
Discrimination and Harassment Policy

Policy Statement:

Bergen Community College (Bergen, the College) is dedicated to maintaining an academic and workplace environment that is free from discrimination and harassment. Discrimination and harassment can cause profound, long-lasting damage, including severe psychological distress, physical health issues, and reduced academic and work performance. The College adheres to all federal and state civil rights laws banning all forms of discrimination and harassment.

Reason for Policy:

To address the following forms of discrimination and harassment and the College's position:

- **Non-Title IX sexual discrimination and harassment** - Conduct which is sex-based that is not covered under Title IX and its definition of sexual discrimination and harassment and the College's Title IX policy.
- **Protected class discrimination and harassment** – Treatment of individuals based on membership in a protected class or association/affiliation with someone in a protected class.
- **General discrimination and harassment** – Persistent unfair treatment that is not sex-based nor based on a protected class which may still violate college policies and/or create a hostile environment even though such conduct is not protected by Civil Rights laws and not actionable in federal court.

Who Should Read This Policy:

All students, faculty, staff, and visitors

Definitions:

Non-Title IX Sexual Discrimination/Harassment

Any unwelcome sexual advances, requests for sexual favors, or other unwelcome written, verbal, or physical conduct of a sexual nature when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive environment for that individual's employment, education, or participation in a college activity; or
- Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting the individual's academic standing, employment status, or participation in a college activity; or
- Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a college activity.

Title IX Sexual Discrimination/Harassment

A form of discrimination or harassment based on sex, including sex stereotypes, sex characteristics, and pregnancy or related conditions. Title IX prohibits sex-based discrimination and harassment in education programs receiving federal funds, covering unwelcome conduct which denies equal educational and employment access. Discrimination or

harassment based on sex is conduct that is sexual in nature, or that is directed to the victim because of his/her actual or perceived sex, which includes one or more of the following:

- **Quid Pro Quo** - an employee, agent, or other person authorized by an institution, to provide an aid, benefit, or service under the institution's educational and employment programs and activities, explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct. Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting the individual's academic standing, employment status, or participation in a college activity, or submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a college activity.
- **Hostile Environment** – any unwelcome sex-based conduct, that a reasonable person based on the totality of the circumstances, would find so severe, pervasive, and objectively offensive, that it effectively limits or denies a person's equal access and ability to participate in or benefit from an institution's education or employment programs or activities. Severe, pervasive, and objectively offensive are defined as follows:
 - **Severe** – the intensity or seriousness of the conduct. A single, very serious act can be severe, but it can also refer to a pattern of behavior that is consistently upsetting or intimidating
 - **Pervasive** – conduct that is widespread, frequent, or repeated, and is not just a one-time occurrence, but rather a pattern of behavior that creates an ongoing hostile environment
 - **Objectively Offensive** – conduct that is so offensive that a reasonable person would find it to be harmful or intimidating.
- **Sexual Violence** - includes domestic violence, dating violence, stalking, and sexual assault.

Protected Class Discrimination

An action, decision, or treatment of a person or group of people differently which adversely affects employment or educational opportunities on the basis of membership in one or more protected classes or because of actual affiliation/association with other individuals in a protected class. Evidence of conscious, malicious intention is not always required to rise to the level of discrimination. While intentional discrimination (disparate treatment) is illegal under Civil Rights laws, discrimination can also be established through evidence of disparate impact, where facially neutral employment policies disproportionately affect a protected group.

- **Intentional Discrimination (Disparate Treatment):** Actions or treatment of an individual or group because of their protected class/characteristic.
- **Disparate Impact (Unintentional Discrimination):** A policy or practice that appears neutral on its face but disproportionately excludes or harms a protected group which can be unlawful, even if there was no bad faith, ill will, or any evil motive.

Protected Class Harassment

Unwelcome conduct—verbal, physical, or visual—that creates a hostile, intimidating, or abusive environment based on membership in one or more protected classes. It is rooted in factors protected by law and includes offensive jokes, racial slurs, derogatory comments, intimidating acts, or damage to personal property. To be unlawful under Civil Rights laws, the conduct must be sufficiently severe or pervasive enough to alter an individual's employment conditions or educational opportunities, and create an environment a reasonable person would consider hostile or abusive. Harassment is a form of Discrimination.

Protected Class

Groups of individuals legally shielded from various forms of discrimination and harassment under federal, state, and local laws.

General Discrimination and Harassment

Conduct which often manifests itself as bullying, arbitrary favoritism, or personal vendettas.

