

Dutchess Community College

Policy on Sex Discrimination and Sexual Harassment (Title IX)

I. Purpose

As a recipient of federal funding, Dutchess Community College (DCC or College) is subject to the requirements of Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations, part 106 of title 34 of the Code of Federal Regulations. In accordance with Title IX and its own institutional values, DCC is committed to providing an educational environment free from discrimination based on sex.

DCC is committed to maintaining a safe and inclusive educational environment free from discrimination on the basis of sex, including sexual harassment and sexual misconduct. In compliance with Title IX and its implementing regulations, the College has established the following policies and procedures to address and prevent sexual harassment, provide a fair grievance process, and ensure appropriate remedies and supportive measures for affected individuals.

It is the College's intent to have this Policy and its procedures, at all times, conform to the requirements of Title IX and be current with the applicable regulations adopted by the U.S. Department of Education.

DCC is also committed to the principle of equal opportunity in education and employment, and further prohibits unlawful discrimination based on other protected characteristics (including race, color, national origin, religion, creed, age, and disability), in accordance with all applicable federal, state and local antidiscrimination laws. Information about the College's prohibition on other forms of discrimination and the applicable complaint procedures can be found in the Policy on Racial and Other Forms of Discrimination.

II. Notification of Nondiscrimination Policy Under Title IX

DCC does not discriminate on the basis of sex in its education program or in any activity that it operates, including in admission and employment, and does not tolerate sexual harassment, including sexual assault, sexual violence, and sexual misconduct, on its campus or in any of its programs or activities.

III. Scope of Policy

All students, faculty, and staff of DCC are required to comply with this nondiscrimination policy, and the Policy and its procedures apply to all conduct that occurs in the course of DCC's education programs and activities, and at locations, events, or other circumstances in the United States where DCC exercises substantial control.

IV. Inquiries about Title IX or the College's Compliance with Title IX

Title IX Coordinator

The College has a Title IX Coordinator to oversee and coordinate its compliance with its responsibilities.

Inquiries regarding the application of Title IX and 34 CFR part 106, may be made to the Title IX Coordinator:

**Felicia Ellzy-Smith
Title IX Coordinator
Bowne Hall, Room 220
Dutchess Community College
53 Pendell Road, Poughkeepsie, NY 12601**

**Phone: 845-431-8906
Email: TitleIX@sunydutchess.edu**

U.S. Department of Education Office for Civil Rights

Inquiries or complaints regarding the application of Title IX and related federal regulations to the College may also be directed to the U.S. Department of Education's Office for Civil Rights:

New York Office

**Office for Civil Rights
U.S. Department of Education
26 Federal Plaza, Suite 31-100
New York, NY 10278-9991
Phone: 646-428-3800
Email: OCR.NewYork@ed.gov.**

National Headquarters

**Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800-421-3481 TDD 877-521-2172
Email: OCR@ed.gov Web: <http://www.ed.gov/ocr>**

V. Reporting Conduct That May Constitute Sex Discrimination or Sexual Harassment

Individuals (including students, employees, and visitors) who believe they have experienced sex discrimination or sexual harassment on the College's campus, or in any of its programs or activities, regardless of when the discrimination or harassment occurred, are encouraged to make a report to the Title IX Coordinator. If, for some reason, the Title IX Coordinator is unavailable,

or the individual cannot or does not wish to make a report to the Title IX Coordinator, reports may also be received by the Safety and Security Office, which will then share the report with the Title IX Coordinator.

- Reports to the Title Coordinator can be made in person, via email, or by phone.
 - Bowne Hall, Room 220
 - Email: TitleIX@sunydutchess.edu
 - Phone: 845-431-8906
- Reports to the Title IX Coordinator can be made **at any time**, including outside normal business hours.
- Reports may also be made anonymously through the **Bias Incident Reporting Form**.

All employees of Dutchess Community College who become aware of conduct that reasonably may constitute sex discrimination or sexual harassment are required to promptly notify the Title IX Coordinator. In addition, when an employee receives information from another individual concerning conduct that reasonably may constitute sex discrimination or sexual harassment, the employee is required to provide that individual with the above contact information for the Title IX Coordinator and information how to make a complaint about sex discrimination or sexual harassment.

VI. Responsibilities of the Title IX Coordinator and Title IX Team

DCC has established a Title IX Team that is responsible for implementing this Policy and addressing reports and/or formal complaints of sex discrimination and/or sexual harassment.

- Title IX Coordinator

The Title IX Coordinator oversees the College's compliance with Title IX and processing reports/complaints alleging sex discrimination or sexual harassment.

When the Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination or sexual harassment (including sexual violence) under Title IX, the Title IX Coordinator will act promptly and effectively to end the sex discrimination, prevent its recurrence, and remedy its effects.

When the Title IX Coordinator receives a formal complaint of sex discrimination and/or sexual harassment, the Title IX Coordinator will initiate an investigation and submit the formal complaint for adjudication through this Policy's grievance procedures.

- Deputy Title IX Coordinators

The College may appoint Deputy Title IX Coordinators who are responsible for assisting the Title IX Coordinator in managing cases commenced under this Policy.

- Investigators

The College may appoint trained investigators to conduct (and/or assist in the conduct) investigations of formal complaints received under this Policy.

VII. Availability of Supportive Measures

Upon receiving a report of sex discrimination and/or sexual harassment, the Title IX Coordinator will offer supportive measures to all affected parties.

Supportive measures may include:

- Counseling services.
- No-contact orders.
- Adjustments to academic schedules.
- Campus escort services.
- Housing modifications.
- Leaves of absence.
- Any other measures reasonably intended to restore or preserve equal access to educational programs or activities, to protect the safety of students or other individuals, and to deter sexual harassment, without unreasonably burdening any other party.

VIII. Definitions of Sexual Harassment, Sexual Violence, and Affirmative Consent

Sexual Harassment

For purposes of this Policy, the definition of “sexual harassment” means harassment on the basis of sex that is prohibited by Title IX, as defined in 34 CFR § 106. This includes the following:

***Quid pro quo* harassment:** A College employee conditioning the receipt of educational benefits on an individual’s participation in unwelcome sexual conduct.

Hostile Environment Harassment: Unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to DCC’s education programs or activities.

Sexual Assault, Dating Violence, and Stalking as defined by the Clery Act and the Violence Against Women Act (VAWA).

Sexual harassment can occur between any individuals associated with the College, e.g., an employee and a supervisor; coworkers; faculty members; a faculty, staff member, or student and a customer, vendor, or contractor; students; or a student and a faculty member.

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following objective criteria: (i) the degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity; (ii) the type, frequency, and duration of the conduct; (iii) the parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant

to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred.

Examples of Sexual Harassment:

Sexual Misconduct: Such behavior includes unwelcome sexual advances; requests for sexual favors; and other direct verbal or physical conduct of a sexual nature. Sexual misconduct includes pervasive or severe behaviors such as ‘sexting’, sexually laced humor, displays of sexually offensive materials, and other inappropriate sexually based actions.

Sexual Assault and Sexual Violence: Sexual assault is a severe form of sexual harassment. Such behavior includes, but is not limited to, forcible penetration with a part of one’s body or object, touching, pinching, patting, or pressing up against someone, exposing the genitalia, sexual based stalking or bullying, peeping, or the invasion of one’s sexual privacy. Sexual assault is also defined as non-forcible sexual activity with a person who is physically or mentally incapacitated. Incapacity is defined as one in a state where he or she is unable to grant an affirmative consent (as defined herein) to sexual activity. Incapacity may occur in a person who is: under the influence of alcohol or drugs, suffering from a physical or mental illness, and or experiencing emotional trauma.

Sexual violence, as that term is used in this Policy refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving an affirmative consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by other students, college employees, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

Every member of the College community is entitled to a work and learning environment free from the devastating effects of sexual harassment. No person or group of individuals shall engage in sexual behavior toward any individual against one’s will and without one’s affirmative consent. Dutchess Community College expressly prohibits the sexually aggressive conduct noted above and employees and students found to have engaged in it will be subject to severe disciplinary action, including termination, suspension, or academic dismissal. In addition, perpetrators of sexual violence or harassment may also be subject to criminal charges and prosecution under local and state laws.

Definition of Affirmative Consent

Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop. Consent

cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

IX. Grievance Procedure for Formal Complaints of Sexual Harassment

The following procedure shall be used to submit and resolve complaints alleging sexual harassment under this Policy. In this procedure, any act required of the Title IX Coordinator may be carried out by a Deputy Title IX Coordinator.

1. Filing of Formal Complaint

Students, employees, or other individuals who are participating or attempting to participate (e.g., an applicant for admission) in a DCC education program or activity may file a formal complaint of alleged sexual harassment with the Title IX Coordinator. The complaint may be filed in person, by mail, or by email.

A formal complaint must be signed by the complainant or by the Title IX Coordinator.

