Purpose

This policy is intended to protect all members of the Delaware County Community College (the “College”) community and its guests from discrimination in any form based on sex, sexual harassment, and sexual violence including dating violence, domestic violence, sexual assault, and stalking, with additional attention to sexual misconduct when targeted at an individual because of his/her national origin, ethnicity, gender identity, gender presentation, or sexual orientation. The purpose of this policy is to comply with the provisions of Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. Sec. 1681, et.seq., which provides that no person in the United States shall, on the basis of sex be excluded from participating in, be denied the benefits of or be subjected to discrimination under any education program or activity receiving federal funds, and to further comply with the Violence Against Women Reauthorization Act of 2013 (“VAWA”) and its attendant Campus SaVE Act provisions (“Campus SaVE”).

Accordingly, this policy on sexual violence will articulate the scope of sex discrimination as defined in Title IX, VAWA and the Campus SaVE Act to include discrimination based on sex, sexual harassment, and sexual violence including but not limited to dating violence, domestic violence, sexual assault, stalking, and any prohibited acts of discrimination or violence when committed against individuals because of their known or perceived national origin, ethnicity, gender identity, gender presentation, or sexual orientation.

The College policy against sexual violence will establish a procedure for recourse, resolution, and rehabilitation of all complainants of all forms of sexual misconduct, while protecting the due process rights of alleged perpetrators of sexual violence, and for resolving any and all such cases in a prompt and equitable manner.

The College Policy prohibiting Non-Discrimination and Harassment http://www.dccc.edu/sites/default/files/about/about-the-college/policies/Nondiscrimination%20and%20Harassment%20Policy.pdf which addresses sexual discrimination, non-violent sexual harassment, and other forms of discrimination, which may or may not be violations of this Policy, can be found by clicking on the policy title above.
Policy

The College is committed to providing an institutional environment where all persons may pursue their studies, careers, duties, and activities in an atmosphere free of threat of sexual violence. Sexual Violence interferes with the expectation that students and employees will learn and work in an environment that is free from discrimination. The College will not tolerate sexual violence on its campus, at College-sponsored events, or off-campus, by any member of the College community (faculty, students, administrators, staff, and volunteers). Conduct that is determined to constitute Sexual Violence is not only a violation of the Policy and reprehensible in any context, but it is also a matter of particular concern in an academic community in which students, faculty, staff, volunteers, and visitors are connected by strong bonds of dependence and trust. As such, all members of the community are expected to report acts of Sexual Violence. In addition to College action, a member of the College community who has violated this Policy may be prosecuted under applicable criminal statutes of the location where the alleged offense occurred. S/he will be subject to internal College investigative and/or disciplinary proceedings regardless and independent of any criminal process.

All complaints of sex discrimination, in any form, including but not limited to sexual harassment or sexual violence, dating violence, domestic violence, sexual assault, and stalking, must be brought to the immediate attention of the Title IX Coordinator for the College. The Title IX Coordinator for the College is the Vice President of Human Resources and may be reached at Founders Hall on the Marple Campus, by phone at 610-359-5094, or by email: TitleIXCoordinator@dccc.edu. In the event of an emergency, or any off-hours situation, the Office of Safety & Security should be contacted by phone at 610-359-5111, which in turn will promptly report the incident to the Title IX Coordinator for further action pursuant to the terms of this policy.

All employees are responsible for bringing any such complaints to the direct attention of the Title IX Officer. In addition, designated responsible employees, to include deans, directors, program coordinators, advisors, counselors, coaches, and all members of Human Resources, Safety & Security, and Campus Life, have a duty to assist and inform complainants as to the following:

- The availability of counseling services
- The complainant’s reporting options, including the choice to decline notifying law enforcement authorities altogether.
- The responsible employee’s affirmative duty to report the incident to the Title IX officer.

The College has the affirmative duty pursuant to Title IX, VAWA, and Campus SaVE Act to take immediate and appropriate action once it knows, or reasonably should have known, of any act of sexual discrimination, to include but not be limited to sexual harassment and sexual violence including sexual assault, stalking, domestic violence, and dating violence, in any of its educational programs and activities. The College will act on any complaint of sexual misconduct in order to resolve such complaints promptly and equitably.
Upon request and within reason, the College will provide complainants with assistance in changing their academic, living, transportation, and working situations regardless of whether they choose to report the crime to campus security or local law enforcement.

Complainants who make good faith complaints are protected from retaliation pursuant to Title IX, VAWA, and the Campus SaVE Act, this policy, the College’s policy against sexual harassment (Nondiscrimination & Harassment Policy), and the College’s Whistleblower Policy. Any retaliation against an individual who has complained about sexual harassment or unlawful discrimination or sexual violence, to include but not be limited to sexual assault, stalking, dating violence, or domestic violence, or retaliation against individuals for cooperating with an investigation of a complaint of sexual harassment, sexual violence, or unlawful discrimination, is a violation of this policy.

Persons who violate this policy will be subject to disciplinary action up to and including termination of employment, suspension, expulsion, and/or termination of the contractual relationship.

**Definitions**

**Consent**: a person is incapable of giving consent if that person is under the age of consent (16 in Pennsylvania), incapacitated due to the influence of drugs and/or alcohol, or mentally disabled. Additionally, consent may be withdrawn during the course of a sexual encounter, such that the encounter would thereafter constitute sexual misconduct, if continued.

**Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse but does not include acts covered under the definition of domestic violence.

**Discrimination on the Basis of Sex** is illegal under both federal and state law and is strictly prohibited by the College. Sex discrimination can be manifested by unequal access to educational programs, and activities on the basis of sex, unequal treatment on the basis of sex in the course of conducting those programs and activities, or the existence of a program or activity that has a disparate impact on participation, improperly based on the sex of the participants.

**Domestic Violence** is a felony or misdemeanor crime of violence committed by either a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic of family violence laws of this jurisdiction receiving grant monies under VAWA, or by any other person against a youth victim or adult who is protected from that person’s acts under the domestic or family violence laws of this jurisdiction.
Sexual Assault is a forcible or non-forcible sex offence under the Uniform Crime Reporting System of the FBI. Under Pennsylvania law, sexual assault is a felony of the second degree and is defined as sexual intercourse or deviate sexual intercourse with a complainant without the complainant’s consent.

Sexual Harassment is a form of sex discrimination that is illegal under both federal and state law and is strictly prohibited by the College. Unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

1. Submission to such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual’s employment, academic advancement, or participation in College programs or activities, or is used as a basis for employment or academic decisions affecting the individual; or
2. Rejection of such advances, requests, or conduct affects a term or condition of an individual’s employment or academic advancement or participation in College programs or activities, or is used as a basis for employment or academic decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work, academic performance, education, or participation in College programs or activities, or of creating an intimidating and/or hostile, work or academic environment.

Sexual Violence is a form of sex discrimination that is illegal under both federal and state law and is strictly prohibited by the College. Sexual violence is defined as physical sexual acts conducted either against a person’s will or where a person is incapable of giving consent, including but not limited to, rape, sexual assault, sexual battery, sexual coercion, dating violence, domestic violence, stalking, and sexual violence based on the intentional selection of a victim based on criteria related to the victim’s national origin, ethnicity, gender identity, gender presentation, or sexual orientation.

Stalking entails engaging in a course of conduct or repeated acts directed at a specific person, which would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress. For the purposes of the definition of stalking, “course of conduct” is defined as two or more acts including but not limited to acts in which the stalker directly, indirectly, or through a third party, by any action, device, method, or means, follows, observes, monitors, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. “Reasonable person” is defined as a reasonable person under similar circumstances and with similar identities to the victim. “Substantial emotional distress” means significant mental anguish or suffering that may, but does not necessarily require medical or professional treatment or counseling.

Employee, Faculty and Student Responsibilities

Each employee, faculty member, administrator, and student of the College is personally responsible as follows:
1. For ensuring that s/he does not engage in conduct that violates this policy.
2. For bringing any known violation of this policy to the immediate attention of the Title IX Coordinator, or the Director of Safety & Security, who will in turn immediately notify the Title IX Coordinator.
3. For cooperating in any investigation of alleged sexual harassment, domestic violence, dating violence, sexual violence, stalking, or unlawful discrimination based on sex, or retaliation, if requested to do so by the person conducting the investigation.

**Designated Responsible Employees**

Individuals further designated as “responsible employees” at the College are required, when first contacted by a complainant, to inform the complainant of the responsible employee’s duty to report any complaint of sexual misconduct directly to the Title IX Coordinator; to inform the complainant of the options for filing complaints with the College, Law Enforcement, or both; and to assist the complainant in obtaining counseling and medical services where appropriate, particularly if the preservation of evidence could be a concern. Responsible employees include the President, all Vice-Presidents, Deans, Directors, Program Directors, Coaches, Counselors, Advisors, Student Club Advisors, in addition to employees from Human Resources, Safety & Security, and Campus Life.

A report to a responsible employee is a report to the College. It obligates the College to investigate and it obligates the College to take all appropriate steps to address the situation, prevent its reoccurrence, and remedy its effects.

**Title IX Grievance Procedure**

Anyone who believes that s/he or any other member of the College community has encountered sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, or stalking as prohibited by this policy, whether by a supervisor, a co-worker, faculty member, student, vendor, contractor, or any other person with whom s/he comes in contact at the College, in the course of any educational program, or activity at the College should report the incident directly to the Title IX Coordinator for the College. The Title IX Coordinator for the College is the Vice President for Human Resources and may be reached at Founders Hall on the Marple Campus, by phone at 610-359-5094 or by email: TitleIXCoordinator@dccc.edu. Any person who receives a complaint of sex discrimination, sexual harassment, sexual violence, domestic violence, stalking, or retaliation from an employee or student, or who otherwise knows or has reason to believe that an employee or student has been subjected to any of the aforementioned, is expected to report the incident promptly to the Title IX Coordinator for the College. Designated responsible employees are further required to assist the complaining party as outlined in the above paragraphs entitled Designated Responsible Employees.
Depending on the facts and circumstances of the specific complaint, the Title IX Coordinator will immediately contact agencies and organizations to affect immediate relief, care, and support for the complainant and/or the victim in any given case including but not limited to:

1. The closest, competent health care facility
2. The Police Department and Campus Safety & Security
3. Counseling Services
4. The Employee Assistance Program (EAP)
5. Delaware County Women Against Rape

Anyone who believes that s/he has encountered sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, or stalking as prohibited by this policy is advised to preserve all evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.

The Title IX Coordinator will enable a prompt, fair, and impartial investigation into any allegations of sexual misconduct or retaliation, by trained investigators, to enable a prompt and equitable response under all circumstances and in a fair and expeditious manner. The investigation will be completed within 15 days of the receipt of the complaint by a trained and designated investigator for the College, unless the Title IX Coordinator must extend the timeframe for good cause. The Title IX investigator will allow the parties to present witnesses and other evidence during the investigation. The investigation will continue whether or not the complaint is also being investigated by another agency or law enforcement unless the Title IX investigator would impede law enforcement’s investigation. If the investigation is suspended during an investigation by law enforcement, the College will implement interim steps to protect the complainant and/or victim’s safety.

As an immediate priority, care will be taken to ensure the safety and well-being of the complainant and/or victim, and to exercise all precautionary measures to prevent a repeat of the alleged incident or sexual misconduct. Accordingly, interim measures such as a temporary suspension, may be implemented pending hearing on the matter.

The Title IX Coordinator will inform the complainant in a case of sexual violence, dating violence, domestic violence, sexual assault, or stalking, of the right to file a criminal complaint. In all cases of allegations of sexual harassment or sexual violence between any two parties who are members of the College community, a Title IX hearing will be conducted following the conclusion of any investigation into the matter. Pursuant to a Title IX hearing, both parties will have the right to review all evidence and investigative reports beforehand, to have advisors present, and to present their version of the facts and circumstances surrounding the alleged incident of misconduct. Care will be taken to preserve the rights of complainants of sexual misconduct to privacy without sacrificing the rights of respondents to due process. The Title IX Coordinator will conduct a hearing based on the alleged incident(s) of sexual misconduct and a determination of culpability
will rest on the evidence presented and reviewed, using a “preponderance of the evidence” (i.e., more likely than not) standard of proof.

Upon completion of the investigation and the Title IX hearing, any case of sex discrimination, sexual harassment, sexual violence, retaliation, or sexual misconduct will be referred to the Provost or the appropriate administrative division’s Vice President for further prompt and equitable proceedings, commensurate with the recommendation and findings of the Title IX Coordinator.

The entire process, from complaint to recommendation for resolution, should be conducted in a prompt and equitable manner, and should be completed no later than 45 days from receipt of a complaint. Extensions may be granted under extenuating circumstances, upon review by the Title IX Coordinator.

Upon completion of the investigation and a Title IX hearing, the Provost or the appropriate area Vice-President shall notify both complainant and respondent of the findings and recommendations of the Title IX Coordinator, shall accept or modify the recommendations as appropriate, and notify both complainant and respondent of the decision to accept or otherwise modify the recommendations of the Title IX Coordinator, simultaneously, and in writing. The entire process, from complaint to notification of resolution by the Provost or appropriate Vice President, shall not exceed 60 days.

**Disciplinary Action**

In the event that the investigation reveals that sexual harassment, sexual violence, dating violence, domestic violence, sexual assault, discrimination based on sex, retaliation, or other inappropriate or unprofessional conduct (even if not unlawful) has occurred, further action will be taken, including disciplinary action, such as but not limited to reprimand, change in work assignment, loss of privilege, mandatory training or suspension, and/or termination. If it is determined that inappropriate conduct has occurred, the College will act promptly to eliminate the offending conduct, and where appropriate the College will also impose disciplinary action, which may, depending upon the circumstances, include but not be limited to, disciplinary action, reprimand, change in work assignment, loss of privilege, mandatory training, suspension, expulsion, and/or termination.

**Confidentiality**

In the event that a member of the College community requests complete confidentiality and anonymity about experiencing an act of sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence or stalking, the College will refer that individual to Delaware County Women Against Rape (“Delcowar”) or other licensed counseling professionals to whom the legal privilege of confidential communications attaches. The College has an ongoing agreement with Delaware County Women Against Rape whereby a member of the College community may
speak to Delcowar, or in the case of an employee, also with someone through the College’s Employee Assistance Program.

While respecting the request for confidentiality and privacy on the part of the complainant, the Title IX Coordinator or the responsible employee to whom the inquiry is made, will also inform the individual of his/her options with respect to reporting the incident and/or lodging a police report, and as to the availability of professional counseling resources. As noted elsewhere, the responsible employee has the further duty of reporting the incident directly to the Title IX Officer, the Deputy Title IX Officer, or the Director of Safety & Security, who in turn will immediately contact the Title IX Officer. Depending on the facts and circumstances of the specific complaint, the Title IX Coordinator will immediately contact agencies and organizations to affect immediate relief, care, and support for the complainant and/or the victim in any given case including but not limited to:

1. The closest, competent health care facility
2. The Police Department and Campus Safety & Security
3. Counseling Services
4. The Employee Assistance Program (EAP)
5. Delaware County Women Against Rape

The Title IX Coordinator will further inform the complainant that, to the greatest extent possible, the request for confidentiality, particularly with regard to the identity of the complainant, will be honored. However, the Title IX Coordinator will also make clear that the College makes the ultimate determination as to what should be disclosed regarding the facts and circumstances of the case, in the best interest of the complainant’s own future safety, as well as the safety of the College community as a whole. In the event of a formal complaint, all actions taken to investigate and resolve complaints through this procedure shall be conducted with as much privacy, discretion, and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved are to treat the situation with respect. To conduct a thorough investigation, the Investigator(s) may discuss the complaint with witnesses and those persons involved in, or affected by, the complaint, and those persons necessary to assist in the investigation or to implement appropriate disciplinary actions. For purposes of Clery Act reporting and recordkeeping, the complainant’s personal identifying information will not be disclosed.

Upon completion of the investigation, the individual(s) who made the complaint and the individual(s) against whom the complaint was made will be advised of the results of the investigation in writing and, where a remedy is determined to be appropriate, to inform the parties of the steps that will be taken to remedy the situation.