Complainant

An individual who is alleged to have been impacted by conduct that could constitute discrimination and harassment. This includes students, employees or other individuals who were participating in the College's programs, services, or activities at the time of the alleged incident.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute discrimination or harassment. The individual is a Respondent when a formal complaint is filed against him/her by the Complainant of alleged prohibited conduct.

Formal Complaint

A document filed by a Complainant alleging discrimination or harassment against a Respondent and requesting that the College investigate the allegation of discrimination and harassment. The following applies:

- At the time of filing a formal complaint, the Complainant must be participating in or attempting to participate in the educational or employment programs, services, or activities of the College with which the formal complaint is filed.
- The phrase "document filed by a Complainant" means a document or electronic submission (such as by email or through an online portal provided by the College) that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the formal complaint.

The Policy:

Discrimination and harassment compromises the integrity of the College, its traditions of intellectual freedom, the trust and respect expected in the College community, and the rights of individuals. The College recognizes the human dignity of each member of the College community and believes that each member has an obligation to promote respect and dignity for others. Accordingly, Bergen is committed to cultivating and maintaining a working and learning environment that is free from discrimination and harassment, and retaliation based upon the exercise of rights protected by federal and state Civil Rights laws and pursuant to this policy.

Bergen does not condone and has zero tolerance for discriminatory or harassing behavior or retaliation and complies with all federal and state Civil Rights laws which prohibit discrimination and harassment. This policy specifically applies to discrimination or harassment conduct committed by the College's students, faculty, and staff as well as all visitors and third parties including independent contractors, vendors, or others with whom the College does business. This policy applies whether conduct occurs on campus, at off campus programs and events sponsored by the College, or off campus at locations or activities not associated with the College if the continuing effects of the conduct have the potential to unreasonably interfere with or limit an individual's work, academic performance, personal security, or participation in any Bergen programs, services, or activities. Any member of the College community whose discriminatory or harassing acts deny, deprive, or unreasonably interfere with and/or limit access to Bergen's education, employment, or benefit opportunities of any other member of the College community, guest, or visitor is in violation of this policy.

This policy addresses non-Title IX sexual discrimination and harassment, protected class discrimination and harassment, and general discrimination and harassment as mentioned and defined earlier. This policy does not address the following conduct or behavior:

- Sexual discrimination and harassment covered under Title IX of the Education Amendments of 1972 and addressed in Bergen's Title IX Policy Covering Sexual Discrimination, Harassment, and Misconduct (Title IX Policy).
- Conduct that is legally protected as an expression of free speech or the proper exercise of academic freedom under an individual's First Amendment rights, as well as the rights of individuals protected under the Fifth and Fourteenth Amendments of the U.S. Constitution which address due process, equal protection, and protections against government overreach in legal proceedings.
- Matters, incidents, or allegations that are not based on or related to protected class characteristics involving interpersonal conflicts, political differences, professionalism concerns, reports of profanity or name calling, alleged unfair treatment on the basis of union membership, or issues of nepotism which may be addressed for further

action pursuant to other applicable Bergen policies such as the Student Code of Conduct, Employee Code of Conduct, and the Nepotism and Personal Relationships Policy.

The College will enforce this policy and expects all students, employees and visitors to be diligent in preventing, detecting, and reporting any incidents of discrimination or harassment. Bergen expects all members of the College community to avoid any acts or statements that may constitute discriminatory or harassing behavior and to ensure that their conduct complies with this policy. The College will take appropriate action when an investigation confirms that an individual has engaged in any prohibited discriminatory or harassing conduct.

Non-Title IX Sexual Discrimination/Harassment

Sexual discrimination and harassment behavior that falls outside of the strict Title IX legal requirements include the following:

- **Low-Level/Threshold Misconduct** – incidents that do not meet the Title IX “severe or pervasive” standard. Such misconduct may be offensive but is not so severe, pervasive, and objectively offensive that it limits an individual’s access or ability to participate in the College’s educational or employment programs, services, or activities.
- **Off-Campus and Non-Program Misconduct** – incidents that occur entirely outside the College’s educational or employment programs, services, or activities such as in private social gatherings (i.e., the College has no control).
- **Study Abroad/Outside the US** – incidents that occur during study abroad programs not sponsored or affiliated with Bergen and/or outside the United States such as when an individual is on vacation (i.e., the College has no control).

When such incidents fall outside the specific definitions, guidelines, and requirements of Title IX and within the College’s control, Bergen will address them under this policy and the Student and Employee Codes of Conduct. When conduct occurs in settings that are out of Bergen’s control, but which impact an individual’s experience and access to Bergen’s programs, services, or activities, then the requirements of this policy applies, or Bergen’s Title IX policy applies if such conduct meets Title IX definitions and requirements.

