonable individual under the particular circumstances would have believed that the incapacitated person's actions signaled active, knowing and voluntary agreement to sexual activity. Even if this objective standard is satisfied, if the other individual was actually aware of the person's incapacity, there is no consent.

Intimidation – Implied threats or acts that cause an unreasonable fear of harm in another.

Retaliation – Any adverse action taken against a person participating in a protected activity because of their participation in that protected activity [subject to limitations imposed by the 1st Amendment and/or Academic Freedom]. Retaliation also includes any threats or intimidation towards victims and witnesses who participate in an investigation.

Sexual Assault – Any sexual act perpetrated upon a person without her or his consent, where the assailant uses physical force, threat, coercion, or intimidation to overpower or control the survivor; where the survivor fears that she or he or another person will be injured or otherwise

harmful if she or he does not submit; where the survivor is prevented from resisting due to the influence of alcohol or other drugs; or where consent is otherwise not freely given.

Types of sexual assault may include, but are not limited to:

- Rape or attempted rape
- Non-consensual, intentional contact with intimate body parts
- Non-consensual oral sex
- Lewd exposure of one's sexual organs, either in person, in print, or electronically, to another without his or her consent
- Any sexual contact between two individuals that, because of the age of the parties, is prohibited under State law.

Sexual Contact – Sexual contact includes, but is not limited to:

- Intentional sexual contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch another or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

Sexual Exploitation – Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include but are not limited to, invasion of sexual privacy, prostituting another person, and non-consensual digital, video or audio recording of nudity or sexual activity.

Sexual Harassment – It is unlawful to harass a person (an employee or student) because of that person's gender. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's gender. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same gender.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive living, classroom, social, dining, recreational, and/or work environment. The

harasser can be a student and/or employee affiliated with the University or someone who is not associated with the University.

Sexual Intercourse – Intercourse includes, but is not limited to:

- Vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Non-Consensual Sexual Contact is

- Any intentional sexual touching. However slight, with any object or body part, by an individual upon another individual. That is without consent and/or by force.

Non-Consensual Sexual Intercourse is

- Any sexual intercourse (vaginal, anal, or oral). However slight, with any object or body part by an individual upon another individual. That is without consent and/or by force.
- **Sexual Misconduct** – Sexual misconduct incorporates a range of behaviors including sexual assault (which includes rape and any kind of nonconsensual sexual contact), sexual harassment, intimate partner violence, stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person.

Much sexual misconduct includes nonconsensual sexual contact, but this is not a necessary component. For example, threatening speech that is sufficiently serious to constitute sexual harassment will constitute sexual misconduct. Making photographs, video, or other visual or auditory recordings of a sexual nature of another person without consent constitutes sexual misconduct, even if the activity documented was consensual. Similarly, sharing such recordings or other sexually harassing electronic communications without consent is a form of sexual misconduct.

Stalking – Any person who purposefully engages in a course of conduct directed at a specific person, or who makes a credible threat, and who knows or should know that the conduct would cause a reasonable person to fear for his or her own safety, to fear for the safety of another person, or to fear damage or destruction of his or her property, is guilty of the crime of stalking.

Student – A person enrolled at Delta State University, either full-time or part-time.

Use of alcohol/drugs – Drugs and/or alcohol are often used to compromise an individual's ability to consent to sexual activity as well as to minimize the resistance and memory of the victim of a sexual assault.

Witness – A person who directly observes the alleged incident.

PROCEDURES and RESPONSIBILITIES

Delta State University is firmly committed to maintaining a campus environment free from sexual misconduct. The University is also committed to meeting its ethical and moral obligation to prevent sexual misconduct; to provide support for assault victims; and to educate the campus community about sex/gender-based misconduct.

The university 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 attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a accused is found to have violated this policy. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. Therefore, both women and men should know that the University is committed to providing a consistent, timely and caring response to anyone who is the victim of sexual misconduct within the campus community.

Other University offices have differing obligations, however, with regard to reporting requirements. While the University recognizes that a complainant may wish to preserve his or her privacy after a traumatic experience, it should also be understood that the University has a responsibility to maintain the integrity and safety of the campus as a whole. Where circumstances exist that are deemed a danger to the University community at large, **pertinent** details about a sexual assault will immediately be publicly released. Further, the Student Right-to-Know and Campus Security Act (the Clery Act) of 1990 mandates the annual disclosure of statistics of sexual assaults known to have occurred within the University's jurisdiction. Incidents reported only to the O. W. Reily Student Health and Counseling Center are included in these statistics, along with statistics from the Department of Public Safety. The complainant's identity is not disclosed, however, in any such statistical reporting.

Other inappropriate conduct may also be reported confidentially to the O. W. Reily Student Health and Counseling Center or reported formally to the Delta State Police and/or the Cleveland Police Department. Other such inappropriate conduct may include: repeated

unwanted telephone calls, social media, and/or email contacts of a lewd or obscene nature, personal threats, stalking, domestic violence, dating violence and sexual harassment.

Confidentiality

If a complainant would like the details of an incident to be kept confidential, the complainant may speak with:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- Off-campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - Domestic violence resources,
 - Local or state assistance agencies,
 - Clergy/Chaplains
 - Personal Attorney
 - Primary care physician

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit [timely] anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

Reporting Alleged Sexual Misconduct

The University strongly encourages anyone who has experienced sexual misconduct to report the incident through the procedures in this policy. Properly reporting the incident allows the University to take steps to ensure the safety of the complainant and others and to provide support services. Any person may submit a report against any other person for sexual misconduct on a DSU campus, in connection with any DSU program or activity, and/or involving a member of the University community.

There are alternatives to reporting sexual misconduct to the University. For example, a person may choose to speak confidentially to a counselor, a victim advocate, a health care professional, or certain others on campus. Likewise, a person always retains the right and is encouraged to report misconduct to any law enforcement agency, regardless of whether they have reported to the University or not. In short, it is important for all members of the University community to familiarize themselves with all their options for seeking assistance.

1. Emergency Assistance

If you are in immediate physical danger or need emergency medical care, CALL 911. Your safety is the first priority. The options for assistance listed below can provide a quick response, but they cannot provide the immediate physical presence necessary to assist you if you are in danger. If you believe you are in immediate physical danger or if you need immediate medical assistance, call 911. Police and/or an ambulance will be dispatched to assist you as necessary. University officials if not alerted by your 911 call, can be alerted once you are safe.

2. Reporting to the University

Whom should I contact?

The University's Title IX Coordinator is responsible for overseeing compliance with Title IX and other laws that address sexual misconduct and discrimination. The Coordinator oversees investigations and disciplinary proceedings in cases of sexual misconduct, as well as the interim accommodations and assistance for those who report such misconduct. The simplest and most direct route to submit a formal report to the University is to contact the Title IX Coordinator:

- Title IX Coordinator; Phone: [662-846-4690](tel:662-846-4690)

If a person does not wish to report directly to the Title IX Coordinator, they are encouraged to contact one of the following officials, who also can provide prompt assistance:

- Vice President of Student Affairs; Phone: [662-846-4150](tel:662-846-4150)
- Senior Women Administrator; Phone: [662-846-4300](tel:662-846-4300)
- Director of Student Life; Phone: [662-846-4666](tel:662-846-4666)

- Human Resource Director; Phone: [662-846-4035](tel:662-846-4035)
- University Police; Phone: [662-846-4155](tel:662-846-4155)

In addition to these officials, many DSU personnel are trained to convey reports of sexual misconduct to the proper authorities on campus. These personnel are called "Responsible Employees" and their duties are discussed below. Whenever possible, however, incidents of sexual misconduct should be reported to one of the individuals listed above to provide the most prompt and direct response.

3. C.A.R.T Confidential Assessment Response Team

C.A.R.T., is a proactive tool; that is available to faculty, staff, students, and the Delta State University community, and used to report changes in behavior, actions, and/or distresses. The concept of C.A.R.T. is made available to all who feel a need to seek help or report a concern anonymously, as requested. Once a concern is received C.A.R.T., comprised of faculty and staff, will identify and assist in behavioral intervention. To submit a report to C.A.R.T., <https://publicdocs.maxient.com/incidentreport.php?DeltaStateUniv>.

If you have questions, comments or concerns, please contact Jeanna Dacey Wilkes at jdwilkes@deltastate.edu or [662.846.4666](tel:662.846.4666).

What should I do with any evidence of sexual assault?

A person who experiences sexual assault should take steps to preserve evidence as soon as possible after the incident, even if he or she is unsure about reporting it. To better preserve evidence:

- Do not shower or douche.
- Try not to urinate. Urinating may reduce the ability to detect "date rape" drugs.
- If there was oral contact, do not smoke, eat, or brush your teeth.
- Do not change clothes. If you have already changed your clothes, place them in a paper bag, as plastic may destroy evidence. If you haven't changed, keep the original clothes on and bring an extra set to wear home.
- A Physical Evidence Recovery Kit (PERK) will help preserve forensic evidence of an assault. Inform your medical care provider that you wish to have a PERK

performed as soon as possible.

What if I am reporting workplace sexual harassment?

Sexual harassment or other misconduct against University employees in the workplace may violate both this policy and/or the University's Harassment (<http://www.deltastate.edu/policies/policy/university-policies/employment/employee-responsibilities-and-standards/harassment/>) and Non-Discrimination Policy (<http://www.deltastate.edu/policies/policy/university-policies/employment/recruitment-and-selection/equal-employment-opportunity/>). When reporting workplace sexual harassment that does not involve sexual assault or other violence, employees are encouraged to follow the reporting procedures contained in this document. If workplace misconduct does involve sexual assault or other violence, employees should never attempt to resolve the matter directly with the accused person. In such cases, employees should report the matter directly to the Title IX Coordinator or the Human Resources Director.

What if I report sexual misconduct to someone else at DSU?

If a report is made to an employee of the University other than those listed above, that employee may or may not have a duty to report the complaint to the Title IX Coordinator, depending on the employee's position and job duties. See below for clarification.

Certain University employees are deemed "Responsible Employees" for purposes of Title IX and this policy. When a Responsible Employee receives a report of sexual misconduct, he or she has a mandatory duty to report that allegation to the Title IX Coordinator. As discussed below, there is a single, narrow exception to this mandatory reporting requirement where the alleged misconduct involves nonviolent employee-on-employee workplace harassment.

Who are DSU's Responsible Employees?

A Responsible Employee is any DSU employee (a) who has actual authority to redress sexual misconduct; (b) who has been given the duty of reporting incidents of sexual misconduct or any other misconduct to appropriate University authorities; or (c) who a student would reasonably but mistakenly believe has this authority or duty.

The Responsible Employee designation applies to professors and other faculty, deans and

department heads, athletic coaches and administrators, personnel in the Vice President of Student Affairs' Office, University Police Department personnel, resident assistants and directors, and any other employee who meets any of the three elements above. If you are uncertain whether you or someone else is a Responsible Employee, the Title IX Coordinator can help you make that determination.

Confidential Employees– Certain employees are specifically exempted from Responsible Employee status. These include (1) licensed counselors, such as those at Student Counseling Services, and their staff members; (2) health care providers and staff, such as those at the O.W. Reily Student Health Center; and (3) pastoral counselors. These employees are not required to relay any information about reported sexual misconduct to the University. Faculty members with duties that meet the above descriptions are exempted from mandatory reporting for information received when acting in their counseling or clinical capacity, but not for information received in other settings, such as office hours with students.

Other Exempted Employees– The University may determine that other personnel, such as trained sexual assault advocates, should be exempted from mandatory reporting requirements, consistent with applicable law and legal guidance. Such a determination must be made in writing and approved by the Title IX Coordinator and the Vice President for Student Affairs. Any employees so designated are not required to report identifying information about alleged sexual misconduct, but are required to report non-identifying information including the nature, date, time, and general location of the incident for purposes of record keeping under the Clery Act (<https://www2.ed.gov/admins/lead/safety/handbook.pdf>).

What happens when I inform a Responsible Employee of sexual misconduct?

When a Responsible Employee receives a report of sexual misconduct, he or she has a mandatory duty to report that allegation to the Title IX Coordinator. This means that the Responsible Employee **must** inform the Title IX Coordinator, even if the person who experienced the alleged misconduct asks the employee not to do so.

University personnel who are not Responsible Employees are encouraged to report incidents of sexual misconduct to the University, but are not required to do so. Consequently, individuals who experience sexual misconduct should not presume that informing these employees will result in any remedial action by the University. They should instead report the matter to the Title IX Director or other personnel listed above.

Statements concerning sexual misconduct that are directed to groups generally do not constitute reporting for purposes of this policy, even if a Responsible Employee is present or learns of the statement. This includes without limitation statements made in the course of public events such as rallies, vigils or speeches. If a person wishes to seek assistance from the University, they should speak directly to a Responsible Employee in a one-on-one setting.

Are there any exceptions to a Responsible Employee's duty to report?

There is one narrow exception to the mandatory reporting requirement for Responsible Employees. If the alleged sexual misconduct is harassment of one employee by another employee **and** there is no allegation of sexual assault or other violence **and** no student or minor allegedly was involved, then a Responsible Employee may, in his or her discretion, decide not to report the incident to the Title IX Coordinator.

