

**BOARD OF TRUSTEES**  
**PUBLIC MEETING**

**Public Agenda**

**Virtual WebEx Meeting Event**

**Tuesday, September 1, 2020 – 5:00 p.m.**

- I. Call to Order
- II. Open Public Meetings Act Statement
- III. Roll Call
- IV. Reports:
  - A. Vice Chairman
  - B. Secretary
  - C. Treasurer
  - D. President
  - E. Committees
    - 1. Audit, Finance and Legal Affairs
    - 2. Education and Student Affairs
    - 3. Personnel
    - 4. Site and Facilities
    - 5. Strategic Planning and Issues
  - F. Alumni Trustee
  - G. Chairman
- V. Unfinished Business/Board Members
- VI. New Business/Board Members
- VII. Open to the Public
- VIII. Actions:
  - A. Approval of Board Minutes: Monday, August 10, 2020
  - B. Approval of Executive Session Minutes: Monday, August 10, 2020
  - C. Approval of Consent Agenda: Tuesday, September 1, 2020
- IX. Executive Session, if required  
(New Business/Open to the Public)
- X. Adjournment

## **CONSENT AGENDA**

**Tuesday, September 1, 2020**

**Virtual WebEx Event**

**5:00 p.m.**

Actions to be considered by the Board of Trustees. Additional actions may be added to this list and may be considered by the Board. Any actions herein listed may be removed from the Agenda by the Board prior to passage.

### **APPROVAL OF BOARD MINUTES & EXECUTIVE SESSION MINUTES: Monday, August 10, 2020**

#### **AUDIT AND FINANCE (A/F)**

1. Approval of Legal Vouchers – DeCotiis, FitzPatrick, Cole & Giblin, LLP.
2. To authorize the purchase of student and faculty support resources from Assessment Technologies Institute (ATI) nursing education to increase retention and student outcomes on the National Council Licensure Examination-Registered Nurse (NCLEX-RN).
3. To reject all bids received in response to Public Bid P-2320 for the purchase of a Laparoscopic/Arthroscopic Equipment Cart for the Surgical Technology Department.
4. Authorization to purchase medical simulation Manikins from Laerdal Medical Corporation for use in the Center for Simulation.

#### **EDUCATION AND STUDENT AFFAIRS (E/SA)**

1. To authorize partnering with William Paterson University (lead agency) on a proposal for funding from the Early Education Investment Collaborative and authorize Interim President Anthony Ross, or his designee, to execute required documents.
2. Approval of College Policy: Meningococcal Vaccine Requirement Policy

#### **INSTITUTIONAL (I)**

1. Approval for revision of the Bergen Community College Title IX Policy Covering Discrimination, Harassment, and Sexual Misconduct Policy, and the Title IX Grievance Procedures. Authorization to approve settlement of litigation entitled, Jane Doe v. Bergen Community College et al., Docket No. BER-C-156-20.
- 2.

#### **PERSONNEL (P)**

1. Appointment: Support Staff (This appointment is being made in accordance with the Bergen Community College Support Staff Association (BCCSSA) contract, Article XV, after successful completion of the probationary period.)
2. Reappointment: Project Personnel – Grants
3. Stop Stipend
4. Retirement: Confidential Staff
5. Retirement: Support Staff
6. Amend Retirement: Support Staff
7. Resignation: Grant Funded Staff
8. Resignation – Professional Staff
9. Termination: Grant



**BOARD OF TRUSTEES ACTION A/F1**  
**Approval Date: September 1, 2020**

**Resolution:**

Approval of Legal Vouchers – DeCotiis, FitzPatrick, Cole & Giblin, LLP.

**Submitted By**

Dr. Anthony Ross, Interim President  
Mr. Wilton Thomas-Hooke, Managing Director, Finance

**Action Requested**

Approval for payment of the following legal vouchers:

Invoices June 1, 2020 – June 30, 2020      DeCotiis, FitzPatrick, Cole & Giblin. LLP.      \$ 47,704.32

Legal bills will be available on the College's web site under the Board of Trustees at the following address:

<http://www.bergen.edu/about-us/board-of-trustees/legal-bills>

Charge to:	College Operating Funds
Account Number:	10-01-186100-607566
Amount:	\$ 47,704.32



**BOARD OF TRUSTEES ACTION A/F2**  
**Approval Date: September 1, 2020**

**Resolution**

To authorize the purchase of student and faculty support resources from Assessment Technologies Institute (ATI) nursing education to increase retention and student outcomes on the National Council Licensure Examination-Registered Nurse (NCLEX-RN).

**Submitted By**

Dr. Anthony Ross, Interim President  
Dr. Brock Fisher, Vice President, Academic Affairs  
Mr. Wilton Thomas-Hooke, Managing Director, Finance  
Dr. Susan Barnard, Dean, Health Professions  
Ms. Barbara Golden, Director, Purchasing and Services

**Action Requested**

Authorization to spend an amount not to exceed \$81,191.00 during the fiscal year 2020-2021 for the Assessment Technologies Institute Program (ATI).

**Justification**

The ATI resources include Test-Taking Strategies Seminar, Content Mastery Series Assessments for 9 content areas (Proctored & Practice), Self-Assessment Inventory, Critical Thinking Entrance, & Exit Assessment, Comprehensive Predictor Practice and Proctored Assessments, Nurse Logic, Learning System RN, Pharmacology Made Easy 3.0, Dosage Calculation 2.0, Skills Modules, On-line Review Modules, Physical Review Modules, Guided Individualized Remediation, Pulse, Reporting and faculty support/training for ATI Resource Integration and Implementation. ATI provides standardized testing, additional student resources, some developmental learning (remediation), evaluation support and faculty support.

The Test Taking Strategies Seminar for nursing students focuses on early intervention and is offered for all newly admitted students and at-risk students every semester.

As a result, we expect an increase in student retention and that each nursing student will be better prepared for the National Council Licensure Examination-Registered Nurse (NCLEX-RN) after graduation.

The college has a need to award this procurement as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4. Assessment Technologies Institute has submitted a Political Contribution Disclosure Form and a Stockholder Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 and a Business Entity Disclosure Certification in accordance with N.J.S.A. 19:44A-20.8, certifying that it has not made any reportable contributions to a political candidate committee in the County of Bergen in the prior year, and that the contract will prohibit it from making any reportable contributions through the term of the contract. The Political Contributions Disclosure, the Stockholder Disclosure Certification, and Business Entity Disclosure will be maintained on file at the college.

This procurement is exempt from public bidding in accordance with County College Contracts Law 18A:64A-25.5 (a) (2) (Extraordinary and unspecifiable services

<b>Charge to:</b>	College Operating Funds
<b>Account Number:</b>	10-03-352000-607620
<b>Total:</b>	\$81,191.00



**BOARD OF TRUSTEES ACTION A/F3**  
**Approval Date: September 1, 2020**

**Resolution**

To reject all bids received in response to Public Bid P-2320 for the purchase of a Laparoscopic/Arthroscopic Equipment Cart for the Surgical Technology Department.

**Submitted By**

Dr. Anthony Ross, Interim President  
Dr. Brock Fisher, Vice President, Academic Affairs  
Dr. Susan Barnard, Dean, Health Professions  
Mr. Wilton Thomas-Hooke, Managing Director, Finance  
Ms. Barbara Golden, Director Purchasing and Services

**Action Requested**

To reject all bids received in response to Public Bid P-2320 and rebid.

**Justification**

Three (3) bids were received for Public Bid P-2320. All bids should be rejected for material, non-waivable deviations from the bid specifications. Karl Storz, the low bidder, materially altered the bid specifications and did not include shipping charges as required by the specifications. Fuji Film Medical Systems and Richard Wolfe Medical Instruments conditioned their bids on the bidder's own terms and conditions. They also did not include shipping charges in their bids. Due to these material deviations from the bid specifications, the College cannot clearly determine the total cost of each bid in order to award a contract.



**BOARD OF TRUSTEES ACTION A/F4**  
**Approval Date: September 1, 2020**

**Resolution**

Authorization to purchase medical simulation Manikins from Laerdal Medical Corporation for use in the Center for Simulation.

**Submitted By**

Dr. Anthony Ross, Interim President  
Dr. Brock Fisher, Vice President, Academic Affairs  
Mr. Wilton Thomas-Hooke, Managing Director, Finance  
Dr. Susan Barnard, Dean, Health Professions  
Ms. Barbara Golden, Director, Purchasing and Services

**Action Requested**

Authorization to purchase a SimMan 3G Medium Manikin and SimMan 3G Dark Manikin, with software licenses, accessories, and shipping, at a total cost of \$160,046.00 from Laerdal Medical Corporation.

**Justification**

Medical simulation has become a fundamental part of the health professions education learning environment. The addition of these 2 simulators will allow expansion of our operations to meet the growing need for realistic clinical experience and provide students the foundation they need to excel in their endeavors. Additionally, the new manikins were specifically chosen for their ability to expand the cultural diversity of our simulation family and to reflect the needs of the community.

The Laerdal SimMan 3G Manikins are only available through Laerdal Medical Corporation.

The college has a need to award the procurement as a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.4. Laerdal Medical Corporation has submitted a Political Contribution Disclosure form and a Stockholder Disclosure Form in accordance with N.J.S.A. 19:44A-20-26 and a Business Entity Disclosure Certification in accordance with N.J.S.A. 19:44A-20-8, certifying that it has not made any reportable contributions to a political or candidate committee in the County of Bergen in the prior year, and that the contract will prohibit it from making any reportable contributions through the term of the contract. The Political Contribution Disclosure, the Stockholder Disclosure Certification and Business Entity Disclosure will be maintained on file at the College.

This procurement is exempt from bidding in accordance with County College Contracts Law 18A:64A-25.5(a) (3) (Sole Source).

**Charge To:** GO Bond  
**Account Number:** 20-00-115300-604212  
**Total:** \$160,046.00



**BOARD OF TRUSTEES ACTION E/SA 1**  
**Approval Date: September 1, 2020**

**Resolution**

To authorize partnering with William Paterson University (lead agency) on a proposal for funding from the Early Education Investment Collaborative and authorize Interim President Anthony Ross, or his designee, to execute required documents.

**Submitted By**

Dr. Anthony Ross, Interim President  
Dr. Brock Fischer, Vice President of Academic Affairs  
Dr. Adam Goodell, Dean of Humanities  
Dr. Jacqueline Behn, Chair, Department Social Sciences  
Ms. Melissa Kreiger, Assistant Professor, Education Program  
Dr. William J. Yakowicz, Director, Grants Administration

**Action Requested**

Authorize partnering with lead agency William Paterson University to provide early and multiple entry pathways for students into early childhood teacher education. The project is titled *Transforming Early Childhood Education Lead Teacher Preparation Through Early and Multiple Points of Entry and Comprehensive Individualized Supports*

**Justification**

In collaboration with William Paterson University, Bergen Community College's early childhood education (ECE) program seeks to support individuals in the early childhood education workforce and other potential students in the community who wish to pursue a professional career in early childhood education through multiple entry points. BCC has taken part in multiple collaborations with William Paterson University's College of Education. The project will assist the ECE program in strengthening supports for underserved early childhood workers have historically experienced by providing:

- Articulation of the nationally-recognized Child Development Associate credential for academic credit
- Vouchers for 3 credits per semester for Head Start employees interested in pursuing a Associate Degrees
- Articulation/Dual-enrollment agreements with local four-year Teacher Education programs
- High school dual-enrollment courses for three 3-credit Early Childhood Education courses for a total of 9 credits
- CCAMPUS grant support for student parents pursuing their Associate's degrees
- Faculty Advisement for early childhood education students

No College funding match required

Project description and proposed budget summary are forthcoming





**BOARD OF TRUSTEES ACTION: E/SA 2**  
**Approval Date: September 1, 2020**

**Resolution**

Approval of College Policy: Meningococcal Vaccine Requirement Policy.

**Submitted By**

Dr. Anthony Ross, Interim President

Dr. Drorit Beckman, Executive Assistant to the Executive Vice President

Ms. Dania Huie-Pasigan, RN., BSN, Head College Nurse

Ms. Jennifer Migliorino-Reyes, Interim Associate Dean, College/High School Partnerships

**Action Requested**

To approve the College Policy: Meningococcal Vaccine Requirement Policy.

**Justification**

On January 13, 2020, P.L. 2019, c332 was signed into law which requires new students enrolling in a public or private institution of higher education to have received the meningococcal immunization as recommended by the Advisory Committee on Immunization Practices (ACIP) as a condition of attendance.

See attached policy.



## BERGEN COMMUNITY COLLEGE POLICY

<b>Policy Name:</b>	Meningococcal Vaccine Requirement				
<b>Section #:</b>		<b>Section Title:</b>		<b>Former #:</b>	
<b>Approval Authority:</b>	Board of Trustees		<b>Adopted:</b>		<b>Reviewed:</b>
<b>Responsible Executive:</b>	Vice President of Student Affairs		<b>Revised:</b>	n/a	
<b>Responsible Office:</b>	Office of Health Services		<b>Contact:</b>	dhuie-pasigan@bergen.edu	

### 1. Policy Statement

New students enrolled in a public or private institution of higher education shall have received immunization for meningococcal disease as recommended by the Advisory Committee on Immunization Practices (ACIP) as a condition of attendance, and must present evidence of the vaccination(s) required.