Conduct that may not meet the severe, pervasive, and objectively offensive threshold often include isolated petty comments or mildly inappropriate behavior.

Protected Class Discrimination/Harassment

Bergen adheres to all federal and New Jersey state civil rights laws prohibiting discrimination against protected classes. Bergen is focused on providing an academic and employment environment built on respect, diversity, and inclusion. As such the College prohibits any form of discrimination or harassment directed at individuals based on protected class status. Please note that discrimination and/or harassment based on an individual’s sex or sexual orientation as a protected class that meets the strict definitions of Title IX are addressed in Bergen’s Title IX Policy, whereas such misconduct that does not meet Title IX guidelines and requirements are addressed in this policy.

General discrimination and harassment

While such behavior is not based on sex or protected classes, it violates Bergen’s conduct policies if it is severe and persistent and if it interferes with a student’s or employee’s access to the College’s academic and employment programs, services, and activities.

Examples of general discrimination and harassment directed at students include but not limited to the following:

- **Persistent Social Aggression:** Spreading cruel rumors, encouraging classmates to ostracize a specific student, or posting humiliating content online to damage reputation.
- **Intimidation and Threats:** Verbal or physical threats of harm, intimidation, and non-sexual, non-protected class-based physical harassment, such as bullying over clothing style or social status.

- **Verbal Abuse:** Frequent name-calling, derogatory jokes, or mockery targeting a student's intelligence, voice, or appearance.
- **Intentional Isolation:** Creating a hostile environment by persistently excluding a student from group activities, collaborative learning, or team projects.
- **Cyberbullying:** Targeting a student via social media, text, or email with malicious messages or images, which can be done without targeting an individual's sex or protected class.
- **Stalking:** Behavior that is not sex-based that often stems from anger, jealousy, control, or obsession which may target an ex-partner, classmate, or acquaintance.

Examples of general discrimination and harassment directed at employees include but not limited to the Following:

- **Targeted Bullying:** Repeatedly mocking a specific employee's mannerisms, speech, or intelligence, rather than protected traits or a person's actual or perceived sex.
- **Workplace Sabotage:** Deliberately withholding necessary information, documents, or tools needed for an employee to perform their job duties.
- **Unfair Discipline:** Issuing baseless warnings or disciplinary actions that are not applied equally to others.
- **Social/Professional Exclusion:** Consistently excluding an employee from important team meetings, projects, or professional development opportunities.
- **Workload Manipulation:** Unfairly shifting important tasks to less important ones or increasing workload disproportionately without cause.
- **Public Humiliation:** Embarrassing an employee in front of colleagues or subordinates.
- **Arbitrary Privileges:** Withholding or restricting neutral, non-contractual privileges
- **Arbitrary Firing:** Discharging an employee simply because a performance manager dislikes them, rather than for legitimate performance issues.
- **Favoritism:** Giving promotions or prime assignments based purely on personal friendship or personal bias, not related to protected characteristics or a person's actual or perceived sex.

Reporting Discrimination and Harassment

Any member of the College community alleging discrimination and harassment is encouraged to report the misconduct incident immediately. Students should report the conduct to the Assistant Vice President of Student Affairs or their designee while employees or visitors should report the conduct to the Director of Human Resources or their designee. Faculty who receive reports of discrimination or harassment of students are required to refer them immediately to the Assistant Vice President of Student Affairs. If Managers or Supervisors receive reports of discrimination or harassment of employees, they are required to refer them immediately to the Director of Human Resources. Reported incidents determined to be covered under Title IX will be directed to Bergen's Title IX Coordinator. An individual does not have to be the direct target of the discrimination or harassment to report it.

Resolution Process

Bergen is committed to responding to reports and/or formal complaints of discrimination and harassment promptly and fairly. Bergen's Internal Complaint Process and Procedures and/or the Student and Employee Codes of Conduct establish guidelines when a report is initiated, or a formal complaint is filed of discrimination or harassment conduct. This includes utilizing an informal or formal resolution process. The informal resolution process is a voluntary non-adversarial process used to resolve a discrimination or harassment incident without a full investigation or formal hearing. It is focused on restorative justice, allowing the parties involved in an incident to reach agreement on an outcome to resolve the matter. The use of informal resolution is not a precondition for initiating the formal resolution process. Formal resolution includes an investigation of the alleged misconduct. Upon completion of the formal resolution process, the College will take appropriate corrective action consistent with the results of an investigation. Disciplinary action, up to and including expulsion or termination may be taken against a student or employee respectively who violates this Policy.