Upon receipt of a formal complaint, the following grievance procedure shall be used to provide for the prompt and equitable resolution of the complaint. Under this procedure, it is presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

2. Notice to Respondent

The Title IX Coordinator will provide written notice of the complaint to the known party(s) alleged to have engaged in the alleged sexual harassment, also referred to as the “respondent.” The notice must include sufficient information to permit the respondent to reasonably understand and respond to the allegations. The notice should identify the identities of the persons involved in the incident or incidents; the specific conduct alleged to constitute sex discrimination under Title IX; dates and locations of the incident or incidents.

The written notice must also include (1) a copy of this Policy and grievance procedure; (2) a statement that retaliation is prohibited; and (3) a statement that the respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

When the College is in session, the written notice of allegations must be provided within three (3) business days.

3. Risk Analysis and Emergency Removal

Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator will conduct

an individualized safety and risk analysis, which may include interviews of the complainant, respondent, or any other person believed to have relevant information, and make a determination whether a respondent poses an immediate threat to the physical health or safety of any student or other person.

If the Title IX Coordinator determines that the respondent's continuing presence on campus poses an immediate threat to physical health or safety, the Title IX Coordinator shall immediately notify the Assistant Dean of Student Engagement and Development shall impose an Emergency Suspension upon written notice in accordance with the procedural requirements set forth in the Student Code of Conduct.

Following removal, the respondent shall have the right to seek review of the Emergency Suspension as set forth in the Student Code of Conduct.

Where the person to be removed is an employee, the Director of Human Resources shall place the employee on paid administrative leave and provide the employee with written notice of the reasons for the placement on paid administrative leave.

4. Supportive Measures

The Title IX Coordinator will offer a complainant and a respondent the same opportunity for supportive measures described above.

5. Investigation

The Title IX Coordinator or an Investigator will investigate the incident or incidents alleged in the formal complaint, by conducting interviews and gathering relevant evidence, and will produce an investigation report.

The complainant and respondent(s) will have an opportunity to review the investigation report, will have equal access to the evidence, and will be provided an opportunity to submit written responses.

When the College is in session, the investigation should normally be completed within ten (10) business days after receipt of the formal complaint. If the Investigator determines that the investigation cannot be completed within this time period, the parties will be advised and provided a date by which the investigation will be completed.

6. Hearing

Upon the completion of the investigation of the incident(s) alleged in the formal complaint, the formal complaint and the investigation report shall be referred to a hearing before a tripartite panel.

Tripartite Panel Selection. The tripartite panel shall be drawn from a pre-selected pool, with one panel member chosen by the complainant, one panel member chosen by the respondent, and a third chosen by these panel members. The panel members shall choose a chair from among themselves. Selection of the panel members must be completed within 7 calendar days.

In the event that the procedural requirements governing the selection of the tripartite panel are not completed within 7 calendar days after notification, the chairperson of the campus affirmative action committee shall complete the selection process.

Panel Review/Hearing. The chair of the tripartite panel shall set a date and time for a live hearing to be held at least 10 calendar days after the completion of the investigation report. The parties shall each receive written notice of the date, time, location, participants, and purpose of all proceedings before the tripartite panel.

At the hearing, each party will be accompanied by an advisor of the party's choice, who may be an attorney. If a party does not have an advisor, the College will provide one.

At the commencement of the hearing, the tripartite panel shall review the investigation report and evidence gathered as part of the investigation, as well as any written responses of the parties.

Each party will have an equal opportunity at the hearing to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

Each party's advisor shall be permitted to ask the other party and any witnesses relevant questions and follow-up questions. Cross-examination shall be conducted directly, orally, and in real time by the party's advisor, and not by the party personally.

All questions asked of a party or witness must be relevant, with relevancy determined by the chair of the tripartite panel.

The complainant and respondent have the right to request alternative arrangements if either does not want to be in the same room as the other party. These alternative arrangements must be consistent with the rights of the accused, and must enable both parties and the panel to see and hear each other and any witness during any hearing.

The proceedings of the tripartite panel shall be recorded, either by stenographer or by audio or audiovisual recording. The recording shall be made available at no cost to the complainant and the respondent.

Written Determination: Within 15 calendar days from the conclusion of the hearing, the chair of the tripartite panel shall submit a written determination, on a form to be provided by the Title IX Coordinator, to the parties, the President and the Title IX Coordinator. The written determination shall include (i) a description of the alleged sex-based harassment; (ii) identification of the procedural steps taken to evaluate the allegations; (iii) the tripartite panel's evaluation of the relevant evidence, including, where necessary, its resolution of questions of credibility; and (iv) its findings and recommendations, including any referral for disciplinary action. The burden of proof in cases of discrimination is preponderance of the evidence.

If the tripartite panel determines that the complaint was substantiated, it may refer the respondent for disciplinary action, as follows:

- i. For students, the tripartite panel may determine that sufficient information exists to refer the matter to the student conduct judiciary, or other appropriate disciplinary review, and appropriate action under the appropriate student conduct code. For examples of sanctions, please see the relevant section of the applicable student code of conduct.
- ii. For employees (including student employees) not in a collective bargaining unit, the referral will be to the President, who may take such administrative action as he/she deems appropriate under his/her authority as the chief administrative officer of the college, including but not limited to, termination, demotion, reassignment, suspension, reprimand, or training.
- iii. For employees in collective bargaining units, the referral will be to the President who may determine that sufficient information exists to refer the matter to his/her designee for investigation and disciplinary action, or other action as may be appropriate under the applicable collective bargaining agreement or civil service law. The disciplinary process and potential outcomes are described in the applicable collective bargaining agreements or the Dutchess County Civil Service Rules and Regulations.

At the time the written determination is issued, the complainant and the respondent shall be notified of their right to appeal the determination of the tripartite panel to the President by submitting a written request for appeal, explaining the grounds for appeal, within 10 calendar days, and notified that if no appeal is taken the determination of the tripartite panel will be final.

If the President is the respondent, the written determination may be appealed to the Board of Trustees.

Appeals. Either party may appeal from the determination of the tripartite panel on the following bases:

- Procedural irregularity that affected the outcome;
- New evidence that was not reasonably available at the time of the determination that could affect the outcome;
- The existence of a conflict of interest on the part of the Title IX Coordinator, Investigator, or the tripartite panel members that affected the outcome.

Within 10 calendar days of receipt of an appeal, the President, or the Board of Trustees if the respondent is the President, shall issue a written decision on the appeal to the complainant and respondent, and the Title IX Coordinator.

The decision of the President (or Board of Trustees) shall be final.

If the tripartite panel finds the complaint was substantiated, the Title IX Coordinator shall also make a separate determination whether any additional, non-disciplinary action is appropriate to prevent future acts of sexual harassment.

Notice of outcome. No later than 7 calendar days following issuance of the statement by the President or the Board, as the case may be, the Title IX Coordinator shall issue a letter to the complainant and to the respondent(s) advising them that the matter, for purposes of this grievance procedure, is closed.

Time limitations. The time limitations set forth above may be extended by mutual agreement of the complainant and respondent with the approval of the panel. The panel will also have the discretion to reasonably extend the deadlines by up to 3 weeks if an investigation is deemed complex. Such extension shall be confirmed in writing to the parties.

External Agencies. At any point in the grievance procedure, the complainant may elect to file a complaint with one or more state and federal agencies. The Title IX Coordinator will provide general information on state and federal guidelines and laws, as well as names and addresses of various enforcement agencies.

X. Prevention and Mandatory Training

In order to prevent discrimination based on sex and sexual harassment, DCC will implement mandatory training for all faculty, staff, and students on the provisions of this Policy, the definition of sexual harassment, the concept of affirmative consent, and obligations to report incidents that may involve sex discrimination or sexual harassment. The training will be overseen by the Title IX Coordinator.

XI. Student Onboarding and Ongoing Education Guide

Dutchess Community College complies with the SUNY system –wide policy on the training and awareness obligations of its students. To that end, DCC will continue to educate all new and current students using a variety of best practices aimed at educating the entire college community in a way that decreases violence and maintaining a culture where sexual assault and acts of violence are not tolerated.

The State University of New York and its State-operated and community colleges believe that sexual violence prevention training and education cannot be accomplished via a single day or a single method of training. All new first-year and transfer students will, during the course of their onboarding to a SUNY State-operated or community college, receive training on the following topics, using a method and manner appropriate to the institutional culture of each campus:

- The institution prohibits sexual harassment, including sexual violence, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution.
- Relevant definitions including, but not limited to, the definitions of sexual violence and consent.
- Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression.
- The role of the Title IX Coordinator, University Police/Campus Security, and other

relevant offices that address sexual violence prevention and response.

- Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term impact.
- The Victim/Survivor Bill of Rights and Sexual Violence Response Policy, including:
 - How to report sexual violence and other crimes confidentially, and/or to college officials, campus law enforcement and security, and local law enforcement.
 - How to obtain services and support.
- Bystander Intervention and the importance of taking action, when one can safely do so, to prevent violence.
- The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases.
- Risk assessment and reduction including, but not limited to, steps that potential victims/survivors and potential assailants and bystanders to violence can take to lower the incidence of sexual violence.
- Consequences and sanctions for individuals who commit these crimes.

The onboarding process is not limited to a single day of orientation, but recognizes that students enroll at different times at different SUNY campuses and gives campuses the flexibility to best educate students at a time and manner that can most effectively bring these points to light. SUNY will conduct these trainings for all new students, whether first-year or transfer, undergraduate, graduate, or professional. Each campus shall use multiple methods to educate students about sexual violence prevention.

Each SUNY institution will also share information on sexual violence prevention with parents of enrolling students. Students at SUNY State-operated and community college campuses shall receive general and specialized training in sexual violence prevention. Each institution will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population.

Further, institutions will, as appropriate, provide or expand specific training to include groups such as international students, students that are also employees of the campus, leaders and officers of registered/recognized student organizations, online and distance education students.

Institutions will also provide specific training to members of groups identified as likely to engage in high-risk behavior. Beginning in the 2015-2016 academic year, SUNY State-operated and community colleges will require that student leaders and officers of registered/recognized student organizations and those seeking recognition complete training on sexual violence prevention as part of the approval process and require student-athletes to complete training prior to participating in intercollegiate athletics.

Methods of training and educating students may include, but are not limited to:

- President's welcome messaging;
- Peer theater and peer educational programs;
- Online training;

- Social media outreach;
- First-year seminars and transitional courses;
- Course syllabi;
- Faculty teach-ins;
- Institution-wide reading programs;
- Posters, bulletin boards, and other targeted print and email materials;
- Programming surrounding large recurring campus events;
- Partnering with neighboring SUNY and non-SUNY colleges to offer training and education;
- Partnering with State and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to victims/survivors of crimes to offer training and education. Partnerships can also be used to educate community organizations about the resources and remedies available on campus for students and employees seeking services; and
- Outreach and partnering with local business those attract students to advertise and educate about these policies.

Each institution must engage in an occasional assessment of their programming under this policy to determine effectiveness. The institution may either assess its own programming or conduct a review of other campus programming and published studies to adapt its programming to ensure effectiveness and relevance to students.

XII. Campus Climate Assessment Policy

Dutchess Community College complies with the SUNY system-wide policy on the assessments that afford institutions the opportunity to better understand their campus and to make informed decisions when it comes to providing a safe educational environment.

Beginning in the 2015-2016 academic year, each State University of New York State-operated and community college will conduct a uniform climate survey that analyzes prevalence and attitudes regarding sexual harassment, including sexual violence, and other related crimes.

The survey will address at least the following:

Student and employee knowledge about:

- The Title IX Coordinator's role;
- Campus policies and procedures addressing sexual assault;
- How and where to report sexual violence as a victim/survivor or witness;
- The availability of resources on and off campus, such as counseling, health, academic assistance;
- The prevalence of victimization and perpetration of sexual assault, domestic violence, dating violence, and stalking on and off campus during a set time period (for example, the last two years);
- Bystander attitudes and behavior;
- Whether victims/survivors reported to the College/University and/or police, and reasons

why they did or did not report.

Beginning in the spring semester of 2015, the Chancellor or designee will convene a group of scholars and practitioners to review methods of assessing campus climate, specific questions asked in past surveys, relevant data on responses and response rates, issues and problems encountered in survey implementation, and lessons learned from past surveys. The Chancellor or designee will gather this data and seek to develop a standardized survey, with the advice of relevant members of the SUNY community and knowledgeable outside entities, that uses established measurement tools, to be implemented every two years by all SUNY State-operated and community colleges beginning in the 2015-2016 academic year.

This section of the policy may be changed by the DCC Board of Trustees in the event that either the SUNY Chancellor or designee or federal and/or State legislation require a different process or duplicate efforts to assess campus climate via survey.

XIII. Prohibition On Retaliation

DCC strictly prohibits retaliation against individuals who report Title IX violations or participate in an investigation. Retaliation complaints will be investigated separately and may result in disciplinary action.

XIV. Recordkeeping

DCC will maintain records generated under this Policy for at least seven years, including records concerning:

- Investigations and outcomes.
- Supportive measures provided.
- Training materials.
- Written determinations and appeals.