### 2. Reason for Policy

On January 13, 2020, P.L. 2019, c332 was signed into law. This new law amends P.L.2003, c.284 (N.J.S.A.18A:62-15.1) and shall take effect on June 15, 2020. In accordance with this law: A new student enrolling in a public or private institution of higher education shall have received immunization for meningococcal disease as recommended by the Advisory Committee on Immunization Practices (ACIP) as a condition of attendance. Students must present evidence of the vaccination(s) required.

### 3. Who Should Read this Policy

New students.

### 4. Resources

1. [P.L. 2019, c.332](#); approved January 13, 2020; Requires new students enrolling in a public or private institution of higher education shall have received immunization for meningococcal disease. This amends P.L. 2003, c.284.
2. [P.L. 2003, c.284](#); approved January 14, 2004; Requires meningococcal vaccinations for students at certain institutions of higher education, amending P.L.2000, c.25 and supplementing Title 18A of the New Jersey Statutes.

### 5. Definitions

n/a



## 6. The Policy

- A. A new student enrolling in a public or private institution of higher education shall have received immunization for meningococcal disease as recommended by the Advisory Committee on Immunization Practices (ACIP) as a condition of attendance. Students must present evidence of the vaccination(s) required.
  - a. Students will be allowed to register for one semester as per New Jersey Higher Education Immunizations requirements but will not be permitted to register for any additional semesters, see your grades, get transcripts, and receive financial aid until you have successfully met all of the above immunization requirements.
- B. If a student has a medical contraindication to the vaccine, he or she must provide a written statement from a license physician, as per N.J.A.C. 8:57 – 4.3. The statement must include the reason and specific period of time the vaccine is contraindicated.
- C. If a student requests a religious exemption to immunizations, N.J.S.A. 26:1A – 9.1. A letter must be submitted from the student stating specific religious doctrine that prohibits immunizations.
- D. A student with a medical or religious exemption may be temporarily excluded from classes and from participation in institution-sponsored activities during a vaccine-preventable outbreak or threatened outbreak, N.J.S.A.26:4-6. This decision shall be made by the institution consultation with the NJ State Commissioner of Health or his/her designee. This exclusion shall continue until the outbreak is over. In addition, the College is not responsible if the student contracts meningitis.

## 7. Procedure

n/a



**State of New Jersey**  
**DEPARTMENT OF HEALTH**  
COMMUNICABLE DISEASE SERVICE  
PO BOX 369  
TRENTON, N.J. 08625-0369  
[www.nj.gov/health](http://www.nj.gov/health)

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

JUDITH M. PERSICILLI, RN, BSN, MA  
*Commissioner*

DATE: February 25, 2020

TO: New Jersey Institutions of Higher Education

FROM: Steven Bors  
Program Manager  
Vaccine Preventable Disease Program

SUBJECT: Higher Education Meningococcal Immunization Requirement

On January 13, 2020, N.J. Governor Phil Murphy signed into law Assembly Bill 1991/Senate Bill 941, which requires new students enrolling in a public or private institution of higher education to receive immunization for meningococcal disease as recommended by the Advisory Committee on Immunization Practices (ACIP) as a condition of attendance at that institution. Administrators should make note of this change from the previous immunization requirement where the meningococcal vaccine was only required for students that were living in a campus dormitory. Additionally, each institution of higher education must offer the required meningococcal vaccines through the institution's student health services program or through a contracted agreement with a community health provider. This new law, P.L.2019, c.332, amends P.L.2003, c.284 (N.J.S.A.18A:62-15.1) and shall take effect on June 15, 2020.

The New Jersey Department of Health (NJDOH), Vaccine-Preventable Disease Program (VPDP) has developed guidance (attached) to assist institutions of higher education in the implementation of this new legislation. This guidance takes effect immediately and will remain in effect until the Commissioner of Health adopts rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq).

The VPDP is seeking assistance from the stakeholder community in drafting the rules and regulations to carry out the purposes of this act. If you (or a designee) are interested in participating in a Workgroup to assist with the development of the rules and regulations, please send an email to [Jenish.Sudhakaran@doh.nj.gov](mailto:Jenish.Sudhakaran@doh.nj.gov) indicating your interest by March 20, 2020. Please include your name, affiliation, address, telephone number, and email address. Additional details about the Workgroup will be made available to those who express an interest in participating. We thank you in advance for your interest and assistance.

Attachments



## Implementation of Meningococcal Vaccine Requirements

### *Guidance for Institutions of Higher Education*

#### **Purpose**

This document will assist institutions of higher education with implementation of new meningococcal vaccine requirements. This guidance is effective immediately and will remain in effect until the New Jersey Department of Health (NJDOH) adopts rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

#### **Background**

On January 13, 2020, P.L. 2019, c332 was signed into law. This new law amends P.L.2003, c.284 (N.J.S.A.18A:62-15.1) and shall take effect on June 15, 2020. In accordance with this law:

- A new student enrolling in a public or private institution of higher education shall have received immunization for meningococcal disease as recommended by the Advisory Committee on Immunization Practices (ACIP) as a condition of attendance. Students must present evidence of the vaccination(s) required.
- Each public and private institution of higher education in this State shall offer the required meningococcal vaccines through the institution’s student health services program or through a contracted agreement with a community health provider.

#### **Requirements for Institutions of Higher Education**

Public and private institutions of higher education must develop policies and procedures to ensure that all newly enrolling students are vaccinated for meningococcal disease in accordance with ACIP recommendations. A summary of recommendations is provided for your convenience; however, please review the complete ACIP guidance at: [www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/mening.html](http://www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/mening.html).

#### ***Meningococcal vaccines***

Institutions of higher education must ensure that newly enrolled students receive meningococcal vaccines that are **routinely** recommended by the ACIP. There are 2 types of meningococcal vaccines available in the United States that are routinely recommended for certain persons:

#### **Meningococcal conjugate (MenACWY) vaccines (Menactra® and Menveo®)**

The ACIP routinely recommends vaccination for the following:

- Children and adolescents through age 18
  - All persons aged 11 – 12 years; booster dose at 16 years
  - All persons 16 – 18 years of age who have no history of prior vaccination are recommended to receive 1 dose
- Adults 19 years of age and older
  - First-year college students who live in residential housing (if not previously vaccinated at age 16 or older)
  - Persons with anatomical or functional asplenia (including sickle cell disease), HIV infection, persistent complement deficiency, complement inhibitor use
  - Travel in countries with hyperendemic or epidemic meningococcal disease



- Microbiologists routinely exposed to *Neisseria meningitidis*
- Persons who are at risk during an outbreak caused by vaccine serogroup

### **Meningococcal B (MenB) vaccines (Bexsero® and Trumenba®)**

The ACIP routinely recommends vaccination with the following:

- Persons 10 years of age and older
  - Persons with anatomical or functional asplenia (including sickle cell disease), HIV infection, persistent complement deficiency, complement inhibitor use
  - Persons who are at risk during an outbreak caused by serogroup B
  - Microbiologists routinely exposed to *Neisseria meningitidis*

### ***Education on benefits of MenB vaccine***

Institutions of higher education must ensure that newly enrolled students aged 16 through 23 years of age who are not routinely recommended to receive MenB vaccine (as noted above) receive education on the risks and benefits of MenB vaccine and that the vaccine be made available for students who choose to be vaccinated. ACIP recommends that a MenB series may be administered to people 16 through 23 years of age with a preferred age of vaccination of 16 through 18 years. This recommendation allows for shared clinical decision-making between the provider and the student based on the risk and benefit for the individual patients.

### **Resources**

The following resources are available to assist institutions of higher education with implementation of this new law. All of these materials are available on the NJDOH website at:  
<https://nj.gov/health/cd/topics/meningo.shtml>.

### **Meningococcal Disease Informational Flyer for College Students**

This flyer provides students with an overview of meningococcal disease including how the disease is spread, symptoms, and vaccination recommendations. The student informational flyer may be disseminated or publicly posted to satisfy the education requirement (N.J.A.C. 8:57-6.10).

### **Meningococcal Vaccine Questionnaire for College Students**

The document includes a checklist by age and increased risk for a student to self-assess which meningococcal vaccines they may be required to receive. This may serve as a template that can be adapted for sharing with students to help them determine if they are currently meeting the meningococcal vaccination requirements.

### **Algorithms for Meningococcal Immunization of College Students 16 Years and Older**

These two documents may be used when determining which vaccines are recommended based on the ACIP recommendations for immunization. The algorithms provide specific dosing guidance based on age, and increased risk status. Two algorithms have been developed: one for MenACWY vaccination, and one for MenB vaccination.

### **Meningococcal Vaccination Guidance for Healthcare Providers**

These two documents contain a current listing of the ACIP meningococcal vaccination recommendations for MenACWY and MenB vaccines. Recommendations are presented by age and risk factor.



## Additional Information

- New Jersey Department of Health (NJDOH), Vaccine Preventable Disease Program  
<https://nj.gov/health/cd/vdpd.shtml>
- Meningococcal Disease, NJDOH  
<https://nj.gov/health/cd/topics/meningo.shtml>
- Meningococcal Disease, Centers for Disease Control and Prevention (CDC)  
<https://www.cdc.gov/meningococcal/index.html>
- Immunization Schedules, CDC  
<https://www.cdc.gov/vaccines/schedules/index.html>
- Meningococcal ACWY Vaccine Information Statement (VIS)  
<https://www.cdc.gov/vaccines/hcp/vis/vis-statements/mening.html>
- Meningococcal B Vaccine Information Statement (VIS)  
<https://www.cdc.gov/vaccines/hcp/vis/vis-statements/mening-serogroup.html>

For further information, please contact the Vaccine Preventable Disease Program at 609-826-4861.



## Table of Contents

[Chapter 332 Pamphlet Law](#)

[MenACWY Algorithm](#)

[MenB Algorithm](#)

[MenACWY Clinician Guidance](#)

[MenB Clinician Guidance](#)

[Student Informational Flyer](#)

[Meningococcal Vaccine Questionnaire for Students](#)

[Frequently Asked Questions](#)



## CHAPTER 332

**AN ACT** concerning immunizations for meningococcal disease and amending P.L.2003, c.284.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2003, c.284 (C.18A:62-15.1) is amended to read as follows:

C.18A:62-15.1 Meningococcal disease immunizations for certain students.

2. a. Beginning in September 2004, a new student enrolling in a public or private institution of higher education in this State shall have received immunization for meningococcal disease as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention as a condition of attendance at that institution, except as provided in section 3 of P.L.2003, c.284 (C.18A:62-15.2).

b. A student shall present evidence of the vaccination required pursuant to subsection a. of this section to the institution in a manner prescribed by the institution.

c. The Department of Health shall require each public or private institution of higher education in this State to offer the immunization required pursuant to subsection a. of this section to its students through the institution's student health services program or through a contractual agreement with a community health care provider.

d. The Commissioner of Health shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of subsections a., b. and c. of this section and section 3 of P.L.2003, c.284 (C.18A:62-15.2).

2. The Commissioner of Health shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

3. This act shall take effect on June 15 next following the date of enactment, except that the Commissioner of Health may take administrative action in advance as necessary to effectuate this act.

Approved January 13, 2020.

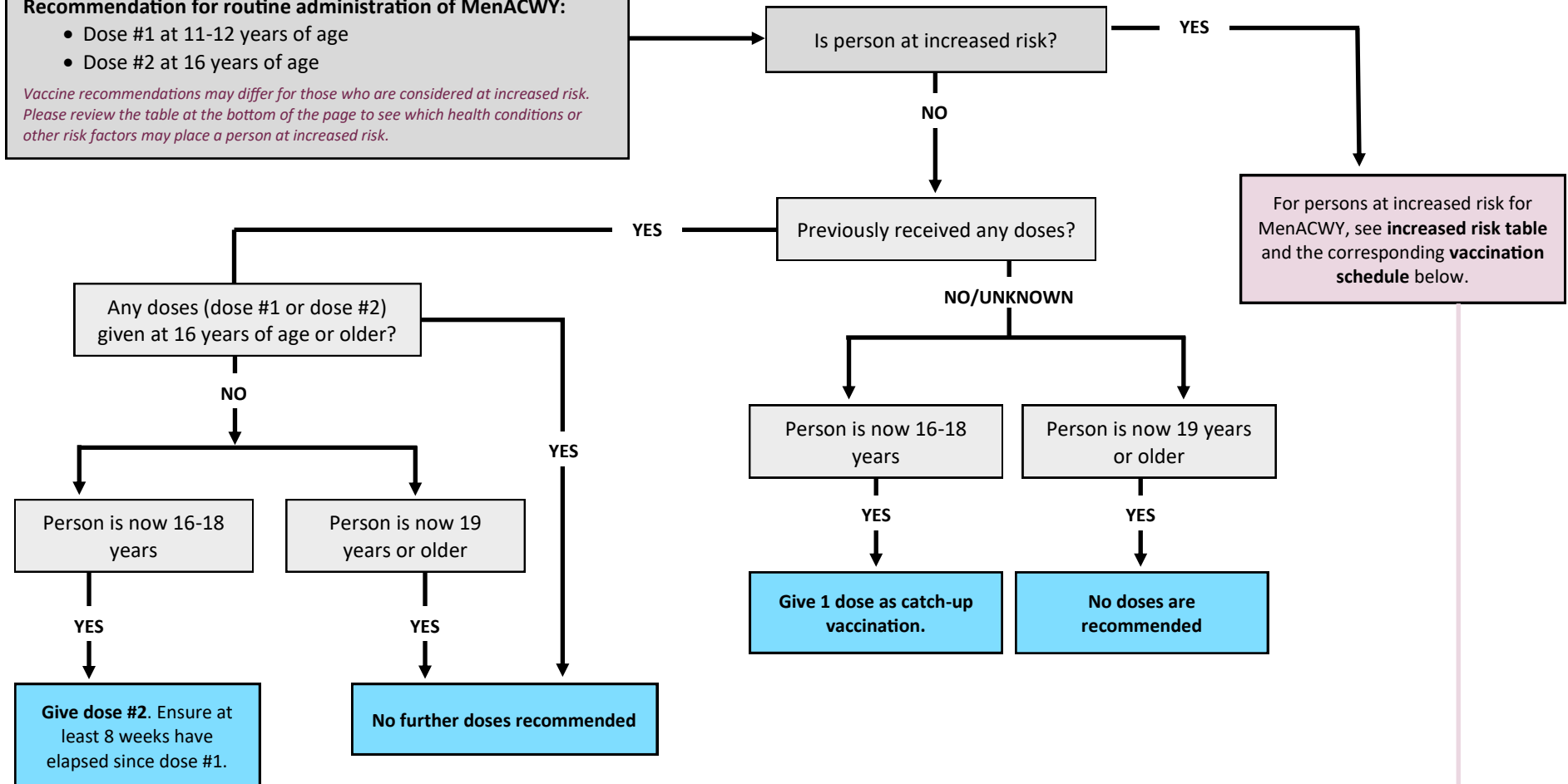
# Algorithm for MenACWY Immunization of College Students 16 Years of Age and Older

See the Centers for Disease Control and Prevention (CDC) website for complete immunization schedules at: [www.cdc.gov/vaccines/schedules/](http://www.cdc.gov/vaccines/schedules/).

## Recommendation for routine administration of MenACWY:

- Dose #1 at 11-12 years of age
- Dose #2 at 16 years of age

*Vaccine recommendations may differ for those who are considered at increased risk. Please review the table at the bottom of the page to see which health conditions or other risk factors may place a person at increased risk.*



Increased Risk (health condition or other risk factor)	Vaccination Schedule
First-year college students who live in residential housing (if not previously vaccinated at age 16 years or older)	<b>1 dose MenACWY</b>
Functional or anatomic asplenia (including sickle cell disease), HIV infection, persistent complement deficiency or use of complement inhibitor (e.g., eculizumab)	Administer <b>2-dose MenACWY</b> at least 8 weeks apart and revaccinate every 5 years if risk remains
Travel in countries with hyperendemic or epidemic meningococcal disease, microbiologists routinely exposed to <i>Neisseria meningitidis</i>	<b>1 dose MenACWY</b> and revaccinate every 5 years if risk remains
Persons at risk during an outbreak declared by public health authorities	Follow advice of public health authorities

# Algorithm for MenB Immunization of College Students 16 Years of Age and Older

See the Centers for Disease Control and Prevention (CDC) website for complete immunization schedules at: [www.cdc.gov/vaccines/schedules/](http://www.cdc.gov/vaccines/schedules/).

## Recommendation for routine administration of MenB:

Adolescents and young adults (16 through 23 years old) **may choose** to receive vaccination based on shared clinical decision-making. The preferred age for receipt is 16 through 18 years.

*Vaccine recommendations may differ for those who are considered at increased risk. Please review the table at the bottom of the page to see which health conditions or other risk factors may place a person at increased risk.*

Is person at increased risk?

NO

YES

For those who choose to be vaccinated, begin or complete the primary series of MenB vaccine. If the vaccine series is already completed, no additional doses are recommended for persons not at increased risk.

**NOTE:** The 2-dose schedule of Bexsero or Trumenba may be used for persons not at increased risk. If dose #2 of the 2-dose Trumenba schedule is administered earlier than 6 months after dose #1, a 3rd dose should be administered at least 4 months after dose #2.

For persons at increased risk for MenB, see **increased risk table** and the corresponding **vaccination schedule** below.

## Primary Series Recommendations

Type of Vaccine	Schedule
Bexsero	2 doses [4 weeks apart]
Trumenba—2 Dose	2 doses [at 0 and 6 months]
Trumenba—3 Dose	3 doses [at 0, 1-2, and 6 months]

**NOTE:** Bexsero and Trumenba are NOT interchangeable. For vaccination series completion, the same MenB vaccine product previously administered must be used to complete the series.

Increased Risk (health condition or other risk factor)	Vaccination Schedule
<ul style="list-style-type: none"><li>Functional or anatomic asplenia (including sickle cell disease)</li><li>Persistent complement deficiency or use of complement inhibitor (e.g., eculizumab)</li><li>Microbiologists routinely exposed to <i>Neisseria meningitidis</i></li></ul>	Administer primary series and boosters* of either: <ul style="list-style-type: none"><li>2-dose schedule of Bexsero</li><li>3-dose schedule of Trumenba</li></ul>
Persons at risk during an outbreak declared by public health authorities	Follow advice of public health authorities

\*The first booster dose should be given 1 year after the primary series and repeated every 2–3 years as long as the increased risk remains. Booster doses are not recommended for healthy adolescents routinely vaccinated with MenB vaccine.

## Meningococcal ACWY Vaccine for College Students

### Recommendations by Age and Risk Factor

There are 2 types of meningococcal conjugate vaccines available in the United States Menactra® and Menveo®. A separate vaccine is needed for protection against meningococcal serogroup B disease.

Routine Recommendations for Use of Meningococcal A, C, W, Y Vaccine (MenACWY)	
WHOM TO VACCINATE	VACCINATION SCHEDULE
Ages 11 through 12 years	Give dose #1 of 2-dose series. (Dose #2 is recommended at 16 years.)
Ages 13 through 15 years	Give catch-up dose #1 of 2-dose series. (Dose #2 will be due at 16 years. <sup>1</sup> )
Age 16 years	Give dose #2. <sup>1</sup> (Separate from dose #1 by at least 8 weeks.)
Ages 17 through 18 years (Catch-up)	If dose #2 not given at age 16 years, give dose #2 as catch-up.
Ages 16 through 18 years (Catch-up)	If no history of prior vaccination, give 1 dose.
First-year college students living in residence halls	If no history of prior vaccination, give 1 dose. If history of 1 dose given when younger than 16 years of age, give dose #2.

Risk-based Recommendations for Persons with Underlying Medical Conditions or Other Risk Factors [Ages 16 years and older]		
TARGETED GROUP BY AGE/OR RISK FACTOR	PRIMARY DOSE(S)	BOOSTER DOSE(S)
Travelers to or residents of countries where meningococcal disease is hyperendemic or epidemic, and other people with prolonged increased risk for exposures (e.g., microbiologists routinely working with <i>Neisseria meningitidis</i> )	Give 1 dose of either MenACWY vaccine	Boost every 5 years if risk remains
People with persistent complement component deficiencies or use of a complement inhibitor (e.g., eculizumab)	Give 2 doses of either MenACWY vaccine, 8 weeks apart	Boost every 5 years
People with HIV infection or functional or anatomic asplenia (including sickle cell disease)	Give 2 doses of either MenACWY vaccine, 8 weeks apart	Boost every 5 years
Persons who are at risk during an outbreak	Consult with public health authorities	

**Contraindications:** Do not administer meningococcal vaccines to a person who has ever had a severe allergic reaction (e.g., anaphylaxis) after a previous dose or a person who has a severe allergy to any vaccine component.

**Precautions:** Moderate or severe acute illnesses with or without fever. See [www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html](http://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html).

<sup>1</sup> The minimum interval between doses of MenACWY is 8 weeks.

## Meningococcal B Vaccine for College Students

### Recommendations by Age and Risk Factor

Meningococcal Serogroup B Vaccines	
<ul style="list-style-type: none"> <li>• Bexsero (MenB-4C, GlaxoSmithKline)</li> <li>• Trumenba (MenB-FHbp, Pfizer)</li> </ul>	The two brands of MenB vaccines are <u>not</u> interchangeable. The series must be started and completed with the same brand of vaccine.

### Recommendations Meningococcal Serogroup B Vaccination for People Who are Not in a Risk Group (Shared Clinical Decision-Making)

WHOM TO VACCINATE	VACCINATION SCHEDULE
Teens and young adults ages 16 through 23 years who wish to be vaccinated. The preferred age for vaccination is 16 through 18 years.	Based on shared clinical decision-making between the healthcare provider and the patient, administer either: <ul style="list-style-type: none"> <li>• <b>Bexsero</b>: Give 2 doses, 4 weeks apart, or</li> <li>• <b>Trumenba</b>: Give 2 doses 6 months apart. If dose #2 is administered earlier than 6 months after dose #1, give a third dose at least 4 months after dose #2.</li> </ul>

### Risk-based Recommendations for Persons with Underlying Medical Conditions or Other Risk Factors

WHOM TO VACCINATE	PRIMARY DOSES	BOOSTER DOSE(S)
For people ages 10 years or older with: <ul style="list-style-type: none"> <li>• Persistent complement component deficiencies or use of a complement inhibitor (e.g., eculizumab)</li> <li>• Anatomic or functional asplenia, including sickle cell disease</li> </ul>	Administer either: <ul style="list-style-type: none"> <li>• <b>Bexsero</b>: Give 2 doses, 4 weeks apart, or</li> <li>• <b>Trumenba</b>: Give 3 doses on a 0-, 1-2, and 6-month schedule.</li> </ul>	The first booster dose should be given 1 year after the primary series and repeated every 2–3 years as long as the increased risk remains.
For people ages 10 years or older who: <ul style="list-style-type: none"> <li>• Are present during outbreaks caused by serogroup B<sup>1</sup></li> <li>• Have prolonged increased risk for exposure (e.g. microbiologists routinely working with <i>Neisseria meningitidis</i>)</li> </ul>		

**NOTE:** On June 27, 2019, the Advisory Committee on Immunization Practices (ACIP) voted to recommend booster doses of MenB vaccine for people at increased risk of meningococcal disease. Booster doses are not recommended for healthy adolescents routinely vaccinated with MenB vaccine.

**Contraindications:** Do not administer meningococcal vaccines to a person who has ever had a severe allergic reaction (e.g., anaphylaxis) after a previous dose or a person who has a severe allergy to any vaccine component.

**Precautions:** Moderate or severe illness with or without fever. Pregnancy. See [www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html](http://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html).

# Meningococcal Disease for College Students

*New Jersey law requires that certain students receive  
meningococcal vaccines!*

## Are you protected?



Students attending college are at higher risk of getting meningococcal disease, especially first-year students living in residence halls.

**Get vaccinated!**

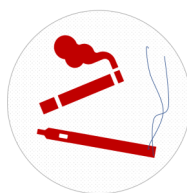
## What is meningococcal disease?

Meningococcal (muh-nin-jo-cok-ul) disease is a serious bacterial infection caused by *Neisseria meningitidis*. The bacteria can invade the body, leading to severe swelling of the tissue surrounding the brain and spinal cord (meningitis) or bloodstream infection. Both of these types of infections are very serious and can be deadly in a matter of hours. Even with antibiotic treatment, 10 to 15 in 100 people infected with meningococcal disease will die. Up to 1 in 5 survivors will have long-term disabilities, such as loss of limb(s), deafness, nervous system problems, or brain damage.

## How do people get meningococcal disease?

People spread meningococcal bacteria by sharing respiratory and throat secretions (saliva/spit). Generally, the bacteria are spread by close or lengthy contact with a person who has meningococcal disease such as:

- People in the same household
- Roommates
- Anyone with direct contact with the patient's oral secretions such as through kissing or sharing eating utensils, cigarettes/vaping devices, and food.



## What are the symptoms of meningococcal disease?

Symptoms can progress quickly and may include:

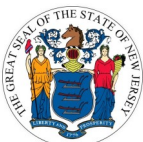
- high fever
- headache
- stiff neck
- confusion
- sensitivity to light
- nausea
- vomiting
- exhaustion
- purplish rash

Some people carry the bacteria in their noses and throat, but they don't become ill. Even though they do not have symptoms, they can still spread the bacteria to others.

## How can I protect myself from meningococcal disease?

The best way to protect yourself from meningococcal disease is to **get vaccinated**. There are two types of meningococcal vaccines that protect against the common serogroups (A, B, C, W, Y) of the bacteria:

- Meningococcal conjugate or MenACWY vaccines (Menveo® or Menactra®)
- Serogroup B meningococcal or MenB vaccines (Bexsero® or Trumenba®)



For more information, please visit  
<https://nj.gov/health/cd/topics/meningo.shtml>, or  
contact the NJDOH Vaccine Preventable Disease Program  
at 609-826-4861.

## Do I need meningococcal vaccines to attend a college in New Jersey?

If you are a new student enrolling in a public or private institution of higher education in New Jersey, you are required by state law (*P.L. 2019, c.332 (N.J.S.A.18A:62-15.1)*) to receive meningococcal vaccines as recommended by the Advisory Committee on Immunization Practices (ACIP) and the Centers for Disease Control and Prevention (CDC). The CDC recommends:

**MenACWY (Menactra® and Menveo®)** vaccine is routinely recommended at ages 11-12 years with a booster dose at 16 years. Adolescents who receive their first dose of MenACWY vaccine on or after their 16th birthday do not need a booster dose. Additional doses may be recommended based on risk. People 19 years of age and older are not routinely recommended to receive the MenACWY vaccine unless they are first-year college students living in residential housing or if another risk factor applies.

**MenB (Bexsero® and Trumenba®)** vaccine is routinely recommended for people ages 10 years or older with high-risk health conditions. People 16-23 years old (preferably at ages 16-18 years) may also choose to get a MenB vaccine.

Below is a summary of requirements based on student age and risk.

By age indication		
Age	MenACWY Requirement	MenB Requirement
≤18 years of age, not at increased risk	Vaccine required	Vaccine not required*
≥19 years of age, not at increased risk	Vaccine not required	Vaccine not required*
By increased risk indication†		
Indication	MenACWY Requirement	MenB Requirement
First-year college student living in residence hall or military recruit	Vaccine required	Vaccine not required
Complement component deficiency or use of a medication known as a complement inhibitor (e.g., eculizumab)	Vaccine required	Vaccine required
No spleen or problem with spleen – including sickle cell disease	Vaccine required	Vaccine required
HIV infection	Vaccine required	Vaccine not required
Travel to an area where the disease is common. Check <a href="http://www.cdc.gov/travel">www.cdc.gov/travel</a> for travel-related risk.	Vaccine required	Vaccine not required
Work in a laboratory with meningococcal bacteria ( <i>Neisseria meningitidis</i> )	Vaccine required	Vaccine required
Part of an outbreak as declared by public health officials—you will be notified if this applies	Vaccine required if outbreak caused by serogroup A, C, W or Y	Vaccine required if outbreak caused by serogroup B

\*Though MenB vaccination is not required, persons 16-23 years old may choose to receive MenB vaccine to provide short-term protection against most strains of MenB disease. Learn more about meningococcal disease and MenB vaccination at: [www.cdc.gov/meningococcal](http://www.cdc.gov/meningococcal).

†Check with your healthcare provider to determine the best vaccine series and booster schedule for you.

### Are these vaccines safe?

Meningococcal vaccines are safe and effective. As with all vaccines, there can be minor reactions, including pain and redness at the injection site or a mild fever. Severe side effects, such as a serious allergic reaction, are very rare.

### Where can I get these vaccines?

In accordance with *P.L. 2019, c.332*, each institution must offer required meningococcal vaccines through the student health service or through a contracted agreement with a community health provider. Most insurance plans cover recommended vaccines. If you are under 19 years of age, ask your healthcare provider if they participate in the New Jersey Vaccines for Children (VFC) Program. You may qualify for free or low-cost vaccines. You can also check with college health services, local health departments, and federally qualified health centers regarding vaccine affordability.



# Meningococcal Vaccine Questionnaire for College Students

New Jersey law requires that new students enrolling in a public or private institution of higher education in New Jersey to have received meningococcal vaccines as recommended by the Advisory Committee on Immunization Practices (ACIP). There are two types of meningococcal vaccines that might be required depending on your age and your risks: the meningococcal conjugate vaccine (MenACWY) that protects against serogroups A, C, W, and Y disease; and the meningococcal serogroup B vaccine (MenB) that protects against serogroup B disease.

**MenACWY (Menactra® and Menveo®)** vaccine is routinely recommended at ages 11-12 years with a booster dose at 16 years. Adolescents who receive their first dose of MenACWY vaccine on or after their 16th birthday do not need a booster dose. Additional doses may be recommended based on risk. People 19 years of age and older are not routinely recommended to receive the MenACWY vaccine unless they are first-year college students living in residential housing or if another risk factor applies.

**MenB (Bexsero® and Trumenba®)** vaccine is routinely recommended for people ages 10 years or older with high-risk health conditions. People 16-23 years old (preferably at ages 16-18 years) may also choose to get a MenB vaccine.

**INSTRUCTIONS:** To assist in determining which meningococcal vaccines may be required for you, review each of the indications in the table below, both by age and by increased risk. Place a checkmark in the box next to each indication that applies to you.

By age indication		
Age	MenACWY Requirement	MenB Requirement
<input type="checkbox"/> ≤18 years of age, not at increased risk	✓ Vaccine required	✗ Vaccine not required*
<input type="checkbox"/> ≥19 years of age, not at increased risk	✗ Vaccine not required	✗ Vaccine not required*
By increased risk indication		
Indication	MenACWY Requirement	MenB Requirement
<input type="checkbox"/> First-year college student living in residence hall or military recruit	✓ Vaccine required	✗ Vaccine not required*
<input type="checkbox"/> Complement component deficiency or use of a medication known as a complement inhibitor (e.g., eculizumab)	✓ Vaccine required	✓ Vaccine required
<input type="checkbox"/> No spleen or problem with spleen – including sickle cell disease	✓ Vaccine required	✓ Vaccine required
<input type="checkbox"/> HIV infection	✓ Vaccine required	✗ Vaccine not required*
<input type="checkbox"/> Travel to an area where the disease is common. Check <a href="http://www.cdc.gov/travel">www.cdc.gov/travel</a> for travel-related risk	✓ Vaccine required	✗ Vaccine not required*
<input type="checkbox"/> Work in a laboratory with meningococcal bacteria ( <i>Neisseria meningitidis</i> )	✓ Vaccine required	✓ Vaccine required
<input type="checkbox"/> Part of an outbreak as declared by public health officials—you will be notified if this applies to you	Vaccine required if outbreak caused by serogroup A, C, W or Y	Vaccine required if outbreak caused by serogroup B

\*Though MenB vaccination is not required, persons 16-23 years old may choose to receive MenB vaccine to provide short-term protection against most strains of MenB disease. Learn more about meningococcal disease and MenB vaccination at: [www.cdc.gov/meningococcal](http://www.cdc.gov/meningococcal).

Please consult with your healthcare provider if you have questions about the meningococcal vaccines or if you need to receive the vaccines to attend a New Jersey institution of higher education.



# Meningococcal Vaccination Requirement for Higher Education

## *Frequently Asked Questions*

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New Jersey law requires that new students enrolling in a public or private institution of higher education in New Jersey have received meningococcal vaccines as recommended by the Advisory Committee on Immunization Practices (ACIP) and the Centers for Disease Prevention and Control (CDC). The following frequently asked questions have been listed below for your guidance.

### FAQs

<b>STUDENT FAQs.....</b>	<b>2</b>
I am entering college next semester. Will I need the meningococcal vaccines? .....	2
Which meningococcal vaccines do I need? .....	2
I received a dose of MenACWY vaccine at 11 years old to attend sixth grade in New Jersey. Why do I still need another dose of MenACWY for college? .....	2
I am a first-year college student living in a campus residence hall, do I need meningococcal vaccines?.....	2
Can titers be accepted in lieu of documentation of vaccination? .....	3
Do I have to get a meningococcal vaccine if I have a medical condition that prevents me from receiving it?.....	3
Do I have to get a meningococcal vaccine if I practice a religion that prevents me from receiving it?.....	3
Where can I obtain my vaccination records? .....	3
What is the New Jersey Immunization Information System (NJIS)? .....	3
If I can't find my vaccination records, do I need to get the vaccination again?.....	3
<b>COLLEGE HEALTH ADMINISTRATOR FAQs.....</b>	<b>3</b>
Will vaccination be required during an outbreak? .....	3
How do I know which students are considered at increased risk? .....	4
The ACIP states the MenACWY is recommended for first-year college students who live in residential housing if not previously vaccinated at age 16 years of age and older. How is a first-year student defined? .....	4
Is there a medical exemption form? .....	4
Are students 31 years of age and older subject to the immunization requirements set forth in N.J.A.C. 8:57-6.4 (b)1 since the Higher Education statute N.J.S.A. 18A:61D-1 states that the immunization requirements specifically apply to students 30 years of age and under? .....	4
Is the previous law requiring education on meningococcal disease still in effect? .....	5
<b>CLINICIAN FAQs.....</b>	<b>5</b>
How do shared clinical decision-making recommendations differ from routine, catch-up, and risk-based immunization recommendations? .....	5
Which patients should providers discuss shared clinical decision-making recommendations with?.....	5
Are shared clinical decision-making recommendations covered by private insurers?.....	5
Are the two MenACWY vaccines interchangeable?.....	6

Are the two MenB vaccines interchangeable? .....	6
Can both MenACWY and MenB vaccines be administered on the same day? .....	6
If a patient received MenACWY vaccine at age 10 years and a dose of MenACWY before the 16th birthday, will they still need a booster dose at age 16? .....	6
<b>Risk Indication Summary Table</b> .....	6

## STUDENT FAQs

### I am entering college next semester. Will I need the meningococcal vaccines?

- **YES**, new students enrolling in a public or private institution of higher education in New Jersey are required by state law (*P.L. 2019, c.332*) to receive meningococcal vaccines as recommended by the Advisory Committee on Immunization Practices (ACIP) and the Centers for Disease Control and Prevention (CDC).

### Which meningococcal vaccines do I need?

- There are two types of meningococcal vaccines that might be required depending on your age and your risk. The meningococcal conjugate vaccine (**MenACWY**) protects against serogroups A, C, W and Y disease. The meningococcal serogroup B vaccine (**MenB**) protects against serogroup B disease. You are required to receive meningococcal vaccines that are routinely recommended for you. Please review the [student questionnaire](#) and/or speak with your healthcare provider to determine which vaccines you may need.

### I received a dose of MenACWY vaccine at 11 years old to attend sixth grade in New Jersey. Why do I still need another dose of MenACWY for college?

- CDC recommends a dose of MenACWY vaccine at ages 11-12 years with a booster dose at 16 years. This is because protection from the first dose begins to wane, so a booster dose is recommended to provide greater protection from meningococcal disease. College students, especially freshman living in residence halls, are at a slightly increased risk for contracting meningococcal disease. All students 16 through 18 will be required to receive a dose of MenACWY (Menactra or Menveo) on or after age 16 even if you received a dose at a younger age. Additionally, all first-year college students who are living in residence halls will be required to have received a dose of MenACWY on or after the 16<sup>th</sup> birthday.

### I am a first-year college student living in a campus residence hall, do I need meningococcal vaccines?

- **YES**, you will be required to receive **MenACWY** if you are a first-year college student living in a residence hall regardless of age. If you received at least one dose of MenACWY on or after age 16, no further doses are necessary unless you have a risk factor for meningococcal disease.

You will be required to receive MenB vaccine (Bexsero or Trumenba) for school attendance if you have a risk factor. Anyone 16 through 23 years old (preferably at 16 – 18 years of age) may choose to receive MenB vaccine. MenB vaccines provide short-term protection against most strains of serogroup B meningococcal disease.

A [summary table](#) of increased risk indications is included at the end of the FAQs.

**Can titers be accepted in lieu of documentation of vaccination?**

- **NO**, there are no acceptable serologic titers that can be used as evidence of protection against meningococcal strains A, B, C, W, or Y.

**Do I have to get a meningococcal vaccine if I have a medical condition that prevents me from receiving it?**

- **NO**, the ACIP provides guidance to healthcare providers on which patients should not receive a particular vaccine. These reasons are listed at [www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html](http://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html). For all medical exemptions, your physician must provide information to your school that satisfies the following:
  - Only a physician licensed to practice medicine/osteopathic medicine and a nurse practitioner can write a medical exemption.
  - A medical exemption must indicate a specific period of time in which the student cannot receive specific vaccinations.
  - Reason(s) for medical contraindication must be enumerated by the ACIP and the American Academy of Pediatrics (AAP).

A medical exemption form is also available on the NJDOH website at [www.nj.gov/health/forms/imm-53.pdf](http://www.nj.gov/health/forms/imm-53.pdf).

**Do I have to get a meningococcal vaccine if I practice a religion that prevents me from receiving it?**

- **NO**, according to N.J.S.A.18A:61D-3, a student can submit a written statement that the immunization conflicts with the student's religious beliefs. Philosophical, moral or conscientious exemptions are not acceptable.

**Where can I obtain my vaccination records?**

- If you do not currently have a copy of your vaccine records, you may be able to retrieve an official copy by contacting your: healthcare provider, the state immunization registry (New Jersey Immunization Information System – [njiis.nj.gov](http://njiis.nj.gov) – see question below for more info), or a previous school.

**What is the New Jersey Immunization Information System (NJiis)?**

- NJiis is the statewide immunization registry. NJiis consolidates immunization information from all healthcare providers into one official record. More information on the registry can be found at [https://nj.gov/health/cd/documents/vpdp/njiis\\_information\\_adults.pdf](https://nj.gov/health/cd/documents/vpdp/njiis_information_adults.pdf).

**If I can't find my vaccination records, do I need to get the vaccination again?**

- **YES**, documentation of vaccination including the date of administration is required for attendance at institutions of higher education. If no record is available, then revaccination would be required.

## COLLEGE HEALTH ADMINISTRATOR FAQs

**Will vaccination be required during an outbreak?**

- **YES**, vaccination will be required for outbreaks of meningococcal disease with serogroups in the meningococcal vaccines (A, B, C, W, Y). The outbreak must be declared by public health authorities. The specifics of the vaccine required, and the vaccination schedule will be determined by public health authorities.

### **How do I know which students are considered at increased risk?**

- Institutions shall develop policies and procedures to determine a student's risk-status based on the ACIP recommendations. A [summary table](#) of increased risk indications is included at the end of the FAQs.

### **The ACIP states the MenACWY is recommended for first-year college students who live in residential housing if not previously vaccinated at age 16 years of age and older. How is a first-year student defined?**

- This recommendation only applies to first-year/freshman college students who are also living in campus residential housing. Unvaccinated students 19 years of age and older who are not first-year college students (e.g., students transferring from another college as a second-year student, previous commuter students) would not be required to receive the vaccine, even if the student is living in residential housing. Although the MenACWY vaccine is not required, any student newly living in campus residential housing can discuss their individual risk with their healthcare provider. Please note that all adolescents, regardless of whether they will be attending college or living on campus, should receive 2 doses of MenACWY vaccine at 11-12 and 16-18 years. Therefore, any college student under 19 years of age would be required to be vaccinated.

### **Is there a medical exemption form?**

- **YES**, the New Jersey Department of Health (NJDOH) created a *Request for Medical Exemption from Mandatory Immunization Form (IMM-53)* and guidance document available at [www.nj.gov/health/forms/imm-53.pdf](http://www.nj.gov/health/forms/imm-53.pdf). Healthcare providers who submit medical exemptions for mandatory vaccination must ensure that the information submitted is accurate and verifiable. The use of this form is not mandated or required. It is a tool that may be used by healthcare providers, schools, preschools, childcare facilities, and local health departments to assist in determining the validity of a medical exemption from mandatory immunization.

### **Are students 31 years of age and older subject to the immunization requirements set forth in N.J.A.C. 8:57-6.4 (b)1 since the Higher Education statute N.J.S.A. 18A:61D-1 states that the immunization requirements specifically apply to students 30 years of age and under?**

- The NJ Higher Education Statute, N.J.S.A. 18A:61D-1 states: Every public and independent institution of higher education in this State shall, as a condition of admission or continued enrollment, require every graduate and undergraduate student who is 30 years of age or less and is enrolled full-time or part-time in a program or course of study leading to an academic degree, to submit to the institution a valid immunization record which documents the administration of all required immunizations against vaccine-preventable disease, or evidence of immunity from these diseases, in accordance with regulations promulgated by the Department of Health. The institution shall keep the records on file in such form and manner as prescribed by the department.

The NJDOH administrative code, N.J.A.C. 8:57-6.4, states that students born before 1957 are exempt from the measles, mumps, and rubella (MMR) vaccination requirement. Since the Education Statute at N.J.S.A. 18A:61D-1 specifically states that only students 30 years of age or less must show proof of vaccination, NJDOH cannot require a college student over 30 years of age that meets all the other requirements set forth at N.J.S.A. 18A:61D-1 to present proof of vaccine or immunity for any of the required college vaccines. However, NJDOH still highly recommends that students are age-appropriately immunized.

### **Is the previous law requiring education on meningococcal disease still in effect?**

- **YES**, it is still required for institutions to provide education on meningococcal disease. Since 2001, institutions of higher education have been required by law (N.J.A.C. 8:57-6.10) to provide information on meningococcal disease, at a minimum, including its nature and severity, causes, disease prevention and treatments, and the availability of a meningococcal vaccine to prevent disease. The student information flyer, available at <https://nj.gov/health/cd/topics/meningo.shtml>, may be shared to comply with this law. Alternatively, an institution may develop their own resource to comply.

## **CLINICIAN FAQs**

### **How do shared clinical decision-making recommendations differ from routine, catch-up, and risk-based immunization recommendations?**

- Unlike routine, catch-up, and risk-based recommendations, shared clinical decision-making vaccinations are not recommended for everyone in a particular age group or everyone in an identifiable risk group. Rather, shared clinical decision-making recommendations are individually based and informed by a decision process between the health care provider and the patient or parent/guardian.

The key distinction between routine, catch-up, and risk-based recommendations and shared clinical decision-making recommendations is the default decision to vaccinate. For routine, catch-up, and risk-based recommendations, the default decision should be to vaccinate the patient based on age group or other indication, unless contraindicated. For shared clinical decision-making recommendations, there is no default—the decision about whether or not to vaccinate may be informed by the best available evidence of who may benefit from vaccination; the individual’s characteristics, values, and preferences; the health care provider’s clinical discretion; and the characteristics of the vaccine being considered. There is not a prescribed set of considerations or decision points in the decision-making process.

### **Which patients should providers discuss shared clinical decision-making recommendations with?**

- It’s up to the provider. Some health care providers may choose to discuss immunizations recommended for shared clinical decision-making with all or most of their patients who could receive it, while some providers may be more selective when discussing these immunizations with their patients. Health care providers should also be receptive to patient-initiated conversations about these immunizations.

### **Are shared clinical decision-making recommendations covered by private insurers?**

- Under the Affordable Care Act and its implementing regulations, ACIP recommendations that have been adopted by CDC “with respect to the individual involved” and are “listed on the Immunization Schedules of the Centers for Disease Control and Prevention” generally are required to be covered by group health plans and health insurance issuers offering group or individual health insurance coverage without imposing any cost-sharing requirements (such as a copayment, coinsurance, or deductible). This coverage requirement includes shared clinical decision-making recommendations when they have been adopted by CDC and are listed on the immunization schedules.

**Are the two MenACWY vaccines interchangeable?**

- **YES**, for persons age 9 months and older the vaccines, MenACWY-D (Menactra) and MenACWY-CRM (Menveo), are interchangeable.

**Are the two MenB vaccines interchangeable?**

- **NO**, the two MenB vaccines, MenB-4C (Bexsero) and MenB-FHbp (Trumenba), are not interchangeable. If a series is started with one brand, it must be completed with the same brand.

**Can both MenACWY and MenB vaccines be administered on the same day?**

- **YES**, these two vaccines can be administered at the same visit or at any time before or after the other. There is no need for spacing between these two vaccines.

**If a patient received MenACWY vaccine at age 10 years and a dose of MenACWY before the 16th birthday, will they still need a booster dose at age 16?**

- **YES**, they should receive a booster dose. A booster dose of MenACWY is recommended at age 16 years even if 2 (or more) doses of meningococcal ACWY vaccine were received before age 16 years.

**Risk Indication Summary Table**

Increased Risk Indications for Meningococcal Vaccines		
Risk Indications	Meningococcal ACWY (MenACWY)	Meningococcal B (MenB)
Complement component deficiency	Yes	Yes
Anatomic/functional asplenia	Yes	Yes
HIV infected	Yes	No
Travel	Yes	No
Microbiologist working with <i>N. Meningitidis</i>	Yes	Yes
First-year college student living in residence hall	Yes	No
Military recruit	Yes	No
Community outbreak	Yes, for outbreaks involving serogroups A, C, W, Y	Yes, for outbreaks involving serogroup B

**Last updated:** February 25, 2020



**BOARD OF TRUSTEES ACTION: I-1**  
**Approval Date: September 1, 2020**

**Resolution**

Approval for revision of the Bergen Community College Title IX Policy Covering Discrimination, Harassment, and Sexual Misconduct Policy, and the Title IX Grievance Procedures.

**Submitted By**

Dr. Anthony Ross, Interim President

Dr. Drorit Beckman, Executive Assistant to the Executive Vice President

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the revision of the following college policies:

1. Bergen Community College Title IX Policy Covering Discrimination, Harassment, and Sexual Misconduct Policy, and
2. Title IX Grievance Procedures

Each of these college policies have been revised and the documents attached.

**Justification**

Revisions to this policy and procedure are the result of recent changes made to Title IX legislation.

See attached policies.



**TO BE APPROVED**

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

**Policy #** HR

**Effective Date:**

August 14, 2020

**Responsible Official:**

Title IX Coordinator

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**Bergen Community College Title IX Policy Covering  
Discrimination, Harassment, and Sexual Misconduct**

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**Reason for Policy:**

All members of the Bergen Community College campus community, including students, faculty, staff, guests, and visitors have the right to be free from sexual discrimination, harassment and misconduct. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to an appropriate administrator's attention, and a respondent is found to have violated this policy, sanctions will be used to reasonably ensure that such actions are not repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

**Entities Affected by this Policy:** Faculty, staff, students, vendors, visitors, and guests.

**Policy Statement:**

Bergen Community College is committed to providing a learning and working environment that promotes personal integrity, civility, and mutual respect in a place free of discrimination on the basis of sex; which includes all forms of sexual misconduct. Sex discrimination violates an individual's fundamental rights and personal dignity. Bergen Community College considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sexual misconduct, including but not limited to: sexual harassment, sexual assault, sexual and gender discrimination, sexual violence, domestic violence, dating violence and stalking by employees, students, or third parties.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the College has developed policies and procedures that prohibit sex discrimination in all of its forms.



## TO BE APPROVED

Bergen Community College does not discriminate on the basis of race, color, age, gender, gender identity, sexual orientation, religion, national origin, veteran status, disability, genetic information or any other basis of prohibited discrimination in its programs and activities. This policy extends to employment, programs, and admission to the College.

This policy applies to all faculty, staff, students, and visitors. It also governs student-on-student sexual discrimination, including sexual assault, both on campus and college sponsored and/or sanctioned off-campus activities.

Persons who experience discrimination, harassment, or sexual misconduct may respond to the experience in many different ways, including feeling confused, vulnerable, out of control, embarrassed, angry, or depressed. The College provides a variety of resources to assist individuals who have experienced discrimination, harassment, or sexual misconduct to address the effects of the incident and to help them determine whether and how to make a formal complaint about the incident.

**All reports of discrimination, harassment, and/or retaliation shall be promptly made to the Title IX Officer (or one of the designated Deputy Coordinators), which are listed in full below.** The Director of Human Resources serves as the Title IX Officer. The Deputy Coordinators consist of the Assistant Director of Human Resources, Managing Director of Off-site Campus, Assistant Director of Public Safety, and the Executive Assistant to the VP Student Affairs. The College Investigators consists of the Sr HR Generalist, Coordinator of Student Conduct and Director of Athletics.

Notice to the Title IX Coordinator or Deputy Coordinators constitutes “**actual knowledge**” to the College and will trigger an investigation and response to the victim on behalf of the College. In accordance with the Department of Education’s (the “Department”) Title IX Regulations,

- **Actual knowledge** means notice of sexual harassment or allegations of sexual harassment to a Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College.
- Imputation of knowledge based solely on vicarious liability or constructive notice is sufficient to constitute actual knowledge.
- Notice includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

Reporting responsibilities are stated in Section III below for those individuals who become aware of incidents involving discrimination, harassment, or sexual misconduct.

### I. Prohibited Conduct

#### A. Discrimination

Bergen Community College adheres to all federal and state civil rights laws banning discrimination

in public institutions of higher education. The College prohibits discrimination against any employee, applicant for employment, student, or applicant for admission on the basis of any protected class. Protected classes include: age, color, creed, disability, ethnicity, gender identity, genetic information, marital status, national origin, political affiliation, pregnancy, race, religion, sex, sexual orientation, veteran or military status, or any other protected category under applicable federal, state, or local law, including protections for those opposing discrimination or participating in any complaint process on campus or with other human rights agencies.

This policy covers discrimination in employment and in access to educational opportunities. Discrimination is defined as adverse treatment of an individual based on that individual's membership in one (1) or more of the protected groups listed above. Therefore, any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, and/or social access, benefits, and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the College policy on discrimination.

## **B. Harassment**

Bergen Community College prohibits harassment against any employee, student, applicant, visitor, or guest on the basis of any class protected by College policy or law as identified in Section I.A. above. This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters. The sections below describe the specific forms of prohibited harassment under the Title IX policy.

### **1. Sexual Harassment**

This policy prohibits any form of sexual harassment. Sexual harassment is defined as any conduct on the basis of sex that satisfies one (1) or more of the following:

- (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct, otherwise known as quid pro quo harassment by a College employee;
- (2) Any unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
- (3) Any instance of sexual assault, dating violence, domestic violence, or stalking.
  - a. **Sexual assault** is defined as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (FBI).
  - b. **Dating violence** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the

existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

- c. **Domestic Violence** is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of New Jersey, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of New Jersey.
- d. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or cause a reasonable person to suffer substantial emotional distress.

Anyone experiencing sexual harassment or sex discrimination (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) in any College program is encouraged to report it online ([www.bergen.edu/report](http://www.bergen.edu/report)), to Bergen's Title IX Coordinator or a Deputy Coordinator, or in person, by mail, by telephone or by email, using the contact information provided for the Title IX Coordinator. Such report may be made at any time (including non-business hours) by using the telephone number or email address provided, or by mail to the office address, as listed for the Title IX Coordinator.

Sexual harassment creates a hostile environment and offenders may be disciplined when it is sufficiently severe, pervasive, and objectively offensive, and indifferent that:

- 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 social, and/or community programs, or
- Is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.
- Some examples of possible sexual harassment include:
  - A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student complies with the request.
  - A student repeatedly sends sexually oriented jokes on an e-mail list that he/she created, even when asked to stop, causing one recipient to avoid the sender on campus and stop attending a class in which they are both registered.
  - Two supervisors frequently rate several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.

## **2. Consensual Relationships.**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship may also be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the Employee Code of Conduct. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are **strongly discouraged**.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship.

### **3. Sexual Misconduct**

This policy prohibits any form of sexual misconduct. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. The definition of consent below will be used in the interpretation and application of this policy:

**Consent.** Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent to a specific sexual contact (such as kissing or fondling) cannot be presumed to be consent for another specific sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Silence or the absence of resistance alone is not consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Individuals can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop immediately.

A person cannot consent if he or she is incapacitated. Under this policy, a person is incapacitated if he or she is disabled or deprived of ability to act or reason for one's self, is unable to understand what is happening, or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). This policy also covers a

person whose incapacity results from mental disability, involuntary physical restraint, and/or from taking an incapacitating substance. A person is incapacitated if the person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance; if a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited; or if the person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the respondent to a claim of sexual misconduct was intoxicated and, therefore, did not realize the other person's incapacity.

The following are types of prohibited sexual misconduct under this policy:

**A. Sexual Harassment**

Sexual harassment is 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.