The College will maintain confidentiality as to discrimination and harassment complaints, and the investigation of those complaints, to the extent possible. Only those with a need to know will be informed of the identity of the parties to a complaint. Any Manager, Supervisor or other employee who violates confidentiality as to a complaint of discrimination and/or harassment will be subject to appropriate discipline. All questions or concerns regarding confidentiality should be directed to the Assistant Vice President of Students Affairs or the Director of Human Resources or their designees by students or employees respectively.

Knowingly making a material misstatement of fact may subject the Complainant to discipline. Students or employees who believe they are the subject of a false complaint may meet with the Assistant Vice President of Student Affairs or the Director of Human Resources respectively or their designees to address the allegations. The filing of a complaint that does not result in a finding of prohibited conduct is not alone evidence of the intent to file a false complaint.

Students and employees are encouraged to use the College's complaint process and procedures when they are subject to discrimination or harassment. However, such use is not a prerequisite for filing a complaint with appropriate federal or state agencies (e.g., Equal Employment Opportunity Commission, New Jersey Division of Civil Rights) or for employees under a collective bargaining agreement.

Retaliation

The College prohibits retaliation against individuals who, in good faith, assert their rights to bring a complaint of discrimination or harassment as defined in this Policy, participate in a discrimination or harassment investigation, or protest the alleged discrimination, harassment, or retaliation. Retaliation constitutes an offense separate from the original complaint of discrimination or harassment and will be considered independently from the merits of the underlying complaint. Students who believe they are the subject of retaliation should report the conduct to the Assistant Vice President of Student Affairs or their designee while employees or visitors should report the conduct to the Director of Human Resources or their designee.

Applicable State and Federal Laws, and Regulations

Title VI of the Civil Rights Act of 1964: Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. It ensures that no person is excluded from participation or denied benefits under such programs.

Title VII of the Civil Rights Act of 1964: Prohibits employment discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), and national origin.

Americans with Disabilities Act (ADA) of 1990: Prohibits discrimination against qualified individuals with disabilities in employment, public accommodations, state/local government, and transportation.

Rehabilitation Act of 1973: Prohibits discrimination on the basis of disability in programs conducted by federal agencies, those receiving federal financial assistance, or those under federal contracts. It prohibits discrimination against individuals with disabilities in hiring and promotion decisions and from being excluded or denied benefits; requires accessibility to programs, services, and activities; and requires reasonable accommodations for qualified individuals with disabilities.

Age Discrimination in Employment Act (ADEA) of 1967: Protects employees and job applicants 40 years of age or older from employment discrimination based on age.

Genetic Information Nondiscrimination Act (GINA) of 2008: Prohibits employers from discriminating based on genetic information, including family medical history.

Pregnancy Discrimination Act (PDA) of 1978: Amended Title VII to clarify that sex discrimination includes discrimination on the basis of pregnancy, childbirth, or related medical conditions.

Equal Pay Act (EPA) of 1963: Prohibits wage discrimination based on sex for equal work.

Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994: Protects civilians from discrimination based on military service and ensures reemployment rights.

NJ Law Against Discrimination (LAD): Prohibits discrimination/harassment in employment, housing, and places of public accommodation (e.g., restaurants, schools) based on protected traits.

Family and Medical Leave Act (FMLA) of 1993: Provides eligible employees with up to twelve weeks of unpaid, job-protected leave per year for qualified own health or family reasons, which applies to public agencies, schools, and private employers with 50+ employees.

NJ Family Leave Act (NJFLA): Provides eligible employees with up to 12 weeks of job-protected leave in a 24-month period to bond with a new child or care for a family member with a serious health condition. It does not cover an employee's own disability which is covered under the FMLA or state temporary disability benefits. Historically has applied to employers with 30+ employees but has expanded to employers with 15+ employees as of July 17, 2026.

NJ Conscientious Employee Protection Act (CEPA): Protects employees from retaliation for whistleblowing on illegal or unethical employer actions.

Related Documents/Policies:

Student Code of Conduct

Employee Code of Conduct

Internal Complaint Processes and Procedures

Formal Student Complaints

Title IX Policy Covering Sexual Discrimination, Harassment, and Misconduct

Policy History: (adopted/amended)

Adopted: June 16, 2026

Note: This policy replaces HR 003-002.2018 – Policy Prohibiting Sexual Harassment and HR 004-003.2018 – Policy Prohibiting Discrimination.

Amended:

Reviewed: