

Title IX Procedures Covering Sexual Discrimination, Harassment, and Misconduct

Overview:

Bergen Community College (Bergen, the College) will act on any formal notice/complaint of violation of the Title IX Policy Covering Sexual Discrimination, Harassment, and Misconduct (the Policy). The procedures below apply to all allegations of Prohibited Conduct (including sexual assault, dating violence, domestic violence, and stalking) as defined in the Policy involving employees (i.e., faculty and staff), students, and visitors that are engaged in any sexual misconduct behavior, both on campus and at college sponsored and/or sanctioned off-campus activities. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations may proceed using these same grievance procedures, clarifying which Policy provisions are applicable. Therefore, the grievance procedures outlined below apply to all Policy offenses.

The following procedures may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Policy are being addressed at the same time. In such cases, the Title IX Coordinator may consult with College officials who typically oversee such conduct (e.g., Human Resources, Student Conduct, Academic Affairs) to provide input as needed. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the Employee Code of Conduct, Student Code of Conduct, and the Discrimination and Harassment Policy.

Reason for Procedures:

These procedures establish a mechanism for determining when the College's expectations outlined in the Policy have been violated through a well-defined investigation and resolution process and identify a range of sanctions which may be imposed for behavior which violates the Policy.

Who Should Read these Procedures:

Faculty, staff, students, vendors, visitors, and guests.

Process and Procedures:

Required Dismissal of Complaint and Allegations

Following receipt, a Title IX Coordinator must thoroughly investigate the allegations of a formal complaint. The Title IX Coordinator must dismiss a complaint or any allegations under the following circumstances as defined by Title IX regulations:

- The alleged incident(s) did not occur at the College's educational program or activity
- The alleged incident(s) did not occur against a person in the United States

- The Complainant was not participating or attempting to participate in the College's educational or employment programs, services, or activities at the time of the complaint; or
- The conduct alleged in the formal complaint does not constitute sexual harassment or sexual discrimination as defined by Title IX definitions, even if proved.

Such dismissal is only for Title IX purposes and does not preclude the College from addressing conduct that does not comply with the College's code of conduct policies, in any manner the College deems appropriate.

Bergen may, in its discretion, dismiss a formal complaint or allegation(s) therein, if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegation therein
- The Respondent or Complainant is no longer enrolled or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Written notice of a dismissal is promptly provided to all parties. Upon dismissal, the College may institute action under another provision of the Employee Code of Conduct, Student Code of Conduct, or the Discrimination and Harassment Policy. Dismissal of the formal complaint may be appealed per the procedures outlined in the Appeal Process below.

Statement of Rights for Complainants and Respondents

Both Complainants and/or Respondents are afforded the following rights under this policy:

- **Right to fair treatment:** To be treated with respect and dignity by college officials throughout the entire investigation and/or resolution process to accurately resolve the truth of the allegations.
- **Right to a fair, prompt, and impartial investigation:** Schools are obligated to conduct prompt investigations that are thorough and free from bias and prejudice.
- **Right to receive information and ask questions about the process:** The parties must be informed of the Title IX process, their rights, and available resources.
- **Right to participate in the resolution process:** The right to participate in the informal or formal resolution process and have complaints heard in substantial accordance with this policy and procedures in a confidential manner.
- **Right to written notice of allegations:** The parties must receive written notice of the specific allegations, including the alleged conduct, date, and location.
- **Presumption of innocence:** Respondents are presumed not responsible until a determination is made at the conclusion of the resolution/grievance process.
- **Right to have an Advisor of choice:** The parties have the right to an Advisor (who may be an attorney) to assist them throughout the process, including during interviews and hearings. The College can provide an Advisor who is knowledgeable of the resolution process if either or both parties do not have an Advisor.
- **Right to Refuse Informal Resolution:** The parties can refuse to have alleged Title IX violations resolved through an informal resolution process. Complainants cannot be forced into accepting informal resolution and can withdraw from an informal resolution at any time before a final decision is reached and instead request use of a formal resolution process. Informal resolution cannot be offered with respect to allegations that an employee sexually harassed a student.

- **Right to be informed of and use supportive and protective measures:** Both parties have the right to supportive and protective measures, which are non-disciplinary, non-punitive, individualized services offered by the College as appropriate and reasonably available, such as academic or employment accommodations, counseling assistance, and no-contact orders. These measures are designed to minimize disruption and maintain the parties' participation in their educational or employment program or activity.
- **Right to present witnesses and evidence:** The parties have the right to share relevant information and identify individuals who may have relevant information.
- **Right to review the evidence collected during the investigation:** The parties can inspect and respond to all evidence directly related to the allegations.
- **Right to be protected from retaliation:** All parties have the right to be protected from any form of retaliation which the College strictly prohibits. The College and all officials involved in the resolution process are prohibited from retaliating against individuals for reporting alleged Title IX violations, being the alleged Respondent to a Title IX incident, participating in a Title IX investigation, or exercising their rights.
- **Right to be Informed:** The parties have the right to be informed of the progress and status of the incident throughout the entire resolution process.
- **Right to a written determination:** The parties are entitled to receive a detailed written determination explaining the findings and conclusions, including any disciplinary sanctions imposed.
- **Right to appeal:** The parties have the right to appeal the outcome of the investigation, the decision rendered from the resolution process, and/or the sanctions imposed.

Please also refer to the **New Jersey Campus Sexual Assault Victim's Bill of Rights (Appendix B)**

Incident Reporting Options – Informal and Formal

Title IX incident reports are generally categorized as informal and formal. Informal reports involve providing supportive measures or alternative resolutions without a formal investigation and hearing. Formal reports (i.e., formal complaint) also involve providing supportive measures and initiating a formal investigation and resolution process, potentially leading to disciplinary actions.

Informal Reporting Process

The College will respond to all alleged violations of this policy received by the Title IX Coordinator, Deputy Coordinators, Officials with Authority, and/or Mandatory Reporters. The College encourages Complainants or Reporting Parties to report all alleged Title IX incidents. The reporting of a Title IX incident is notification that the College has received a concern about sex-based discrimination or harassment, which triggers the need to provide the Complainant with supportive measures and information about filing a formal complaint and the resolution process. When a Title IX incident is reported the Title IX Coordinator will schedule an initial meeting with the Complainant if known/identified which serves as a first step in addressing the reported incident and outlining available options. The meeting should take place at a safe, private place on campus during normal school hours.

The Complainant is also provided with a Victim's Rights, Options, and Procedures document which covers what is discussed during the meeting and other topics. The Title IX Coordinator may provide this document to the Complainant prior to the initial meeting when there is a delay in conducting the meeting due to scheduling issues or the Complainant's reluctance to meet. The Victim's Rights document includes the following:

- Definitions of the forms of sexual harassment and discrimination
- The rights and options of victims

- The preservation of evidence involving incidents of sexual assault, stalking, dating violence or domestic violence
- How and to whom to report an incident
- Options about the involvement of law enforcement and campus authorities
- Availability of Orders of Protection (i.e., restraining orders, no-contact orders)
- Difference between the reporting of an incident and filing of a formal complaint
- Supportive and protective measures and accommodations
- Procedures for the College's resolution process and disciplinary actions

The Title IX Coordinator may delegate some of the initial outreach and assessment responsibilities to a Deputy Coordinator.

Formal Complaint Process

A formal resolution process commences when a (i) a Complainant submits a formal Complaint and requests to begin the formal resolution process; (ii) the University engages in an assessment of a threat and determined that the Title IX Coordinator should proceed with the formal resolution process; or (iii) the Title IX Coordinator identifies a pattern of alleged Prohibited Conduct involving the same respondent.

The Complainant's wishes with respect to filing a formal complaint is respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the Complainant is required and not unreasonable considering the facts and circumstances. When an incident, for example, can bring further harm to the Complainant and/or compromise the safety and security of other individuals or the College community, the Title IX Coordinator will often file a formal complaint, if the Complainant chooses not to do so. By filing a formal complaint against the alleged Respondent, the Title IX Coordinator is acting on behalf of the College to ensure Title IX compliance. The Complainant is still the individual who is impacted by the prohibited conduct. When a formal complaint is filed by a Complainant or by the Title IX Coordinator, the College is required and will initiate an investigation of the allegations, and if credible, will proceed with a resolution process.

If the allegations in a formal complaint do not meet the definition of sexual harassment or did not occur in Bergen's education program or activity against a person in the United States, the College must dismiss such allegations for purposes of Title IX. However, Bergen may still address the allegations in any manner it deems appropriate under the College's Student or Employee Codes of Conduct.

When a formal complaint of an alleged Title IX incident (i.e., conduct that may constitute a violation of the Policy) is filed against a Respondent, the Title IX Coordinator or designee provides the Complainant and Respondent with a written notice called the Notice of Investigation and Allegations (NOIA). The NOIA informs the parties of reported sex-based misconduct and includes

- A meaningful summary of the allegations and conduct in question
- The identities of the parties involved (if known)
- The date and location of the alleged incident
- The specific policies allegedly violated and a description of the grievance process
- A statement that the Respondent is presumed not responsible for the alleged misconduct and that a determination regarding responsibility will be made at the conclusion of the resolution process
- A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney; and who may inspect and review evidence pertaining to the incident
- A statement informing the parties of the College's Codes of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The NOIA also includes the parties' rights and responsibilities, including:

- The supportive and protective measures and accommodations provided to both parties
- An overview of the informal or formal hearing resolution process and timeline
- An assurance all proceedings will be prompt, fair, and impartial
- A notice that retaliation of any form is prohibited
- Penalties and sanctions for material misstatements of fact
- How each party will be notified of the investigation's results
- The appeal process including grounds for an appeal
- Sanctions imposed if the alleged incident is a violation of the Policy

When the Respondent is an employee of the College, the Respondent's supervisor may be notified of the incident and potentially copied on the NOIA only on a need-to-know basis and only when disclosure is necessary for the College to carry out its Title IX obligations and responsibilities. Examples include instances when the supervisor is the Complainant, when the supervisor is part of the alleged misconduct, when the supervisor is named as a witness, when the supervisor's involvement is crucial to the investigation, or when a supportive measure affecting the employee's work is necessary.

Prompt, Fair, and Impartial Proceedings

To ensure compliance with federal, state, and local sex discrimination laws and regulations, and to affirm Bergen's commitment to promoting the goals of fairness in all aspects of the College's educational program or activity, Bergen has policies and procedures that prohibit discrimination and harassment based on sex, which includes domestic violence, dating violence, sexual assault, and stalking. This includes providing for a prompt, fair, and impartial resolution process for allegations of such incidents. The resolution process includes a determination of the merits of an allegation and whether the incident appears to be a violation of the Policy. When this is the case resolution proceedings either involve an informal resolution or formal/hearing resolution process. The College's resolution process is consistently applied when an incident is reported, is transparent to the parties involved, and adheres to Title IX policies and procedures. Any provisions, rules, practices, or activities other than those required by Title IX that the College uses and/or adopts as part of its resolution process apply equally, consistently, and neutrally to both the Complainant and Respondent. Bergen's resolution process does not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the individual holding such privilege has waived the privilege.

The Title IX Coordinator, Deputy Coordinators, Investigators, and other Title IX Team members must act with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under the College's Title IX Policy and procedures. The members of the Title IX Resolution Process are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally. Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Deputy Coordinator(s), Investigator(s), Decision-maker, and Appeal Decision-Maker may not have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator, Decision-Maker, and Appeal Decision-Maker for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Title IX team member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the College President or President's designee.

Throughout the resolution process, confidentiality will be maintained to the extent possible consistent with applicable laws and the College's policies. The parties involved in a Title IX incident may not share information and work product obtained from the College through the resolution process, without written permission.

Interim Actions/Measures

After a Title IX incident is reported, Bergen may take interim actions/measures necessary to ensure safety and equal access while the Title IX resolution process is conducted. Such actions or measures are an immediate response by the College to stop the misconduct and prevent its recurrence, ensure the safety and well-being of the parties involved and the College community, and restore or preserve equal access to the College's educational and/or employment environment.

Interim measures are often considered to be supportive measures which were discussed earlier. These terms are often used interchangeably. While supportive measures and interim measures are similar in their aim to address the impact of Title IX incidents and ensure a safe environment, they differ in their timing, purpose, and whether they are disciplinary in nature. Supportive measures are about providing ongoing support while interim measures are about immediate protection and thus are protective measures. Supportive measures can be provided at any time even without the filing of a formal complaint, whereas interim measures are typically implemented at the start of or during an investigation to address immediate concerns. Supportive measures focus on supporting the well-being of the parties involved and ensuring their continued access to the College's environment while interim measures prioritize safety and prevention during the investigation and thus are protective measures. Supportive measures are non-disciplinary and non-punitive while interim measures are generally considered protective and not disciplinary but may feel punitive to the Respondent.

The College will take additional prompt interim, remedial and/or disciplinary action with respect to any member of the community, guest, or visitor who has violated the Policy and puts the rest of the College community at risk. Interim actions include but are not limited to no contact orders, No Trespass/Persona Non-Grata notices, providing counseling and/or medical services, academic support, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, and referral to campus and community resources.

Outside of Title IX, the College may suspend, on an interim basis, a student or student organization, or place an employee on administrative leave pending the completion of the investigation and procedures. In cases in which an interim suspension or administrative leave is imposed, the student, employee, or student organization will be given the opportunity to meet with an appropriate administrator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented. Violation of interim provisions will be grounds for disciplinary action.

During an interim suspension or administrative leave, a student or employee may be denied access to the College campus, facilities, or events, either entirely or with specific application. As determined by the appropriate administrative officer, this restriction includes classes and/or all other college activities or privileges for which the individual might otherwise be eligible. At the discretion of the appropriate administrative officer, alternative coursework options may be pursued to ensure as minimal an impact as possible on a Respondent student. At the discretion of the appropriate administrative officer, alternative employment/work options may be pursued to ensure as minimal an impact as possible on a Respondent employee.

Emergency Removal (Interim Suspension or Administrative Leave)

The interim suspension of a student Respondent or the administrative leave of an employee is permitted in limited "emergency" circumstances where there is an immediate threat to physical health or safety. Before the College undertakes this emergency measure, it must

- undertake an individualized safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment;
- make an affirmative determination that such an immediate threat exists based on the College's individualized safety and risk analysis; and

- provide the respondent with notice and an opportunity to challenge the emergency decision immediately following the respondent's removal.

When an emergency removal is imposed, the student or employee will be given notice of the action and the option to request a meeting (i.e., show cause meeting) with the Title IX Coordinator prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the Title IX allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner by the Respondent (usually within 3 days), objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so. This also applies to any restrictions that a coach or athletic administrator may place on a student athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. The Title IX Coordinator has sole discretion under the Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under the Policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible considering the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to the following:

Interim Measures - Students

- Removing a student from a classroom
- Restricting a student's access to or use of facilities or equipment,
- Alternative coursework options which ensure minimal academic impact
- Allowing a student to withdraw or take incomplete grades without financial penalty
- Suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics or activities

Interim Measures – Employees and Student Employees

- Temporarily re-assigning an employee
- Restricting an employee's access to or use of facilities or equipment,
- Authorizing an administrative leave

Other interim actions, remedies, and/or sanctions are addressed in Bergen's Student and Employee Codes of Conduct and policies prohibiting discrimination and harassment.

Advisors

The parties (Complainant and Respondent) involved in an alleged Title IX incident may each have an Advisor (e.g., friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process. The parties may select whomever they wish to serve as their Advisor provided the Advisor is eligible and available. This means that a party cannot insist on an Advisor who simply does not have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being the Title IX Coordinator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness to the alleged incident can anticipate that issues of potential bias will be explored.

The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the parties choose an Advisor from the available Bergen pool, the College will have trained the Advisor in the College's resolution process. Bergen also permits but is not required to allow expert witnesses to participate in the resolution process based on its determination of the facts and circumstances, provided that the determination applies equally to all parties involved in the incident.

As a public institution, Bergen fully respects and accords the *Weingarten* rights¹ of employees, meaning that for Parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses to an incident are permitted to have union representatives or Advisors in resolution process interviews or meetings.

Advisor's Role in the Resolution Process

Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The overall role of an Advisor is to provide support, advice, and guidance. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so and may not disrupt the proceedings. The Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For Advisors who are not familiar with Title IX policies and procedures, the College will inform them of their role which includes what they can and cannot do. Repeated disruptions and/or lack of regard exhibited by an Advisor of the resolution process may be grounds for dismissal of the Advisor.

The College can establish restrictions regarding the extent to which an Advisor may participate in the resolution procedures provided the restrictions apply equally to the parties. During a formal resolution process, the Advisor's role is typically expanded to include active participation in all interviews, investigation meetings, and the live hearing. Advisors may ask procedural questions of the assigned investigator or other Title IX team members assigned to the case and can inspect and review all evidence collected as part of the investigation. However, Advisors should not speak or act on behalf of their advisees during interviews, contact witnesses, or disrupt the investigation process. During the live hearing each party's Advisor may be allowed to ask questions or cross-examine any party or witness, subject to the relevancy and permissibility of such questions as determined by the Title IX Decision-Maker. Advisors are the only individuals permitted to conduct cross-examination at the live hearing. Such questioning must never be conducted by a party to the incident personally.

If the College permits Advisor-conducted questioning and a party does not have an Advisor to ask questions on their behalf, the College will provide the party with an Advisor of the College's choice, without charge to the party, for the purpose of Advisor-conducted questioning. In those instances, the College will not appoint a confidential employee and may appoint but is not required to appoint an attorney to serve as an Advisor.

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes the evidence. Advisors are expected to maintain the confidentiality of the records Bergen shares with them. Advisors are asked to sign Non-Disclosure Agreements (NDAs). Bergen may decline to share materials with any Advisor who has not executed the NDA. Bergen may restrict the role of any Advisor

¹ *Weingarten* refers to the right of workers to union representation when a supervisor or boss asks for information that could be used as the basis for discipline in *National Labor Relations Board v. J. Weingarten, Inc.*, 420 U.S. 251 (1975).

who does not respect the sensitive nature of the process or who fails to abide by the College's confidentiality expectations. The College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting, interview, or hearing by telephone, video conferencing, or other similar technology.

The Complainant and Respondent that are involved in a Title IX informal resolution process can also have an Advisor present. However, unlike in a formal resolution process, the Advisor's role in an informal resolution process may encompass providing support and guidance, and they are generally not allowed to actively participate in the process by questioning the other parties or witnesses or directly presenting evidence. Advisors are primarily there to offer support and guidance to the Complainant or Respondent throughout the informal resolution process. During informal resolution, the Advisor's primary function is to help their advisee understand their rights, options, and potential outcomes of the process. This includes helping their advisee to understand Bergen's policies and procedures and assisting in the review of proposed terms and outcomes of an informal resolution agreement to ensure their advisee makes an informed decision. The Complainant and Respondent are responsible for presenting their own information and arguments.

In instances where a union representative is requested by an employee involved in a Title IX incident, the representative is required to sign an NDA. The role of the union representative during a formal or informal resolution is limited to observing the process and intervening if the employee's rights are being violated. The union representative may not question or cross-examine any party or witness except when the union representative is also serving as the employee's advisor in a formal resolution process under this policy.

Any Advisor or union representative who oversteps their role as defined by the College, who shares information or evidence in a manner inconsistent with the College's policies, or who refuses to comply with the College's established rules of decorum will be warned. If the Advisor or union representative continues to disrupt or otherwise fails to respect the limits of their role, the meeting, interview, or hearing may be ended, or other appropriate measures implemented, which includes requiring the party to use a different Advisor or union representative or by providing a different Bergen-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's or union representative's non-compliance and future role.

Resolution (Grievance) Process

When a Title IX formal complaint has been filed, the Title IX Coordinator or Deputy Coordinator will usually, within five business days, make an initial determination of whether the information reasonably indicates that an alleged violation of the College's Title IX policy may have occurred. If a violation appears to have occurred a resolution process consisting of informal resolution or formal/hearing resolution is Bergen's chosen approach to addressing incidents of discrimination and harassment based on sex as well as retaliation.

There are many factors that the Title IX Coordinator considers when determining if an informal resolution or formal resolution is required, as well as the type of informal resolution used or the way the formal resolution is conducted. Factors that the Title IX Coordinator will consider when deciding on what type of resolution process to use, includes but is not limited to, the seriousness of the incident, the amount of evidence presented, and the degree of confidentiality sought. The process also considers the parties' preferences but is ultimately determined at the Title IX Coordinator's discretion. Resolution proceedings are confidential. All individuals present at any time during the resolution process are expected to maintain the confidentiality of the proceedings in accordance with Bergen Policy.

Informal Resolution Process

Informal resolution is an alternative to the formal resolution process in which the parties attempt to resolve a grievance without a formal investigation and hearing. The focus is on finding a mutually agreeable solution through methods such as mediation or restorative practices. The Title IX Coordinator may recommend that the incident be resolved using an informal resolution process. Whether informal resolution is appropriate is based on the willingness of the parties and the nature of the alleged conduct.

Informal resolution is a choice and not a requirement in resolving an alleged Title IX incident, and the parties involved in the incident must voluntarily agree to participate. The College will not require the parties to participate in an informal resolution process. The parties involved in a Title IX incident must agree to using an informal resolution process. If agreement cannot be reached by either or both parties, then the formal resolution process will be utilized.

An informal resolution process may only take place when a formal complaint has been filed with an appropriate member of the College. The Title IX Coordinator oversees the informal resolution process and ensures it is conducted fairly, equitably, and ethically. Informal resolution focuses on stopping discriminatory, harassing, or other behavior without a formal investigation and hearing process. However, if subsequent facts of an incident to be resolved using an informal resolution process are presented that yield concerning issues, then an investigation may be performed to gain greater details and understanding of the incident. This may result in the utilization of a formal resolution process instead.

To initiate informal resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the parties, in writing. Bergen will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in informal resolution. Bergen may also offer informal resolution upon receipt of a sex discrimination complaint or when it has information about conduct that reasonably may constitute sex discrimination, regardless of whether a complaint is initiated or not. Bergen offers four categories of Informal Resolution:

- **Supportive Resolution** - When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- **Educational Conversation** - When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- **Accepted Responsibility** - When the Respondent is willing to accept responsibility for violating Title IX Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and the College are agreeable to the resolution terms.
- **Alternative Resolution** - When the Parties agree to resolve the matter through an alternative resolution mechanism which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.

Sanctions are generally not pursued as the result of an informal resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached. The parties can withdraw from an informal resolution and request formal resolution if they are not satisfied with the progress or direction of the informal resolution. The College also reserves the right to cancel an informal resolution if sufficient evidence suggests a formal investigation including sanctions or remedies may be necessary and appropriate. Informal resolution is not appropriate for certain Title IX complaints such as sexual assault incidents or criminal offenses. The College will not offer or facilitate an informal resolution process that involves allegations of an employee sexually harassing a student. It is not necessary to pursue an informal resolution first to make a formal complaint. An informal resolution process can be stopped at any time prior to reaching an agreement and a formal resolution requested.

Except in cases involving criminal activity and/or sexual assault, a Complainant alleging discrimination, harassment and/or retaliation against a Respondent under the Policy may consider an informal resolution. If it is appropriate, an attempt to facilitate an informal resolution of the matter will be made. If an informal resolution

is not reached, is not appropriate, or is not pursued, the student or employee who is alleging the sexual discrimination, harassment, or retaliation may request a formal investigation.

Upon implementation of an informal resolution process, the College will provide all parties with a written notice disclosing the allegations. The notice also discloses the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint that arises from the same allegations provided. However, at any time prior to agreeing to the informal resolution process, any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint. This includes any consequences resulting from participating in the informal resolution process, including the records that will be maintained or that may be shared.

The College will obtain the parties' voluntary, written consent to the informal resolution process prior to its implementation. Any resolution reached through informal means is documented in a written agreement, which may include specific actions or remedies. An informal resolution process is conducted in an expeditious and prompt manner (i.e., usually within a 60–90-day period or earlier) from the date that a formal complaint is received. However, the process may allow for temporary delay, as appropriate, for good cause, with written notice to the Complainant and the Respondent of the delay or extension and the reasons for such actions.

Failure to abide by the informal resolution agreement may result in appropriate responsive/disciplinary actions. This may include dissolution of the agreement and resumption of the resolution process, referral to the conduct process for failure to comply, or application of the enforcement terms of the agreement.

Formal (Hearing) Resolution Process

When a formal complaint of an alleged Title IX incident may have violated this policy, and an informal resolution process is either not agreed to by the parties and/or is deemed to be inappropriate by the Title IX Coordinator, then a formal resolution process is used. Supportive and protective measures are provided to both the Complainant and Respondent during the entire resolution process.

The formal resolution process always includes an investigation which is a crucial step to gather evidence and determine if the alleged prohibited conduct under Title IX occurred. Investigations provide a foundation of facts to support subsequent proceedings and hearings. A thorough investigation ensures that all parties involved have a chance to present their case and that the facts are accurately assessed. During the investigation, the College may decide to investigate allegations about the Complainant or Respondent that were not included in the initial written NOIA. If this occurs, the College will provide notice of the additional allegations to the parties whose identities are known.

The formal resolution process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, inculpatory and exculpatory. Bergen presumes that the Respondent is not responsible for the reported misconduct unless and until the evidence supports a determination of responsibility at the conclusion of the resolution process. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes the evidence. The Complainant and Respondent are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and/or a written report summarizing the evidence. The College's formal resolution process provides for a live hearing(s) as required by Title IX. An individual or panel (i.e., Decision-Maker) is responsible for determining whether a violation of Title IX policy occurred based on the evidence presented. As stated below, the College uses a preponderance of the evidence standard when determining whether a Title IX violation occurred.

At the conclusion of the resolution process the Decision-Maker simultaneously provides the parties involved in the incident with a written determination along with information about how to file an appeal. The written

determination outlines the findings of fact, conclusions reached about whether the alleged conduct occurred, rationale for the result of each allegation, any sanctions imposed on the Respondent, and whether any remedies will be provided to the Complainant. The Title IX Coordinator does not serve as the Decision-Maker for any Title IX cases and Investigators cannot perform as the Decision-Maker for any Title IX cases they investigated as required by Title IX regulations. This is meant to ensure impartiality and prevent conflicts of interest.

The Title IX Coordinator will send the parties a notice of the initial hearing with sufficient time for the parties to prepare for the hearing, typically at least ten business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The initial hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the parties and witnesses participating in the hearing, the identity of the Decision-Maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

The Title IX Coordinator will also send the parties notices of all subsequent meetings with sufficient time to prepare for such meetings or request another meeting date based on a scheduling conflict or issue.

Standard of Evidence

Bergen uses the preponderance of the evidence standard of proof when determining whether an incident and policy violation occurred. This means that the College will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Title IX Policy violation(s). This standard of evidence is used for all formal complaints of sexual discrimination and harassment.

Investigation

The Title IX Coordinator will assign an investigator to the alleged incident, usually within five business days of determining that a Title IX formal complaint should proceed. All investigations are thorough, reliable, impartial, prompt, and fair. The preservation of evidence that is related to the incident and allegations is important, extremely time sensitive, and critical to proving that an alleged criminal offense occurred, to pursuing potential criminal prosecution, and to obtaining restraining/protective orders. The burden of gathering evidence and burden of proof resides with and is the responsibility of the College and not on the parties involved in an incident. During the investigation, the parties have equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence and are not restricted from discussing the allegations or gathering evidence.

After all investigative interviews, meetings, or hearings are conducted, the parties and witnesses are provided with written notice and asked to verify the accuracy of the recording, transcript, or summary of their interviews, meetings or hearings that took place during the investigative process. They may submit changes, edits, or clarifications. If the parties or witnesses do not respond within the time designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted. The Investigator will provide the Complainant, Respondent, and their respective Advisors with the evidence directly related to the allegations that has been gathered in electronic or hard copy format. The parties have at least ten days to inspect, review, and submit a written response to all evidence gathered which pertains to the allegation(s). After reviewing the written responses, the Investigator will prepare and submit an Investigative Report in electronic or hard copy format that

summarizes the relevant evidence to the Complainant, Respondent, and their respective Advisors, who again have at least ten days to submit another written response pertaining to the Investigative Report.

The College may consolidate complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions. The privacy of a party's medical, psychological, and similar treatment records is protected as the College cannot access and does not use such records during the investigation or resolution process unless the College obtains the party's voluntary written consent to do so.

Conflicts of interest (real or perceived) by the investigator are not allowed. The College aims to complete the investigation, barring unforeseen or pressing circumstances within 60-90 days, which can be extended as necessary for good cause as determined by the Title IX Coordinator with notice to the parties. The investigation may take longer when initial complaints fail to provide direct first-hand information. The College may undertake a short delay (usually 1-2 weeks, to allow for a forensic collection of evidence by law enforcement) when criminal charges are being investigated. The parties will be informed, at regular intervals, of the status of the investigation. College action will continue regardless of the status of civil or criminal charges involving the same incident. A Complainant may proceed with pursuing both a criminal charge and a request for the College's resolution process simultaneously. The College will establish reasonably prompt time frames for completion of the grievance process at all stages.

Live Hearing

Live hearings are a required part of the formal resolution process. At the live hearing, each party's Advisor is permitted to cross-examine and ask the other party and any witnesses all relevant questions and follow-up questions including those which challenge the credibility of the witnesses, evidence presented, or the other parties involved in the incident. Such questions and cross-examination must be conducted directly, orally, and in real-time by each party's Advisor and not by the parties themselves that are involved in the incident. Any questions that the Complainant or Respondent have of each other or of witnesses must be asked through their Advisors. Only relevant cross-examination and other questions may be asked of a party or witness. Therefore, before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant or not, which includes explaining any decision reached to exclude a question as not relevant.

If either party (Complainant or Respondent) does not have an Advisor present at the hearing and wishes to conduct cross-examination, the College will provide, as required by Title IX regulation, without fee or charge to the party, an Advisor of the College's choice. The Advisor chosen by the College may be, but is not required to be an attorney, to conduct cross-examination on behalf of the party.

Any party or witness may choose not to offer evidence and/or submit to cross-examination at the live hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-Maker can only rely on the available relevant evidence in making a determination. The Decision-Maker may not draw any inference solely from a party's or witness's absence from the live hearing or refusal to answer any or all questions during cross-examination.

The live hearing(s) is conducted with all parties physically present in the same location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing(s) virtually. At the request of either party, the College may provide for the entire live hearing (including cross examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other. An audio or audiovisual recording or transcript is created of all live hearings, which is made available to the parties to review upon request.

The College takes into consideration and provides rape shield protections for Complainants. There are two exceptions where evidence of prior sexual behavior may be deemed relevant. They are:

- **To prove that someone other than the Respondent committed the alleged misconduct** – if the Respondent alleges that someone else is responsible for the alleged incident.
- **To prove consent in specific instances with the Respondent** – if the evidence concerns specific past sexual behavior with the Respondent and is offered to show consent in the current incident.

Resolution Timeline

Bergen will make a good faith effort to complete the resolution process within sixty to ninety (60-90) days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The parties will receive regular updates on the progress of the resolution process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors. If a party or witness chooses not to participate in the resolution process or becomes unresponsive, Bergen reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive parties retain the rights outlined in the Title IX Policy and have the opportunity to participate in the resolution process.

Bergen may undertake a short delay in its investigation (several days to a few weeks) if good cause exists. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions. Reasonable extension of timeframes on a case-by-case basis for good cause may occur with written notice to the parties including the reason for the delay. The College will promptly resume its resolution process as soon as feasible. During such a delay, the College will implement and maintain supportive measures for the parties as deemed appropriate.

Bergen action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. Bergen will make a good faith effort to complete the resolution process as promptly as circumstances permit and will regularly communicate with the parties to update them on the progress and timing of the process.

Notification of Proceeding Results

Within ten (10) business days of the conclusion of the resolution process, the parties are provided with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale supporting the findings to the extent the College is permitted to share under federal or state law. The notification will also detail the parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, any changes to the results, and when the determination is considered final if no party appeals. All determinations of responsibility are made at the conclusion of the resolution process. The parties involved in the incident are given an opportunity to inspect and review all relevant evidence.

The parties are provided with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the parties' local or permanent address as indicated in official Bergen records, or emailed to the parties' Bergen-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered. The College maintains the confidentiality of all aspects of an alleged incident, including the results of the disciplinary resolution proceedings. However, upon request, the College will disclose the results of such proceedings against the Respondent to the Complainant's next of kin, if the Complainant is deceased, provided such disclosure is allowed and does not conflict with federal or state laws and regulations.

Student and Employee Actions While Charges are Pending

Student Withdrawal or Refusal to Participate in the Investigation and Resolution Process

Depending on the facts and circumstances, if a Respondent student withdraws from the College, the Title IX Coordinator has two options. The Title IX Coordinator may dismiss the Title IX complaint or any allegations at any time during the investigation or resolution process, or the Title IX Coordinator may choose to complete the investigation and resolution process to reach a conclusion on the alleged misconduct despite the withdrawal. The Respondent will have full rights to participate, despite no longer being a student. If the investigation and resolution process are completed and the student is found to have committed a Title IX violation, the student will not be permitted to return to the College unless all sanctions have been satisfied.

If an actively enrolled Respondent student refuses to participate in the investigation and/or resolution hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution. This may include sanctions that are imposed if the student is found to have committed a Title IX violation. Under either scenario, the Title IX Coordinator will continue to act promptly to effectively remedy the effects of the conduct upon the Complainant and the College community.

Employee Resignation or Refusal to Participate in the Investigation and Resolution Process

Depending on the facts and circumstances, if a Respondent employee resigns from the College, the Title IX Coordinator has two options. The Title IX Coordinator may dismiss the Title IX complaint or any allegations at any time during the investigation or resolution process, or the Title IX Coordinator may choose to complete the investigation and resolution process to reach a conclusion on the alleged misconduct despite the resignation. Generally, the College's ability to impose sanctions or remedies on a former employee-Respondent who has violated policy may be limited. While resigning during a disciplinary process may seem like a way to avoid consequences, it does not automatically mean that the College will drop the matter or that there will be no repercussions. The Respondent will have full rights to participate, despite no longer being employed by the College. The College's response will depend on the specifics of the situation, including the severity of the alleged misconduct and its policies and procedures. The records of the Title IX Coordinator will reflect the former employee's status and actions, as will the College's response to any future inquiries regarding employment references for that individual or future employment of the individual by the College, to the extent permitted or required by law.

If an actively employed Respondent refuses to participate in the investigation and/or resolution hearing, the process will nonetheless proceed in the employee's absence to a reasonable resolution. This may include sanctions that are imposed if the employee is found to have committed a Title IX violation. Under either scenario, the Title IX Coordinator will continue to promptly and effectively remedy the effects of the conduct upon the Complainant and the College community.

Appeal Process

The Complainant or Respondent may appeal the results of a resolution proceeding regarding responsibility or from the College's dismissal of a formal complaint or any allegations. In such instances the Title IX Coordinator will designate an Appeal Decision-Maker, which is either a three-member panel, or an individual chosen from the Title IX Committee Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-Maker(s) will have previously been involved in the resolution process for the complaint, including in any supportive measure, challenge, or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Title IX Coordinator.

The parties to the incident may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome or Dismissal. The Title IX Coordinator will provide additional details of the appeal process and proceedings.

Appeals are limited to the following grounds:

1. **Procedural Irregularity** - A procedural irregularity that affected the outcome of the matter.
2. **New Evidence** - Newly discovered evidence that would change the outcome of the matter and that was not reasonably available at the time the determination regarding responsibility was made.
3. **Bias or Conflict of Interest** - The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or for the specific Complainant or Respondent that affected the outcome of the matter.
4. **Dismissal**. The complaint was dismissed erroneously.

Although not a ground for appeal under Title IX requirements, the College may allow an appeal if the sanctions fall outside the range of sanctions designated for the offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only).

The Appeal Decision-Maker reviews the original decision and any responses from the involved parties to determine if the appeal falls into the above four categories. The original finding, dismissal, and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a finding and sanction/responsive action(s) are deemed final. When a party requests an appeal, the other party (parties) will be notified in writing and given an opportunity to respond. The College will give all parties a reasonable equal opportunity to submit a written statement in support of, or challenging, the outcome.

When the Appeal Decision-Maker finds that at least one of the grounds is met, and proceeds with the appeal, additional principles governing the hearing of appeals include the following:

- The original decision will only be changed when there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings of the complaint. Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.
- Sanctions will not be imposed pending the outcome of the appeal. Interim, supportive, and/or protective measures may be provided and/or continued as appropriate.
- The Appeals Decision-Maker will render a decision within ten business days to the Title IX Coordinator who will normally provide written notice of the appeal to all parties within three business days from the date of the appeal review.
- All parties will be informed of whether the grounds for an appeal are accepted and the results of the appeal decision. The College will issue a written decision describing the results of the appeal and the rationale for the result. The written decision will be provided simultaneously to the parties.
- Once an appeal is decided, the outcome is final: further appeals are not permitted under this policy unless the Appeal Decision-Maker specifies otherwise in writing.

Like the formal hearing resolution process, the Appeals process is completed expeditiously in a fair, prompt, and equitable manner.

Sanctions

Respondents are treated fairly and impartially throughout the investigation and resolution process. The College will not impose any disciplinary sanctions on an alleged Respondent without following the resolution process as outlined in this document and as required by Title IX regulations.

Sanctions will be implemented as soon as it is feasible once a determination is final that the Respondent committed a Title IX violation, either upon the outcome of any appeal or the expiration of the window to appeal. Sanctions are not

exclusive of, and may be in addition to other actions taken or sanctions imposed by external authorities. The Decision-Maker determines the sanctions to be imposed on the Respondent who is found to have committed a Title IX violation. Factors that are considered when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previously founded complaints or allegations against the Respondent involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sex discrimination, sex-based harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, sex-based harassment, and/or retaliation
- The need to remedy the effects of the sex discrimination, sex-based harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Decision-maker

Students who are found to have committed a Title IX violation can be subject to a range of sanctions including but not limited to written warning, community service, loss of privileges, counseling, disciplinary probation, withholding of degree, participation in educational training, suspension, expulsion, and/or referral to civil or criminal authorities.

Employees who commit a Title IX violation can be subject to a range of sanctions including but not limited to verbal or written warning, required counseling, training, demotion, reassignment, loss of privileges, participation in educational programs or community service, suspension, termination, and/or referral to civil or criminal authorities.

Any sanctions imposed as a result of the resolution process determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made. If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures for a "show cause" meeting on the justification for doing so must be permitted within two business days of implementation.

Failure to Complete Sanctions

Any Respondent who is found to have committed a Title IX violation is expected to comply with all disciplinary conduct sanctions imposed within the time frame specified in their written notice. Failure to comply with all conduct sanctions by the date(s) specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension, expulsion, or termination from the College. For students, failure to comply with sanctions imposed may also result in registration/academic holds on their accounts, to prevent future registration or other transactions with the College. Holds are removed when students comply with and abide by all sanction requirements.

Remedial Actions

In addition to interim actions, the Title IX Coordinator or Deputy Coordinator may provide remedial actions/remedies intended to address the short or long-term effects of sexual harassment, discrimination, and/or retaliation. That is, remedial actions may be taken at the conclusion of the process in addition to any actions that may have been taken on an interim basis, to redress harm to the Complainant and the College community and to prevent further harassment or violations. Remedial actions may also be used when, in the judgment of the Title IX Coordinator or Deputy Coordinator, the safety or well-being of any member(s) of the College community may be jeopardized by the presence of the Respondent on campus or the ongoing activities of the College.

Remedies are available and provided to a Complainant any time a Respondent is found responsible for committing a Title IX incident of sex discrimination, harassment, or retaliation. They are designed to restore, preserve, and maintain the Complainant's equal access to the College's educational program or activity and address effects of the misconduct. Remedies may represent the same or similar services as supportive measures, however, unlike supportive measures, remedies are not necessarily non-disciplinary or non-punitive to the Respondent and may burden the Respondent.

These remedies may for example include referral to counseling or health services or to the Employee Assistance Program, altering the academic schedule of a Complainant or Respondent student, altering work arrangements of a Respondent or Complainant employee, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, or requiring the Respondent to participate in sexual prevention training programs.

Disability Accommodations in the Resolution Process

Bergen is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to and during the College's resolution process. Students or visitors needing such accommodations or support should contact the Office of Specialized Services, and employees should contact the Human Resources Department of the College. The request will be reviewed in consultation with the person requesting the accommodation and the Title IX Coordinator, with a determination of which accommodations are appropriate and necessary for full participation in the investigation and resolution process.

APPENDIX B BERGEN COMMUNITY COLLEGE NEW JERSEY CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS

A college or university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the college or university community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault, and nonconsensual sexual contact, respect for the individual and human dignity are of paramount importance.

The state of New Jersey and Bergen Community College recognize that the impact of violence can be severe and long lasting. Thus, this Bill of Rights has been established to articulate requirements for policies, procedures, and services designed to ensure that the needs of victims are met and that the colleges and universities in New Jersey create and maintain communities that support human dignity.

Bill of Rights

The following rights shall be accorded to victims of sexual assaults that occur:

- On the campus of any public or independent institution of higher education in the State of New Jersey, and
- Where the victim or alleged perpetrator is a student at that institution; and/or
- When the victim is a student involved in an off-campus sexual assault.

Human Dignity Rights:

- To be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy.
- To be free from any suggestion that victims must report.

- To have any allegations of sexual assault treated seriously; the right to be treated with dignity.
- To be free from any suggestion that victims are responsible for the commission of crimes against them.
- To be free from any pressure from campus personnel to report crimes if the victim does not wish to do so, refrain from reporting crimes to avoid unwanted publicity, and/or report crimes as lesser offenses than the victim perceives them to be

Rights to Resources On – and Off – Campus:

- To be notified of existing campus and community-based medical, counseling, mental health, and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities.
- To have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling.
- To be informed of and assisted in exercising any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy.
- To be informed of and assisted in exercising any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

Campus Judicial Rights:

- To be afforded the same access to legal assistance as the accused.
- To be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed for the accused.
- To be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

Legal Rights:

- To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported.
- To receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities.
- To receive full, prompt, and victim-sensitive cooperation of campus personnel about obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.
- To be free from any suggestion that victims were contributorily negligent or assumed the risk of being assaulted.

Campus Intervention Rights:

- To require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants.
- To be notified of the options for assistance provided in changing academic and living situations if such changes are reasonably available.

Statutory Mandates:

- Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation.
- Each campus shall make every reasonable effort to ensure that every student at such campus receives a copy of this document.
- Nothing in this policy or in any “Campus Assault Victim’s Bill of Rights” developed in accordance with the provisions of this act shall be construed to preclude or in any way restrict any public or independent institution of higher education in the state from reporting any suspected crime or offense to the appropriate law enforcement authorities.

Related Documents/Policies:

Title IX Policy Covering Sexual Discrimination, Harassment, and Misconduct
Student Code of Conduct
Employee Code of Conduct

Policy History for HR 008-005.2026: (adopted/amended)

Section A: AF
Adopted: 10/5/94
Resolution: P14
Updated: 8/7/18, 8/14/20, 3/7/23, 6/16/26
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