This exception recognizes that employees may wish to confer with co-workers about incidents of non-violent harassment without immediately triggering a university investigation. It applies solely to the reporting obligation addressed in this policy. It does not relieve any employee of any other reporting obligation he or she may have under any other policy or law. In all cases, all employees are strongly encouraged to inform their co-workers of their options for reporting workplace harassment or other sexual misconduct to the University.

What are my duties as a Responsible Employee?

Responsible Employees are required to notify the University's Title IX Coordinator when they learn of sexual misconduct against any member of the University community, guest on campus, or participant in any University program.

- ***Reporting should be prompt.*** A Responsible Employee should report an incident of sexual misconduct to the Title IX Coordinator as soon as is practical under the circumstances.
- ***Reporting is not discretionary.*** To be clear, aside from the single exception described above, the obligation to report sexual misconduct is not discretionary. A Responsible Employee may not, for example, decide not to report alleged misconduct because he or she believes it is not sufficiently serious, or because

he or she does not believe it happened. These are decisions for the Title IX Coordinator and appropriate University officials to make.

- ***Independent responses are prohibited.*** Under no circumstances may any employee, department, organization, or division of the University attempt to resolve unilaterally any complaint of sexual misconduct that is required to be reported under this policy. In these cases, the Responsible Employee must always notify the Title IX Coordinator first, who will determine the appropriate response after consultation with appropriate officials.
- ***Inform students of your obligations.*** Many Responsible Employees can reasonably anticipate the possibility that students may report sexual misconduct to them. The University encourages these employees to inform students of their reporting obligations in advance. When sexual misconduct is actually reported, the employee should tell the reporting person as early in the conversation as possible that any information provided will have to be relayed to the Title IX Coordinator, and that if the reporting person prefers to keep the information confidential, the University has resources such as the Student Counseling Center and O.W. Reilly Health Center that can provide confidential assistance.
- ***Tell the reporting person what will happen next.*** A Responsible Employees should tell the person reporting sexual misconduct (1) that they will be informing the Title IX Coordinator of the incident; (2) why they are sharing this information—i.e., their obligation to inform those on campus in a position to respond; and (3) that the University will contact them to provide additional information and support.
- ***Do not share the information with others.*** Once you have informed the Title IX Coordinator, your reporting duties are complete. You may not share the information with anyone else. If your supervisor or someone you report to expects to be notified of such reports, you may inform them that you have relayed a complaint to the Title IX Coordinator, and that they may contact the coordinator directly with questions or concerns.

After I report misconduct, will the information be kept confidential?

The University will endeavor to keep reported information about sexual misconduct private to the greatest extent possible, but cannot guarantee that all information it receives will be kept confidential. Once a report is submitted to a Responsible Employee, the University has

a duty to investigate the matter and endeavor to protect the safety of members of the community. In some instances, this means that certain information must be provided to individuals involved in an investigation.

Upon receiving a report of sexual misconduct, the Title IX Coordinator will attempt to contact the person who made it (the "complainant") to determine his or her wishes with respect to privacy. If the complainant requests that their identity or other information be kept private, or that no disciplinary action be pursued, the University will give careful consideration to that request. However, there may be instances in which such requests cannot be honored, as they would impair the University's ability to ensure a safe and non-discriminatory environment for all students. Factors considered include, but are not limited to:

- The risk of the accused committing other acts of sexual misconduct, such as where other complaints have been made against the same person.
- The risk of sexual misconduct of a similar nature, such as where multiple assaults occurred at the same location or involving the same group.
- The use of physical violence and/or weapons.
- The involvement of multiple alleged perpetrators.
- Allegations of threats or retaliation by the accused against the complainant or others.
- The complainant's age.
- The parties' rights and/or the University's obligations under the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws.

If the University determines it can honor a request to keep information private, it will take steps consistent with that request to ensure the safety of the complainant and others. However, complainants should understand that honoring a request for privacy necessarily will impair the University's ability to investigate and normally will prevent any disciplinary action from being taken against the accused. If someone who initially requested privacy later requests an investigation, the University will honor that request. However, delays may impair the University's ability to conduct a thorough investigation or take appropriate remedial action.

If the University determines it cannot honor a request for privacy, it will inform the complainant before any disclosure is made. The University will take whatever steps it deems necessary to protect the complainant and to ensure that information is available only to those who have a legitimate need to know. The University will make it clear to the accused party and others receiving information that any act of retaliation against the complainant will not be tolerated.

If my report of sexual misconduct involves alcohol use, will I be punished?

While the University does not condone violations of its policies, reporting incidents of sexual misconduct is of paramount importance. Thus, the University will not pursue disciplinary action against any person for possession or consumption of alcohol or drugs, when that possession or consumption is revealed in the course of a good faith report of sexual misconduct or other good faith statements made in connection with an investigation under this policy.

4. Confidential Assistance

Certain University personnel are able to provide assistance to victims of sexual misconduct on a confidential basis. These individuals are not required to convey information regarding sexual misconduct to the Title IX Coordinator or anyone else. Consequently, communications with these individuals **do not** put the University on notice of sexual misconduct. While these individuals may be able to provide assistance such as counseling or health care, notifying them will not trigger an investigation by the University or any disciplinary proceedings. Sources of confidential assistance include:

- Student Counseling Services [\(662\)-846-4630](tel:(662)-846-4630) or [\(662\)-846-4690](tel:(662)-846-4690) allows students to meet confidentially with mental health counselors. Additionally, Counseling Services can provide a Sexual Assault Advocate, who can offer confidential assistance, including (1) explaining reporting options; (2) providing accompaniment and assistance in seeking medical care or police assistance; and (3) seeking other assistance without disclosing the victim's identity.
- O.W. Reily Student Health Center [\(662\)-846-4630](tel:(662)-846-4630) or [\(662\)-846-4690](tel:(662)-846-4690) provides medical care to members of the University community. Information shared with Health Center staff, including information pertaining to sexual assault or other misconduct, is confidential.

As discussed above, the University may elect to confer confidential status to other employees consistent with applicable laws and regulations. If you are not certain whether an employee is required to report sexual misconduct to the University, please inquire with the Title IX Coordinator.

5. Anonymous Disclosure

Anonymous complaints of sexual misconduct or other unethical or unlawful behavior can be made through the DSU Ethics Line, a comprehensive and confidential online reporting tool. An online report can be completed via the Ethics Line web page (<https://secure.ethicspoint.com/domain/media/en/gui/31497/index.html>), a link also located on the University's main home page. To submit a report by telephone, dial 877-310-0424.

The DSU Ethics Line is not a 911 or emergency service. If your situation involves any immediate threat, call 911 or the DSU Police Department, not the Ethics Line. Further, the Ethics Line is not a substitute for reporting under this policy. While the University will take appropriate steps to address threats to safety or other ongoing problems identified by anonymous disclosures, its ability to respond, impose discipline, and/or accommodate the complainant normally will be significantly limited. Members of the community are therefore strongly encouraged to consider the other options for reporting listed in this policy.

6. Reporting to Law Enforcement Agencies

The reporting procedures in this policy are not intended as a substitute for reporting sexual misconduct to law enforcement agencies. Sexual misconduct may involve violations of the law. Members of the University community always retain the right to report sexual misconduct to the police. However, reporting to law enforcement is never required under this policy.

In an emergency, the DSU and Cleveland Police Department can be reached by calling 911. Non-emergency contact information for these agencies is as follows:

DSU Police Department (662) 846-4155

Cleveland Police Department (662) 843-3611

Bolivar County Sherriff's Office (662) 843-5378

U.S. Department of Justice – Office of Civil Rights (404) 562-7886

Reporting to the DSU Police Department will trigger the responses outlined in this policy. Reporting to other law enforcement agencies will not trigger these responses unless and until that agency elects to share the information with University officials or until you make a report as outlined in this policy.

Making a report under this policy is independent of any criminal investigation or proceedings. Thus, you may report to the University, a law enforcement agency, or both. The University, in its discretion, may not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or disciplinary proceedings. The University may take interim measures, if necessary, for the safety and security of the University community.

Individuals who bring reports of sexual misconduct to the University will be informed of their options for reporting to law enforcement agencies. If requested, the University will take reasonable steps to assist the individual in reporting to law enforcement.

While requests by reporting parties for non-disclosure of information to law enforcement will be carefully considered, there may be circumstances under which University officials must provide law enforcement with information, such as where disclosure is required by law or is necessary to ensure campus safety.

Title IX Coordinator:

Mrs. Tameka Curry-Bryant
[\(662\) 846-4159](tel:(662)846-4159)
titleix@deltastate.edu

7. Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of university policy and can be subject to disciplinary action for failure to comply with university policies.

Investigation and Adjudication

All investigations and disciplinary proceedings concerning alleged sexual misconduct will be conducted in a prompt, fair, and impartial manner by individuals who have received appropriate training.

1. Initial Investigation

The Timeframe. Absent extenuating circumstances, the University will strive to conduct a full investigation of a complaint of sexual misconduct and adjudicate the complaint within sixty calendar days after receiving consent to proceed with an investigation from the complainant or within sixty calendar days of deciding to proceed with an investigation absent the complainant's agreement.

Interim Assistance. While an investigation is pending, the University will take reasonable interim steps to protect complainants. These steps may include, but are not limited to:

- **Modifying class or work schedules as necessary;**
- **Making alternate housing or workplace arrangements;**
- **Addressing other academic or workplace concerns (e.g. assignments, leaves of absence, or withdrawal); and**
- **Providing additional and/or targeted educational programming and training.**

The University may also issue orders prohibiting contact between the complainant, the accused, and/or any other member of the University community. While these accommodations are most commonly provided to complainants, the University may also make accommodations for the accused or any other person, where it deems them necessary for a prompt, fair, and impartial resolution. A written description of available accommodations and assistance will be made available upon request.

The Investigator-The Title IX Coordinator will select an appropriate person or persons to conduct the investigation. In exceptional cases, an external investigator may be used. In all cases, the investigator will have received proper training on issues relating sexual misconduct and Title IX. The investigator may regularly consult with the Title IX Coordinator on the progress of the investigation and potential issues that require additional follow-up.

Initial Contact with the Parties- When an investigation begins, the Title IX Coordinator or a designee will schedule a meeting with the complainant. The complainant will be informed about the relevant provisions of this policy, the nature of the investigation, the availability of interim accommodations and assistance, the prohibition on retaliation, the right to report to

law enforcement agencies, and the possibility of informal resolution where appropriate. The Title IX Coordinator or a designee also will communicate to the accused party the relevant provisions of this policy, the nature of the investigation, and forms of support or assistance available to him or her.

2. Procedures for Adjudication

The procedures for investigating and adjudicating complaints of sexual misconduct vary depending on the identity of the accused party. Where the accused party is a student, the procedures described below in part (b) will be used. Where the accused party is an employee, the procedures described below in part (c) will be used. In all cases where a student or employee is charged with sexual misconduct in violation of this policy, however, the following general rules in part (a) apply.

a. General Rules for Investigation and Adjudication

- i. All parties to a sexual misconduct investigation will have equal rights throughout the resolution process and will have an equal opportunity to present relevant witnesses and other evidence if a hearing is necessary.
- ii. Both the complainant and accused have the right to have a non-participating advisor present at any hearing or any meeting related to the investigation or adjudication.
- iii. The complainant and accused will be advised of the charges, their rights and the hearing procedure at a pre-hearing conference.
- iv. Both parties will be given reasonable advance notice as to who will hear and adjudicate the matter, as well as the identity of any witnesses, and any other evidence to be presented at any hearing.
- v. The complainant has the right to be present during the entirety of any hearing or can choose to participate by remote means at an off-site location.
- vi. The standard of proof for adjudicating any sexual misconduct charge is a preponderance of the evidence standard. In other words, the evidence must show that it is more likely than not that the alleged sexual misconduct occurred.

- vii. The complainant and the accused in a sexual misconduct complaint hearing will be allowed to question or provide information responding to any witness's testimony or other evidence presented during any hearing. However, the complainant and the accused in a sexual misconduct complaint hearing should not directly question or cross-examine each other during the hearing.
- viii. The complainant and the accused will be simultaneously informed, in writing, of the outcome of any disciplinary proceeding, the procedures to appeal the results, any change in the results that occurs prior to the results becoming final, and the time at which the results become final.
- ix. The Title IX Coordinator will oversee all investigations, hearings and disciplinary proceedings under this policy to ensure such proceedings comply with University policy and applicable law. All persons assigned to investigate sexual misconduct charges will have received proper training on issues related to sexual assault, sexual harassment, domestic violence, and stalking as well as proper methods for ensuring a prompt, thorough and fair investigation. All persons responsible for final adjudication of charges of sexual misconduct will have received proper annual training on the same issues, as well as proper methods of conducting hearings.
- x. If any party to a disciplinary hearing under this policy believes that any adjudicator or investigator has a conflict of interest that would prevent him or her from handling the matter fairly and impartially, they should communicate that belief to the Title IX Coordinator as early as possible, and in all events prior to any hearing. The Coordinator will review the matter and take remedial action where appropriate, which may include assigning an alternate investigator or adjudicator. In rare cases, the Coordinator may determine that potential conflicts of interest or other factors warrant the appointment of individuals from outside the University community to investigate and/or adjudicate a charge of sexual misconduct.

b. Where the Accused Person is a Student

- i. Where the accused person is a student, adjudication proceedings will be conducted according to the Disciplinary Process, as set forth in DSU

Student Handbook. Where this policy contains additional requirements or conflicts with the Disciplinary Process, this policy will control.

- ii. Cases involving alleged student-on-student sexual misconduct will be assigned to the Vice President for Student Affairs. They will not be referred to organization-specific disciplinary bodies.
- iii. No student shall sit on any disciplinary committee or other board assigned to hear any charge of sexual misconduct.
- iv. In cases of alleged sexual misconduct, the right of appeal described in the Code of Student Conduct shall apply to both the complainant and the accused. Petitions for appeal will be reviewed by the Vice President of Student Affairs in consultation with the Title IX Coordinator.

c. Where the Accused Person is an Employee

- i. Where the accused person is an employee, proceedings will be conducted according to the investigation process (Section "a" – General Rules for Investigation and Adjudication) as set forth in this document.
- ii. In cases where the accused person is an employee and the complainant is a student and/or a minor, a review by the Director of Human Resources of the outcome and any disciplinary or other remedial action, shall be automatic and mandatory. Petitions for appeal will be reviewed by the Director of Human Resources in consultation with the Title IX Coordinator.

d. Where the Accused Person is neither a Student nor an Employee

- i. In some cases, a person accused of sexual misconduct may be someone other than a University student or employee. In these cases, the University normally will not have the ability to impose discipline directly under this policy. However, the University will take appropriate steps to ensure the safety of the complainant and others, which may include without limitation steps to bar the accused person from campus, exclusion from university programs or activities, and/or referral to appropriate law enforcement agencies.
- ii. Nothing in this policy shall be construed as granting any accused person who is not a University student or employee any procedural or

substantive rights in relation to the University's response to alleged sexual misconduct.

3. Informal Resolution

In some instances, a complainant may prefer to address sexual misconduct through informal means, such as mediation. Persons interested in informal resolution should communicate that request to the Title IX Coordinator.

If the complainant requests informal resolution, the University will make reasonable efforts to facilitate it. Informal resolution is strictly voluntary. No one, whether complainant or accused, will be compelled to participate in any mediation or other informal resolution. Further, informal resolution efforts always will be supervised by a properly-trained person, such as an administrator or counselor.

Informal resolution is never appropriate in cases of alleged sexual assault or physical violence. In addition, the University may determine that other claims are sufficiently serious that informal resolution would be inappropriate. In such cases, the matter will be resolved through formal adjudication. If at any point either party wishes to end informal resolution efforts, they should communicate that fact to the Title IX Coordinator and formal adjudication proceedings will begin. If after informal efforts have concluded, either party is not satisfied with the result, they should promptly communicate the same to the Title IX Coordinator and formal adjudication proceedings will begin.

4. Response & Sanctions

The following matrix shall guide the Title IX Coordinator and the Sanctioning Official in determining sanctions and provide notice to the University community of the possible sanctions for an individual who is found responsible under this policy. **This matrix only provides guidance and is not meant to be exclusive as to other sanctions that can be imposed.**

Additionally, prior disciplinary actions of a same or similar nature against an individual may be taken into consideration when imposing sanctions. The sanctions of dismissal, suspension, and probation may apply to academic enrollment, participation in campus activities and organizations, and residence life.

Prohibited Behavior/Conduct	Range of Sanctions
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Sexual Misconduct Constituting of Sexual Assault	Dismissal/Termination
Sexual Misconduct Not Constituting Sexual Assault	Dismissal/Termination Suspension Probation
Unwanted Sexual Touching	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation
Non-physical Sexual Harassment	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation
Discrimination	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation
Retaliation False Allegations	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation

Sanctioning for Sexual Misconduct

- Any person found responsible for violating the Non-Consensual Sexual Contact policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.*
- Any person found responsible for violating the Non-Consensual Sexual Intercourse policy will likely face a recommended sanction of suspension or expulsion (student) or

suspension or termination (employee).*

- Any person found responsible for violating the Sexual Exploitation or Sexual Harassment policies will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.*

***The decision-making body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.**

Amnesty/Immunity for Alcohol or Drug Violations

The University recognizes that individuals with information about sexual misconduct may hesitate to come forward out of fear that their own actions are violations of University's policy related to the use of drugs and alcohol. While the University does not condone violations of its policy, it considers reporting incidents of sexual misconduct to be of paramount importance.

The University will generally extend immunity for alcohol or substance abuse violations to victims and potential witnesses in order to facilitate reporting and resolution of sexual misconduct.

False Allegations

While the University recognizes the rarity of intentional false reports of sexual misconduct, submitting a deliberately false report or providing false information in bad faith is prohibited under this policy and is grounds for disciplinary action. A report is made in bad faith when the person making it actually knew it was false or made it with reckless disregard for the truth. A report is not made in bad faith merely because an adjudicator finds an accused party not responsible.

Where a false report or statement has been made in bad faith, disciplinary action by the University against the person making it is not retaliation within the meaning of this policy. This exception applies solely to official disciplinary action by the University. It does not authorize other retaliation of any kind by any individual, department or organization, even where bad faith is found.

Retaliation

Retaliation against those who report sexual misconduct, or who cooperate with an investigation of alleged discrimination or misconduct, whether conducted by the university or any law enforcement agency, is strictly prohibited.

Retaliation is an independent basis for disciplinary action, regardless of the outcome of the underlying complaint. Retaliation includes any adverse action that would deter a reasonable person from reporting, testifying, or otherwise cooperating with an investigation or proceeding. Any such retaliation should be reported immediately to the Title IX Coordinator or the Vice President of Student Affairs.

Parental Notification

The University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status, or conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. When a student is not dependent, the University will contact parents/guardians to inform them of situations in which there is a significant health and/or safety risk. The University also reserves the right to designate which college officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

What to do if you are sexually assaulted on or off campus:

- Go to a safe location immediately.
- To report the crime or request services, notify the DSU Police Department at [662.846.4155](tel:662.846.4155) (24 hours), Housing and Residence Life at [662.846.4151](tel:662.846.4151), Student Health and Counseling Center at [662.846.4630](tel:662.846.4630), or Our House, Incorporated [662-332-5683](tel:662-332-5683). You can file a formal report with the DSU Police Department
 - The accused may be one of the following:
 - DSU student or non-student
 - Faculty/Staff
 - Administrator
 - DSU Campus Affiliate
- Preserve all physical evidence of the assault, even if you are unsure whether you want to report the crime. Do not shower, bathe, douche, eat, drink, wash your hands or brush your

teeth until after you have had a medical examination. Save all the clothing you were wearing at the time of the assault and bring them and any other potential evidence to the medical exam. Place each item of clothing in a separate paper bag (do not use plastic bags). Do not clean or disturb the area where the assault occurred.

- Call a trusted friend, family member, or someone who can provide support.
- Get medical care as soon as possible. Go to a hospital, emergency room or a specialized forensic clinic that works with sexual assault survivors. Some options in Cleveland include Bolivar Medical Center, [662.846.0061](tel:662.846.0061) (24 hours), and the Domestic Violence Program, [601.948.4495](tel:601.948.4495) (24 hours). You may also request medications for the prevention of sexually transmitted infections, including HIV, and emergency contraception. If more than one week has passed since the assault, or if you are certain that you do not want the collection of forensic evidence, the Student Health Center, [662.846.4630](tel:662.846.4630) can provide medical care. Hours of operation are Monday – Friday 8:00 am – 5:00 pm. For contraception and testing sexually transmitted infections a referral to the Bolivar County Health Department at [662-843-2706](tel:662-843-2706) is made. A referral to a local OB/GYN would be made for morning after pill or pregnancy test.
- If you think you may have been given a rape drug, request that the medical provider collect a urine and blood sample.

Talk to a counselor for emotional support and advocacy. You can speak confidentially with someone on campus at the Student Health Center, [662.846.4630](tel:662.846.4630).

Responsible Office:

Office of the Title IX Coordinator

RELATED DOCUMENTS

- **Harassment Policy**
<http://www.deltastate.edu/policies/policy/university-policies/employment/employee-responsibilities-and-standards/harassment/>
- **Non-Discrimination Policy**
<http://www.deltastate.edu/policies/policy/university-policies/employment/recruitment-and-selection/equal-employment-opportunity/>

- **Workplace Performance and Code of Conduct:**
<https://www.deltastate.edu/policies/policy/university-policies/employment/employee-responsibilities-and-standards/work-performance-and-code-of-conduct/>
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Attachments

Applicability

Delta State University External, Delta State University Internal

 RLDATIX | **PolicyStat**

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