**Appeal**

Either the Complainant or Respondent may file an appeal of any decision concerning the resolution of the Title IX investigation. An appeal by either party must be made in writing to the office of the Title IX Coordinator within 15 days of receipt of the notice of resolution of the matter. The written
appeal must state, in detail, the reason(s) for the appeal and shall address one or more of the following:

- If the appeal alleges that the findings of the investigator included relevant factual errors or omitted relevant facts, the appeal shall specify each factual error and/or details of each relevant fact that was omitted from the investigation.
- If the appeal alleges relevant or substantive procedural errors, the person appealing shall identify each instance of said substantive procedural error.
- If the appeal alleges relevant or substantive issues or questions concerning interpretation of College policy, the person appealing shall state, in detail, the issues or questions supporting this allegation.
- If the appeal alleges that new information or evidence exists, the appeal shall specify the reason why this information was not available or not provided to the investigator during the course of the investigation, including the reason why the information could not have been provided on a timely basis.
- If the appeal alleges either that action or inaction of the supervisor in response to the findings of the investigation will not prevent future violations of this policy, the person appealing will specify, in detail, the reason(s) and basis for this allegation.

No disciplinary action or other action based upon the original complaint findings shall be taken against the alleged offender during the appeals process, although temporary, interim measures may remain in place. The appeal process will be conducted in an impartial manner by an impartial maker.

**No Retaliation for Filing a Complaint of Sexual Harassment or Unlawful Discrimination**

An institution or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision described in this policy.

Retaliation against any individual for making a complaint of sexual harassment, discrimination, or sexual violence to include dating violence, domestic violence, sexual assault, or stalking, or for assisting in the investigation of such a complaint is a violation of this policy and will not be tolerated. Any acts of retaliation will be subject to appropriate disciplinary action, such as, but not limited to, reprimand, change in work assignment, loss of privilege, mandatory training, suspension, dismissal, expulsion, or termination.

**False Accusations**

Anyone who knowingly makes a false accusation of discrimination, harassment, or retaliation will be subject to appropriate sanctions, which may include, but are not limited to, written warning, demotion, transfer, suspension, and/or immediate termination.
College Investigators of Complaints of Sexual Harassment and Unlawful Employment Discrimination

The following investigators are designated as those persons who are charged with coordinating the College’s implementation of this policy, and investigating complaints of unlawful discrimination, sexual misconduct, or retaliation for the College. They may be contacted to initiate an investigation under the policy or to answer questions regarding this policy. The College also reserves the right to retain an outside investigator(s) to investigate complaints regarding this policy.

- Associate Dean for Student Success
- Director of Human Resources

The Complainant or the Respondent might allege that the investigator has a substantial conflict of interest that might impair his/her ability to conduct a fair and impartial investigation of the allegations. In that event, details supporting the alleged conflict of interest must be submitted in writing to the Vice President of Human Resources within 5 days of receiving notice of the identity of the Investigator. A determination will be made about the existence of a conflict of interest and, if such a conflict is found to exist, an alternative investigator will be appointed as expeditiously as possible. In the event that a request is made and an alternative investigator must be appointed, any specific timeline provided for in the complaint procedure shall be suspended pending the determination and/or appointment.

Education and Training

The College is committed to ensuring both preventive and responsive training and relevant educational opportunities for all members of the campus community in the area of sexual misconduct.

Each Fall and Spring semester, Delaware County Women Against Rape, along with other community services organizations, will assist the College in offering collaboratives and comprehensive overviews on the overarching topic of sexual misconduct. Additionally, the College will offer regular “lunch-n-learn” workshops during the months of October (Domestic Violence Awareness Month) and April (Sexual Assault Awareness Month) on topics such as healthy relationships, issues of consent, options and opportunities for bystander intervention, and the influence of drugs and alcohol on sexual misconduct.

In the area of responsive education and training, the college is committed to ensuring that all College personnel designated as investigators, counselors, and adjudicators in the area of sexual misconduct will receive specialized and regular training, and will be cognizant of the special needs of complainants in the area of sexual misconduct, while also ensuring the rights of respondents.
**State and Federal Agencies**

Employees who believe that they may have been subjected to sexual harassment or unlawful discrimination may file a formal complaint with government agencies set forth below. Students may file a complaint with the U.S. Department of Education. Using the College’s complaint process does not prohibit an employee or student from filing a complaint with these agencies.

United States Equal Employment Opportunity Commission ("EEOC")
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: (800) 669-4000

Pennsylvania Human Relations commission ("PHRC")
110 North 8th Street, Suite 501
Philadelphia, PA 19107
Telephone: (215) 560-2496
TTY users only: (215) 560-3599

Office for Civil Rights
Philadelphia Office
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: (215) 656-8541
Facsimile: (215) 656-8605
Email: OCRPhiladelphia@ed.gov