

**Bergen Community College
Board of Trustees
Section (Personnel/HR)**

Policy # HR: 004-001: 2018

Effective Date: August 7, 2018

Responsible Official:

Director of Human Resources

Policy Prohibiting Discrimination

Reason for Policy:

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, the College strives to foster an environment that is free from discrimination and harassment on the basis of membership in the above-referenced protected classes. In keeping with its commitment to provide an environment free from discrimination, the College will not tolerate, condone or allow any conduct by instructional, supervisory, managerial or administrative personnel, co-workers, independent contractors, vendors or others with whom the College does business, which illegally discriminates against any employee, or student on the basis of an employee's or student's membership in a protected class.

Discrimination, as prohibited in this Policy, is conduct that is neither legally protected as an expression of free speech, nor the proper exercise of academic freedom. Discrimination 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.

Entities Affected by this Policy: Faculty, staff, students, 3rd parties doing business with the College.

Policy Statement:

Bergen Community College (the "College") is steadfastly committed to cultivating and maintaining a working and learning environment that is free from discrimination and harassment based upon membership in enumerated protected classes and/or characteristics ("protected classes") as well as from retaliation based upon the exercise of rights pursuant to this Policy. The College has a separate document outlining the Internal Complaint Procedures

and Investigation Protocols. This Policy applies to all areas of the College's operations and programs.

In accordance with State and Federal law, the College strictly prohibits discrimination and harassment based on membership in protected classes. These protected classifications include race, religion, color, national origin, ancestry, age, sex, sexual orientation, pregnancy, gender identity or expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Harassment is a form of discrimination and, therefore, harassment directed toward an individual or group, or experienced by an individual or group, based on membership in a protected class, also violates College policy.

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

I. SCOPE OF APPLICATION

This policy shall apply to all areas of the College's operations and programs, including the conduct of all College employees and student employees that arises out of their employment status, as well as the conduct of all interns, volunteers, vendors, contractors, subcontractors, and others who do business with the College.

This policy applies whether conduct occurs on campus or off campus, 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 College activity.

The College's Director of Human Resources or his/her designee shall serve as the College's central intake officer for all matters involving discrimination, harassment, sexual harassment, and sexual misconduct. The College may designate other College offices or employees to perform any roles or duties described in this Policy where necessary to effectuate the intent and purpose of this Policy.

II. DEFINITIONS OF PROHIBITED CONDUCT

The College prohibits the following conduct, as well as attempts to commit and/or aid or incite others to commit these acts. PLEASE NOTE THAT THESE DEFINITIONS ARE BEHAVIORAL DESCRIPTIONS, NOT LEGAL OR CRIMINAL DEFINITIONS.

A. **Discrimination** is an intentional or unintentional act that adversely affects employment or educational opportunities on the basis of membership in one or more

protected classes. The College provides equal employment opportunity to all its employees and applicants for employment irrespective of their race, religion, color, national origin, ancestry, age, sex, sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. The College considers for selection in employment only those characteristics that are demonstrably related to job performance or requirements.

B. Harassment is conduct directed toward an individual or group based on membership in one or more protected classes. Such conduct must be sufficiently severe or pervasive to alter an individual's employment conditions, which, in turn, creates an unreasonably intimidating, offensive, or hostile environment for employment or participation in the College's activities.

An individual does not have to be the direct and immediate target of harassment to complain about it. Harassing behavior toward others may be so offensive, demeaning, or disruptive as to constitute a hostile work or academic environment, even though it is not specifically directed at the observer or the individual lodging the complaint. Conduct alleged to constitute harassment shall be evaluated according to the objective standard of a reasonable person.

Examples of conduct that may constitute or support a finding of harassment in violation of this Policy include, but are not limited to, the following types of behavior.

1. Physical Conduct

- a. Unnecessary or unwanted physical contact
- b. Physical interference with work
- c. Stalking
- d. Deliberate destruction of property

2. Verbal Conduct

- a. Innuendo or other suggestive, offensive or derogatory comments or jokes about a protected class
- b. Extortion, overt threats, or intimidation
- c. Obscene or harassing messages

3. Non-Verbal Conduct

- a. Display of offensive material or objects
- b. Suggestive or insulting gestures or sounds

Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, stalking, relationship violence (including dating and domestic violence, and related misconduct committed are also acts of discrimination on the basis of sex and are governed by the College's

policy prohibiting sexual harassment, sexual violence, relationship violence, stalking, and related misconduct by employees and third-parties.

III. REPORTING DISCRIMINATION AND HARASSMENT

Any member of the College community alleging discrimination and harassment on the basis of membership in any of the protected classes is encouraged to report an offending incident immediately to the Director of Human Resources or his/her designee. If managers and supervisors receive reports of discrimination or harassment, they are required to refer them immediately to the Director of Human Resources. An individual does not have to be the direct target of the discrimination or harassment to report it.

The College is committed to responding to reports and complaints of discrimination and harassment promptly and fairly. Upon completion of the Complaint Process, the College will take appropriate corrective action consistent with the results of the investigation. Disciplinary action, up to and including termination, may be taken against an employee 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 Director of Human Resources or his/her designee.

Knowingly making a material misstatement of fact may subject the complainant to discipline. Anyone who believes that he or she has been the subject of a false complaint may meet with the Director of Human Resources or his or her designee 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.

IV. RETALIATION

The College prohibits retaliation against individuals who, in good faith, assert their rights to bring a complaint of discrimination and 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, and will be considered independently from the merits of the underlying complaint. Individuals who believe they have been subjected to retaliation should report the conduct to the Director of Human Resources or their designee.

Procedures

Related Documents/Policies:

Policy Prohibiting Discrimination: Policy Prohibiting Sexual Harassment
Student Code of Conduct
Employee Code of Conduct
Title IX Policy

Policy History: (adopted/amended)

Section B: BH
Adopted: 12/4/96
Revised: 8/7/18