**B. Sexual Assault**

Sexual assault consists of non-consensual sexual contact which includes the following:

- Sexual penetration or intercourse (anal, oral, or vaginal) however slight with any object by a person upon another person that is without consent and/or by force.
- Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth-to-genital contact or genital -to-mouth contact, finger, or object, or oral copulation by mouth-to-genital contact or genital-to-mouth contact.
- Any intentional sexual touching however slight with any object by a person upon another person that is without consent and/or by force.
- Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual or any other bodily contact in a sexual manner.

**C. Domestic and Dating Violence**

- **Dating Violence** – Committed by a person who is or has been in a sexual relationship of a romantic or intimate nature with the complainant. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.
- **Domestic Violence** – A felony or misdemeanor crime of violence committed by the following:
  - By a current or former spouse or intimate partner of the Complainant.
  - By a person with whom the Complainant shares a child in common.
  - By a person who cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner.
  - By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of NJ
  - By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of NJ.
- D. **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of other's and suffer substantial emotional distress.
- E. **Course of conduct** – Means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- F. **Reasonable Person** – Means a reasonable person under similar circumstances and with similar identities to the Complainant.
- G. **Substantial Emotional Distress** – Means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**C. Bias-Related Harassment**

This policy prohibits any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the campus community, which unreasonably interferes with an individual's work or academic environment.

This environment may be created by verbal, written, graphic, threatening and/or physical conduct that is sufficiently severe, pervasive, and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities. Merely offensive conduct and/or harassment of a generic nature not on the basis of membership in a protected class may not result in a violation of this policy but may be addressed through education and/or other resolution methods.

## **II. Retaliation**

The College seeks to create an environment where its students and employees are free, without fear of reprisal, to use its policies and procedures to determine if a violation of an individual's civil rights has occurred. Any act of retaliation will result in appropriate disciplinary action.

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. This includes any individual's right to participate or refuse to participate in a Title IX grievance process. Examples include retaliation against the complainant by the respondent, the respondent's friends or co-workers, or a representative of the College. Retaliation against an individual for alleging a violation of their civil rights, supporting a complainant, or for assisting in providing information relevant to a claim, is a serious violation of this policy.

No employee of the College, student, applicant, third party or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing relating to any Title IX claim.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purposes of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The College will keep confidential the identity of any individual who has made a report or filed a complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as required by law, or to carry out the purposes of the Department's Title IX Regulations, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or Deputy Coordinators. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination as provided herein.

## **III. Other Offenses**

This policy prohibits other offenses of a discriminatory, harassing, and/or retaliatory nature not included in the previous sections as follows:

## TO BE APPROVED

- Intimidation is defined under this policy as implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class;
- Hazing is defined under this policy as acts likely to cause physical or psychological harm or social ostracism to any person within the College community when related to the admission, initiation, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a protected class;
- Bullying/Cyberbullying is defined under this policy as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class;
- Discrimination (as previously defined); and
- Violation of any other College rule, when it is motivated by sex or gender or the actual or perceived membership of the victim in a protected class, which may be pursued using this policy and process.

### A. Sexual Exploitation

Defined as taking non-consensual or abusive sexual advantage of another for their own advantage or benefits, or to benefit or advantage anyone other than the one being exploited. As per the Department's Title IX regulations and in compliance with such rules, the College finds that sexual exploitation constitutes sexual harassment as previously defined. Such misconduct may be reported as a form of sexual harassment in the grievance process as provided herein. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed);
- Taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity;
- Exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent);
- Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
- Sexually-based stalking and/or bullying
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection; and/or
- Administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge or consent.



#### **IV. Scope/Jurisdiction/Application**

This policy applies to allegations of discrimination, harassment, and retaliation that take place on Bergen Community College property or at College-sponsored events, within the United States. This policy may also apply to allegations of discrimination, harassment, and retaliation to actions online when the Title IX Coordinator or Deputy Coordinator determines that the online conduct could have an on-campus impact or general impact on the educational mission of the College. Such impact includes:

- An action that constitutes a criminal offense as defined by federal, state, or local law;
- Any situation where it appears that the respondent may present a danger or threat to the health or safety of him/herself or others;
- Any situation that significantly impinges upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests of the College.

#### **V. Reporting Responsibilities**

All College employees who are aware of or witness discrimination, harassment, sexual misconduct, or retaliation are required to promptly report to the Title IX Coordinator, Title IX Deputy Coordinator, or online at [www.bergen.edu/report](http://www.bergen.edu/report).

Any student who is aware of, or who witnesses discrimination, harassment, sexual misconduct, or retaliation is encouraged to promptly report to the Title IX Coordinator or a Title IX Deputy Coordinator. All initial contacts will be treated with the maximum possible privacy and confidentiality; specific information on any complaint received by any party will be reported to the Title IX Coordinator, but, subject to the College's obligation to investigate and redress violations, every reasonable effort will be made to maintain the privacy of those initiating a report of a complaint. In all cases, the College will give consideration to the complainant with respect to how the complaint is pursued but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal complaint.

Please note: This section addresses reporting obligations for members of the campus community who are made aware of potential violations of this policy. Methods for filing a complaint and the Complaint Resolution Process are detailed in **Procedures Section A**.

##### **A. Title IX Officer and Deputy Coordinators**

###### **Title IX Coordinator**

Gwendolyn Harewood  
Director of Human Resources  
A-316, Pitkin Education Center  
201.447-7442

In addition, the following individuals have been designated as Deputy Coordinators to handle inquiries regarding these policies:

**Title IX Deputy Coordinator (for Off Campus Sites)**

Magali Muniz

Managing Director, Off Campus Sites

Lyndhurst and Hackensack Sites

[mmuniz@bergen.edu](mailto:mmuniz@bergen.edu)

201.689.7006

**Title IX Deputy Coordinator (for faculty & staff)**

Yvette Aviles

Assistant Director of Human Resources

A-316, Pitkin Education Center

[yaviles@bergen.edu](mailto:yaviles@bergen.edu) 201.879.1259

**Title IX Deputy Coordinator (for students)**

Dr. Ralph Choonoo

Executive Assistant to the Vice President of Student Affairs

L-123, Pitkin Education Center

[rchoonoo@bergen.edu](mailto:rchoonoo@bergen.edu) 201.879.7991

**B. Role of the Title IX Officer and Deputy Coordinators**

The Title IX Coordinator and Deputy Coordinators are charged with coordinating the College response to reports of misconduct under this policy. The Title IX Coordinator and Deputy Coordinators do not serve as advocates for either the complainant or the respondent. The Title IX Coordinator or Deputy Coordinators will explain to both parties the informal and formal processes outlined below and the provisions for confidentiality. Where appropriate, the Title IX Coordinator or Deputy Coordinators will provide to both parties' supportive measures on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator and Deputy Coordinators will coordinate with other campus officials to take appropriate interim actions such as no contact orders, academic accommodations, and rearrangement of academic and work assignments.

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security

and monitoring of certain areas of the campus, and other similar measures. The College will maintain all supportive measures provided to a complainant or respondent as confidential, to the extent such confidentiality would not impair the ability of the College to provide the supportive measures.

The College will ensure that the Title IX Coordinator and Deputy Coordinators will not have a conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent. The Title IX Coordinator and Deputy Coordinators have received proper training on the definition of sexual harassment and how to properly conduct an investigation and grievance process regarding Title IX claims, which may include hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including the avoidance of prejudgment of the facts at issue, conflicts of interest, and bias.

### **C. Officials with Authority**

An “**official with authority**” is a College employee who is explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliatory conduct. When a victim/survivor tells an “Official with Authority” employee about an incident of sexual misconduct, the victim/survivor has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Notice to a Title IX Coordinator or any “Official with Authority” conveys actual knowledge to the College. An “Official with Authority” employee must report to the Title IX Coordinator and/or Deputy Coordinator all relevant details about the alleged sexual misconduct shared by the victim/survivor. The Title IX Coordinator and/or Deputy Coordinator will need to determine what happened – including the names of the victim/survivor and alleged perpetrator(s) if known, any witnesses, and any other relevant facts, including the date, time and location.

To the extent possible, information reported to an Official with Authority employee will be shared only with people responsible for handling the College’s response to the report. A responsible employee should not share information with law enforcement:

- A. Without the victim/survivor’s consent.
- B. Unless the victim/survivor has also reported the incident to law enforcement.
- C. Unless otherwise required by the law.
- D. Clery Act requires certain information to be provided to campus public safety.

**The following employees are the College’s “official with authority”:**

- A. Executive Team Members
- B. Title IX Coordinator and Deputy Coordinators
- C. All Human Resources staff – excluding student assistants
- D. All Student Life professional staff
- E. Health and Wellness Personal Counselors
- F. All Public Safety Staff – excluding interns and student assistants

**G. Student Affairs Managerial Staff**

Before a victim/survivor reveals any information to a “*responsible employee*,” the employee should ensure that the victim/survivor understands the employee’s reporting obligations – and, if the victim/survivor does not want to report the matter to the College for investigation, the responsible employee should direct the victim/survivor to confidential resources.

**Mandatory Reporting**

A “**mandatory reporter**” is an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator and/or their supervisor.

**The following employees are considered Mandatory Reporters:**

- A. Administrative, Professional Staff and Support Staff
- B. Academic Counselors and Academic Advisors (both Faculty and Staff)
- C. Athletics professional staff and coaches – excluding student assistants
- D. Faculty
- E. Student Organization Advisors excluding interns and student assistants

**D. Police Reporting**

In addition to required campus reporting, reports may also be made to the police and/or campus security, especially if a crime is or may be involved, by calling the following numbers:

- a. Emergency - 911
- b. Office of Public Safety
  - i. Paramus Campus (24hrs): Dial “6” or 201.447.7200
  - ii. Meadowlands Campus, Lyndhurst: 201.301.1267 – In house, ext. 9600
  - iii. Ciarco Learning Center, Hackensack: 201.301.9700
- c. Bergen County Sherriff’s Office (non-emergency number): 201.336.3500
  - i. 10 Main Street, Hackensack, NJ 07601

**E. Federal Timely Warning Obligations**

Victims of sexual misconduct should be aware that College administrators must issue crime alerts for incidents reported to them that represent a serious or continuing threat to students or employees. The College will withhold a victim's name and other identifying information while providing enough information for community members to make safety decisions in light of the potential danger.

## **VI. Statement of Rights for Complainants and Respondents**

Both complainants and respondents will be afforded the following rights under this policy:

- A.** To be treated with respect by College officials;
- B.** To take advantage of campus support resources (such as Counseling Services and College Health Services for students, or EAP services for employees);
- C.** To experience a safe educational and work environment;
- D.** To have an advisor (students) or representative (employees) during this process;
- E.** To refuse to have an allegation resolved through informal procedures;
- F.** To be free from retaliation;
- G.** To have complaints heard in substantial accordance with these procedures; and
- H.** To participate in the process.

Please also refer to the **NEW JERSEY CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS (Appendix B)**

## **VII. Records**

In implementing this policy, records of all complaints, resolutions, and hearings will be kept by the Title IX Coordinator for a maximum of **seven (7) years**.

The College will maintain the following records:

- (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript;
- (2) Any disciplinary sanctions imposed on the respondent,
- (3) Any remedies provided to the complainant designed to restore or preserve equal access to the College's education program or activity;
- (4) Any appeal and the result therefrom;
- (5) Any informal resolution and the result therefrom;
- (6) And all materials used to train the Title IX Coordinator and Deputy Coordinators.
  - a. The College will make such training materials publicly available on the College website.

## **Appendix A**

### **Good Samaritan**

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a victim of sexual misconduct to Public Safety or a medical provider). The College pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.

### **Risk Reduction Tips**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help to reduce risk of experiencing a non-consensual sexual act. Below are suggestions to avoid committing a non-consensual sexual act:

- A.** Know your sexual intentions and limits. You have the right to say "NO" to any unwanted sexual contact. If you are uncertain of what you want, ask your partner to respect your feelings.
- B.** Communicate your limits firmly and directly. If you say "NO," say it like you mean it. Avoid giving mixed messages. Back up your words with a firm voice and clear body language. Do not assume that someone will automatically know how you feel or will eventually "get the message" without you having to say anything.
- C.** Remember that some people think that drinking, dressing provocatively, or going to your or your date's room is saying you are willing to have sex. Be clear up front about your limits in such situations.
- D.** Listen to your gut feelings. If you feel uncomfortable or think you might be at risk, leave the situation immediately and go to a safe place.
- E.** Don't be afraid to "make waves" if you feel threatened. If you feel you are being pressured or coerced into sexual activity, don't hesitate to state your feelings and leave the situation.
- F.** Attend large parties with friends you trust. Agree to "look out" for one another. Leave with the group, not alone. Avoid leaving with people that you don't know very well.
- G.** Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

## TO BE APPROVED

- A. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- B. Understand and respect personal boundaries.
- C. **DO NOT MAKE ASSUMPTIONS:** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent.
- D. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- E. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- F. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- G. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- H. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

### **Sexual Offense Prevention and Educational Programming**

Bergen Community College recognizes sex discrimination in all its forms as important issues, therefore, the College offers annual educational programming to a variety of groups such as: staff, security, faculty, incoming students, continuing students, student-athletes, and, members of student organizations. Visit [www.Notalone.gov](http://www.Notalone.gov) for more information and resources on avoiding and preventing sexual assault.

Sexual Misconduct educational programming may address matters such as: a definition of what constitutes sex discrimination, the causes of sex discrimination, myths involved with sex discrimination, prevention, the relationship between sex discrimination and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the College sexual misconduct policy, how to make a report and file charges within the College, its conduct system, and/or with the local police department, men's issues and sexual assault, and campus community resources to assist both the survivor and the accused.

### **Federal Enforcer**

The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Individuals with complaints of this nature always have the right

## TO BE APPROVED

to file a formal complaint with the United States Department of Education:

### **Office for Civil Rights (OCR)**

400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline Number: 800.421.3481  
FAX: 202.453.6012  
TDD#: 877.521.2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>



**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 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 on victims and the surrounding community 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:**

- 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 personal publicity.
- 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 with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

**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 and provided assistance 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.

## **TO BE APPROVED**

- 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:**

Student Code of Conduct  
Employee Code of Conduct

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**Policy History: (adopted/amended)**

Section A: AF  
Adopted: 10/5/94  
Resolution: P14  
Updated: 8/7/18

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

**Policy #** HR: 001-002: 2019

**Effective Date:**

Aug 14, 2020

**Responsible Official:**

Title IX Coordinator

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**Discrimination, Harassment, & Sexual Misconduct Policy: Bergen  
Community College Title IX Procedures**

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**Procedures:**

**Complaint Resolution Process**

The College will respond to any alleged violation of this policy received by the Title IX Coordinator and/or Deputy Coordinators. This section outlines ways in which offenses can be reported by individuals choosing to pursue complaint options.

**A. Confidentiality and Reporting of Offenses**

Bergen Community College will make every effort to safeguard the identities of individuals who seek help and/or report discrimination, harassment, and/or retaliation. While steps are taken to protect the privacy of victims, the College's ability to respond may be limited in the event of a request for confidentiality. The College may need to investigate an incident and take action once an allegation is known, whether or not the reporting individual chooses to pursue a complaint.

When a report is made, personally identifiable information (name of victim, name of respondent, etc.) may be initially withheld in cases where the victim is hesitant to come forward. Subsequently, campus officials may need additional information. The College Title IX Coordinator or Deputy Coordinator will conduct an initial inquiry, looking for any sign of pattern, predation, violence, or threat. When such exists, institutional action may be required in an effort to ensure campus safety.

No employee should ever promise absolute confidentiality except those designated as confidential personal counselors, health service providers, victim services advocates, domestic violence resources, local or state assistance agencies, or members of the clergy who are permitted by law to maintain confidentiality. Reports may be private, but not confidential.

Reports to police and/or Title IX officials do not obligate the complainant to file any criminal or College conduct charges.

The College will not pursue disciplinary action for improper use of alcohol or other drugs against an

alleged victim of sexual misconduct or against another student who shares information as either a witness to or as a reporter of sexual misconduct as long as the report is made in good faith. See "Good Samaritan Provision," Appendix A.

Deliberately false and/or malicious accusations of discrimination, harassment, or retaliation, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as discrimination, harassment, or retaliation and will be subject to appropriate disciplinary action.

- **Complaints and reports should be made as soon as possible after an incident.**

*There is no time limit for filing a complaint with the College. However, complainants should report possible violations of this policy as soon as possible to maximize the College's ability to respond effectively. Failure to report promptly could result in the loss of relevant evidence and impair the College's ability to adequately respond to the allegations.*

**If the incident is an assault immediately report the incident:**

- **Emergency – 911 [Call 911 if you are not safe and in need of immediately medical attention.]**
- **Office of Public Safety**
  - **Paramus Campus (24hrs): 201.447.7200 or Dial 6 on Paramus campus**
  - **Meadowlands Campus, Lyndhurst: 201.301.9600**
  - **Ciarco Learning Center, Hackensack: 201.301.9700**
- **Bergen County Sheriff's Office (non-emergency number): 201.336.3500**
  - **10 Main Street, Hackensack, NJ 07601**

**Seek immediate medical attention:**

Do not change clothing, shower, bathe, brush teeth or douche. Delay the foregoing and try not to use the bathroom (if possible) until you are examined, as this preserves evidence of the assault. Medical attention should be assessed at a local hospital.

On-campus resources:

**Center for Health, Wellness and Personal Counseling.** *The RN staff of Health Services provides free First-Aid, emergency medical response, and healthcare maintenance to all members of the campus community.*

- HS-100, Pitkin Education Center, 201.447.9257 Off-campus resources:

**Valley Hospital**

- 223 N. Van Dien Avenue, Ridgewood, NJ, 07450, 201.447.8000

**Hackensack University Medical Center**

- 30 Prospect Avenue, Hackensack, NJ 07601, 551.996.2000

**Seek emotional support.**

**Bergen Community College counselors** for students and/or the **Employee Assistance Program (EAP)** for employees are available to help free of charge and can be seen on an emergency basis.

On-campus resources:

**Center for Health, Wellness and Personal Counseling**

- HS-100, Pitkin Education Center, 201.447.9257 Off-campus resources:

**HealingSpace of YWCA** 24-hour hotline – 201.487.2227

The **Sexual Assault Response Team (SART)** is a free, coordinated community response to assist a survivor in the aftermath of a recent sexual assault. SART offers a compassionate, survivor-centered approach while collecting evidence that can be vital to the investigation and prosecution of the crime.

**SART is available 24 hours a day, 7 days a week. You can activate SART if:**

- Sexual assault occurred within 5 days
- You are at least 13 years old
- You are safe and not in need of immediate medical attention\*
- You want to activate one or more SART professionals
- ***\*Call 911 if you are not safe or need immediate medical attention.***

**To activate SART:**

Call the 24/7 hotline [201-487-2227](tel:201-487-2227) to speak with a Confidential Sexual Violence Advocate who will discuss all of your options with you.

- Note that you may choose to receive an exam with an advocate and nurse, and then choose to report with law enforcement at a later date.

**Magellan Employee Assistance Program** (employees):

Magellan is contracted by Bergen Community College to provide professional consultation to Bergen Community College employees and their eligible dependents in the areas of stress management, family issues, child/elder care, dependency and other matters. Contact [www.magellanassist.com](http://www.magellanassist.com).

**Options for filing a report include:**

**1. Anonymous and Third-Party Reporting**

The Title IX Coordinator and Deputy Coordinators accept anonymous and third-party reports of conduct

alleged to violate this policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Officer or Deputy Coordinators to investigate and respond as appropriate. The College may be limited in its ability to investigate or respond to an anonymous or third-party report unless sufficient information is provided. (See [www.bergen.edu/reportanincident](http://www.bergen.edu/reportanincident)).

## **2. Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with counselors, health service providers, victim services advocates, domestic violence resources, local or state assistance agencies, or members of the clergy who are permitted by law to maintain confidentiality (except in extreme cases of immediacy of threat or danger or abuse of a minor). These sources may submit anonymous statistical information for timely warning and Clery Act purposes. If a reporting party is unsure of a resource's ability to maintain confidentiality, the reporting party is advised to ask them before talking to them.

Bergen Community College personal counselors for students and/or the Employee Assistance Program for employees are available to help free of charge and can be seen on an emergency basis.

## **3. Private Reporting**

Reports to College employees who are not confidential resources should be treated with the maximum possible privacy. If a reporting party is unsure of a resource's ability to maintain privacy, the reporting party is advised to ask them before talking to them. The resource will be able to explain the resource's reporting obligations and help a reporting party make decisions about who is in the best position to help. If personally identifiable information is shared, it will be shared with as few people as possible under the circumstances and efforts will be made to protect privacy to the greatest extent reasonably possible.

## **4. Formal Reporting**

Complainants are encouraged to speak to College officials, such as the Title IX Coordinator or Deputy Coordinators or Public Safety, to make formal reports. Complainants have the right, and can expect, to have complaints taken seriously by the College when formally reported and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter and only a small group of officials who need to be informed will be notified. Information will be shared as necessary with investigator(s), witnesses, the respondent, and a hearing board if deemed appropriate. The number of people with this knowledge will be kept as few as reasonably possible to preserve a complainant's rights and privacy.

## **5. Criminal Reporting**

If someone is in immediate danger, call 9-1-1. Some acts of discrimination and harassment may also be crimes, such as sexual assault or stalking. Individuals are encouraged to report allegations of criminal conduct to law enforcement even when it is not clear whether the conduct rises to the level



of a crime. Regardless, law enforcement can assist with obtaining medical care, getting immediate law enforcement response and protection, connecting with victim advocate services and counseling support, initiating a criminal investigation as appropriate and answering questions about the criminal process.

## **B. Informal Resolution Process**

Informal resolution is an alternative to the formal complaint resolution process. The Title IX Coordinator will determine if an informal resolution is appropriate, based on the willingness of the parties and the nature of the alleged conduct. The College will not require parties to participate in an informal resolution process. An informal resolution process may only take place as a result of a formal complaint that has been filed with an appropriate member of the College.

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 College reserves the right to cancel an informal resolution if sufficient evidence suggests a formal investigation or other sanctions or remedies may be necessary and appropriate.

It is not necessary to pursue an informal resolution first in order to make a formal complaint, and anyone participating in an informal resolution can stop that process at any time and request to continue through the formal process.

Except in cases involving criminal activity and/or sexual assault, an employee or student alleging discrimination, harassment and/or retaliation against an employee under this policy is encouraged to consider an informal resolution. If it is appropriate, an attempt to facilitate an informal resolution of the matter will be made. In the event that an informal resolution is not reached, is not appropriate, or is not pursued, the student or employee who is alleging the discrimination, harassment, or retaliation may initiate a formal investigation.

Upon implementation of an informal resolution process, the College will provide all parties with a written notice disclosing: the allegations, 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, that **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 grievance process with respect to the formal complaint**, and 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.

An informal resolution process may be conducted for a period of 60-90 days 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.

The College will not offer or facilitate an informal resolution process that involves allegations of an employee sexually harassing a student.

### **C. Formal Resolution Process**

#### **1. Filing a Complaint**

Any individual who believes that this policy has been violated should contact the Title IX Coordinator or any Title IX Deputy Coordinator as soon as possible.

##### **A. Complaint Intake**

Following receipt of notice or a complaint, the Title IX Coordinator or Deputy Coordinator will normally, within five (5) business days, make an initial determination as to whether the information has merit to reasonably indicate there may have been a violation of College policy. If it appears a violation may have occurred, an investigation will begin. If the complaint does not appear to allege a policy violation or if conflict resolution is desired by the complainant and appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation. An investigation will be pursued if there is sufficient information to suggest a policy violation, a pattern of misconduct, and/or a perceived threat of further harm to the community or any of its members exists.

Throughout this process, the College will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process (whether it is through an informal resolution or investigation).

Upon receipt of a formal complaint, the College will provide a written notice to the parties who are known, which will include the following:

- Notice of the College's grievance process;
- Notice of the allegations of sexual harassment, including sufficient details such as the identities of the parties involved in the incident (if known), the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident (if known.);
- 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 grievance 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; and
- A statement informing the parties of any provision in the College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

During the course of the investigation, the College may decide to investigate allegations about the complainant or respondent that were not included in the initial written notice, if this occurs, the College

will provide notice of the additional allegations to the parties whose identities are known.

## **B. Supportive Measures**

The College will implement interim and/or protective actions upon notice of alleged discrimination, harassment, and/or retaliation and will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor who has violated this policy.

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.

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 the 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 the respondent employee.

## **2. Notice of Charges**

Once an investigator has been assigned, written notice of the allegations will be provided to the parties involved. If the respondent is an employee, the written notice will be copied to the employee's department head/director, dean, vice president, and president.

## **3. Investigation**

If a complainant wishes to pursue a formal complaint or if the College determines an investigation is necessary, the Title IX Coordinator will assign an investigator, usually within five (5) business days of determining that a complaint should proceed. Investigations will be thorough and impartial and will entail interviews with relevant parties and witnesses, and obtaining available evidence. Conflict of interest (real or perceived) by the investigator will not be allowed. The College aims to complete investigations, barring exigent circumstances within 60 days, which can be extended as necessary for appropriate cause or reasonable delays as determined by the Title IX Coordinator with notice to the

parties. 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. Complainants 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 both a criminal charge and a request for a College resolution simultaneously.

#### **A. Student Withdrawal While Charges Pending**

The Title IX Coordinator may dismiss a complaint or any allegations at any time during the investigation or hearing, should a responding student decide to withdraw from the College and/or not participate in the investigation and/or hearing. The process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the College unless any and all sanctions have been satisfied. The Title IX Officer will continue to act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

#### **B. Employee Resignation While Charges Pending**

Should a responding employee resign while charges are pending, the Title IX Coordinator may dismiss a complaint or any allegations at any time during the investigation or hearing. The records of the Title IX Coordinator will reflect that status, as will College responses to any future inquiries regarding employment references for that individual. The Title IX Coordinator will continue to act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

#### **C. Required Dismissal of Complaint**

The Title IX Coordinator must dismiss a complaint or any allegations under the following circumstances as defined by new Title IX regulations:

- Did not occur at the College's education program or activity;
- Did not occur against a person in the United States;
- Complainant was not participating or attempting to participate in the College's program at time of complaint; or
- The conduct alleged in the formal complaint would not constitute sexual harassment as defined by Title IX definitions, even if proved.

The College may dismiss a formal complaint or any allegation 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 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 the dismissal must be provided to all parties. Upon dismissal, the College may institute action under another provision of the Employee Code of Conduct, Student Code of Conduct, Discrimination Policy and Sexual Harassment Policy. Dismissal of the formal complaint may be appealed.

#### **4. Investigation Findings**

##### **A. For Students**

Upon receipt of the investigative report, the Title IX Coordinator will forward it to the Vice President of Student Affairs or designee for an appropriate hearing per the Student Code of Conduct procedures. In addition, a copy of the investigation report must be provided to the respondent, the complainant and their advisors. All parties have ten (10) days to review the information and provide a response to the Investigator and/or Title IX Coordinator.

The investigation process for each complaint will require a live hearing involving all parties.

During a hearing:

- Both the complainant and the respondent will receive equivalent notice of the process;
- The complainant and the respondent will be invited to the Hearing;
- The complainant and respondent will be entitled to the same opportunity to have an Advisor present during the Hearing;
- The Advisor of choice may be anyone;
- If either party does not have an Advisor, then the College must provide one for the cross-examination part of the Hearing at no cost to either party;
- The College may restrict participation of Advisor equally except for the cross-examination;
- Both the complainant and the respondent will have the opportunity to present witnesses with information pertinent to the alleged sexual harassment, sexual misconduct or sexual assault, and any relevant information to the Hearing panel during the conduct process;
- The complainant will be provided options for reasonable alternative arrangements if he or she does not want to be present in the same room as the respondent during the Hearing;
- Testimony regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent. If the respondent is found responsible for the conduct alleged in the complaint, his or her past sexual misconduct, if any, may be considered in determining the appropriate outcome.
- Advisors will be allowed to cross-examine either party during the Hearing, which may

- involve each party's advisor asking the other party and any witnesses all relevant questions and follow-up questions, including that challenging credibility. Cross-examinations at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a party or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
  - An Advisor can be asked to step out of the Hearing by the Hearing Chair for inappropriate behavior or improper questions.
  - The College will document the proceedings.

Following the hearing, the decision of whether a policy violation has occurred will be determined by using a preponderance of the evidence standard. The decision will be made by the Decision Maker who will be a member of senior confidential staff. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If, following the hearing, the decision is that no policy violation has occurred the process will end. Regardless of the outcome, the complainant, the respondent, and the Title IX Coordinator will be notified of the finding in writing.

A written determination will include the following:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including, any notification to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's code of conduct to the facts;
- A statement of, and rationale for, the results as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College will impose on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- The College's procedures and permissible bases for the complainant and respondent to appeal.

A written determination will be provided to all parties simultaneously. The determination regarding responsibilities will become final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If, following a hearing, the student is found to have violated College policy, appropriate disciplinary sanctions will be determined after consultation with the Title IX Coordinator. The Vice President of Student Affairs (or designee) will notify the respondent, the complainant, and the Title IX Coordinator in

writing of the Vice President's decision. This written decision must be issued within fifteen (15) business days of the date of receipt of the investigative report from the Title IX Coordinator.

## **B. For Employees**

Investigations will be thorough and impartial and will entail interviews with relevant parties and witnesses, and obtaining available evidence. Both the complainant and the respondent will have the opportunity to present witnesses with information pertinent to the alleged sexual harassment, sexual misconduct or sexual assault, and any relevant information. The investigator will document the proceedings. Employees who are under the respective, collective bargaining agreements, are entitled to have union representation consistent with their Weingarten Rights throughout the process.

Upon receipt of the investigative report, the Title IX Coordinator will determine if this policy has been violated by using a preponderance of the evidence standard. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If the Title IX Coordinator decides that no policy violation has occurred, then the process will end. Regardless of the outcome, the complainant and the respondent will be notified of the finding in writing. The respondent's department head/director, Dean, Vice President, Director of Human Resources (or a designee as identified by the President), and the President will also be notified of the finding.

In the event that the employee violated College policy, the Director of Human Resources (or a designee as identified by the President) will determine appropriate disciplinary sanctions based on the recommendation from the Title IX Officer. These recommendations will be submitted to the President for review and approval. If a Vice President and/or Director of Human Resources (or a designee as identified by the President) serves as a party or witness in the investigation, the Title IX Coordinator's recommendation will be sent to the President for determination of disciplinary sanctions.

Regardless of the outcome, the complainant, the respondent, and the Title IX Coordinator will be notified in writing of the outcome within twenty (20) college days of the date of the notice from the Title IX Coordinator.

## **5. Sanctions**

Sanctions will be recommended by the Title IX Coordinator and forwarded to the decision-making authority. Factors considered when determining a sanction may include:

- The nature of, severity of, and circumstances surrounding the violation;
  - The respondent's disciplinary history;
  - Previously founded complaints or allegations against the respondent involving similar conduct;
  - Any other information deemed relevant by the Title IX Coordinator;
  - The need to bring an end to the discrimination, harassment, and/or retaliation;
  - The need to prevent the future recurrence of discrimination, harassment, and/or retaliation;
- and/or

- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the victim and the community.

#### **a. Student Sanctions**

For examples of the range of potential disciplinary sanctions against students, see the section of the Student Code of Conduct entitled ***Remedies and Sanction***.

#### **b. Employee Sanctions**

Sanctions for an employee who has violated this policy may include, but are not limited to, verbal or written warning, required counseling, training, demotion, reassignment, suspension, and termination.

### **6. Appeals**

Appeals of the decision of the Dean of Student Life and Conduct and/or the Community Standards Review Board process (for students) or the Executive Director of Human Resources/President (or a designee as identified by the President) (for employees) may be filed by the complainant, the respondent or both. All requests for appeal considerations must be submitted in writing to the Title IX Coordinator within five (5) business days of the date of the final written notice.

Appeals are limited to allegations of the following:

- A procedural error or omission that significantly impacted the outcome;
- The Title IX Coordinator, investigator(s), or decision-maker (s) had a conflict of interest or bias or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the decision
- There is new evidence, unknown or unavailable during the investigation, that could substantially impact the finding or sanction. A summary of this new evidence and its potential impact upon the investigation must be included in the appeal; and/or
- The sanctions imposed are substantially disproportionate to the severity of the violation.

The original finding 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 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 both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The Appeal Decision Maker for either the student or employee process cannot have had any other role in the investigation or resolution process. The Appeal Decision Maker will be determined by the Title IX Coordinator.

Where the designee 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 and/or protective actions may be imposed and/or continued as appropriate.
- The designee will render a decision within ten (10) college days to the Title IX Coordinator who will normally provide written notice of the appeal to all parties within three college 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 both parties.
- Once an appeal is decided, the outcome is final: further appeals are not permitted under this policy.

## **7. Failure to Complete Sanctions**

All respondents are expected to comply with conduct sanctions within the time frame specified in their written notice. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension, expulsion, and/or termination from the College. For students, failure to comply may result in a hold to prevent future registration or other transactions with the College.

## **III. Remedial Actions**

In addition to interim actions, the Title IX Coordinator or Deputy Coordinator may provide remedial actions intended to address the short or long-term effects of 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, in order to redress harm to the complainant and the 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 campus community may be jeopardized by the presence of the respondent on campus or the ongoing activity.

These remedies may include referral to counseling and health services or to the Employee Assistance Program (EAP), altering the academic schedule of a respondent student, (or the alleged complainant, if desired), altering work arrangements, providing campus escorts, implementing contact limitations between the parties, or offering adjustments to academic deadlines and/or course schedules.

## **Related Documents/Policies:**

Policy Prohibiting Discrimination

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

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## **Policy History: (adopted/amended)**

Section A: AF Adopted: 10/5/94 Resolution: P14 Updated: 8/14/20

## **Appendix A**

### **Good Samaritan**

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a victim of sexual misconduct to Public Safety or a medical provider). The College pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.

### **Risk Reduction Tips**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help to reduce risk of experiencing a non-consensual sexual act. Below are suggestions to avoid committing a non-consensual sexual act:

- A.** Know your sexual intentions and limits. You have the right to say "NO" to any unwanted sexual contact. If you are uncertain of what you want, ask your partner to respect your feelings.
- B.** Communicate your limits firmly and directly. If you say "N," say it like you mean it. Avoid giving mixed messages. Back up your words with a firm voice and clear body language. Do not assume that someone will automatically know how you feel or will eventually "get the message" without you having to say anything.
- C.** Remember that some people think that drinking, dressing provocatively, or going to your or your date's room is saying you are willing to have sex. Be clear up front about your limits in such situations.
- D.** Listen to your gut feelings. If you feel uncomfortable or think you might be at risk, leave the situation immediately and go to a safe place.
- E.** Don't be afraid to "make waves" if you feel threatened. If you feel you are being pressured or coerced into sexual activity, don't hesitate to state your feelings and leave the situation.
- F.** Attend large parties with friends you trust. Agree to "look out" for one another. Leave with the group, not alone. Avoid leaving with people that you don't know very well.
- G.** Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- A.** Clearly communicate your intentions to your sexual partner and give them a chance to clearly

relate their intentions to you.

- B. Understand and respect personal boundaries.
- C. **DO NOT MAKE ASSUMPTIONS:** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent.
- D. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- E. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- F. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- G. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- H. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

### **Sexual Offense Prevention and Educational Programming**

Bergen Community College recognizes sex discrimination in all its forms as important issues, therefore, the College offers annual educational programming to a variety of groups such as: staff, security, faculty, incoming students, continuing students, student-athletes, and, members of student organizations. Visit [www.Notalone.gov](http://www.Notalone.gov) for more information and resources on avoiding and preventing sexual assault.

Sexual Misconduct educational programming may address matters such as: a definition of what constitutes sex discrimination, the causes of sex discrimination, myths involved with sex discrimination, prevention, the relationship between sex discrimination and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the College sexual misconduct policy, how to make a report and file charges within the College, its conduct system, and/or with the local police department, men's issues and sexual assault, and campus community resources to assist both the survivor and the accused.

### **Federal Enforcer**

The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Individuals with complaints of this nature always have the right to file a formal complaint with the United States Department of Education:

### **Office for Civil Rights (OCR)**

400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline Number: 800.421.3481 FAX:  
202.453.6012  
TDD#: 877.521.2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

## **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 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 on victims and the surrounding community 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:**

- 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 personal publicity.
- 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 with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

**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 and provided assistance 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.



## TO BE DELETED

### **Bergen Community College Board of Trustees Section (HR)**

**Policy #** HR: 001-002: 2019

**Effective Date:** Nov. 25, 2019

**Responsible Official:** Title IX Coordinator

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### **Discrimination, Harassment, & Sexual Misconduct Policy: Bergen Community College Title IX Policy**

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#### **Reason for Policy:**

All members of the Bergen Community College campus community, including students, faculty, staff, guests, and visitors have the right to be free from sexual discrimination, harassment and misconduct. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to an appropriate administrator's attention, and a respondent is found to have violated this policy, sanctions will be used to reasonably ensure that such actions are not repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

**Entities Affected by this Policy:** Faculty, staff, students, vendors, visitors, and guests.

#### **Policy Statement:**

Bergen Community College is committed to providing a learning and working environment that promotes personal integrity, civility, and mutual respect in a place free of discrimination on the basis of sex; which includes all forms of sexual misconduct. Sex discrimination violates an individual's fundamental rights and personal dignity. Bergen Community College considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination, including but not limited to: sexual harassment, sexual assault, sexual misconduct, and sexual violence, domestic violence, dating violence and stalking by employees, students, or third parties.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the College has developed policies and procedures that prohibit sex discrimination in all of its forms.

Bergen Community College does not discriminate on the basis of race, color, age, gender, gender identity, sexual orientation, sexual identity, religion, national origin, veteran status, disability, genetic information or any other basis of prohibited discrimination in its programs and activities. This policy extends to employment, programs, and admission to the College.

This policy applies to all faculty, staff, students, and visitors. It also governs student-on-student sexual discrimination, including sexual assault, both on and off-campus.

Persons who experience discrimination, harassment, or sexual misconduct may respond to the experience in many different ways, including feeling confused, vulnerable, out of control, embarrassed, angry, or depressed. The College provides a variety of resources to assist individuals who have experienced discrimination, harassment, or sexual misconduct to address the effects of the incident and to help them determine whether and how to make a formal complaint about the incident.

**All reports of discrimination, harassment, and/or retaliation shall be promptly made to the Title IX Officer (or one of the designated Deputy Coordinators).** The Executive Director of Human Resources serves as the Title IX Officer. S/He oversees implementation of the College's Policy on Discrimination, Harassment, and Sexual Misconduct. The designated Title IX Deputy Coordinators are the Dean of Student Life and Conduct, and the Human Resources Generalist. Reporting responsibilities are stated in Section III below for those individuals who become aware of incidents involving discrimination, harassment, or sexual misconduct. Additionally, a complainant's options for reporting are addressed more specifically in **Procedures Section A** below.

## **I. Prohibited Conduct**

### **A. Discrimination**

Bergen Community College adheres to all federal and state civil rights laws banning discrimination in public institutions of higher education. The College prohibits discrimination against any employee, applicant for employment, student, or applicant for admission on the basis of any protected class. Protected classes include: age, color, creed, disability, ethnicity, gender identity, genetic information, marital status, national origin, political affiliation, pregnancy, race, religion, sex, sexual orientation, veteran or military status, or any other protected category under applicable federal, state, or local law, including protections for those opposing discrimination or participating in any complaint process on campus or with other human rights agencies.

This policy covers discrimination in employment and in access to educational opportunities. Discrimination is defined as adverse treatment of an individual based on that individual's membership in one or more of the protected groups listed above. Therefore, any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, and/or social access, benefits, and/or opportunities of any member of the

campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the College policy on discrimination.

## **A. Harassment**

Bergen Community College prohibits harassment against any employee, student, visitor, or guest on the basis of any class protected by College policy or law as identified in Section I.A. above. This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters. The sections below describe the specific forms of prohibited harassment under College policy.

### **1. Bias-Related Harassment**

This policy prohibits any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the campus community, which unreasonably interferes with an individual's work or academic environment.

This environment may be created by verbal, written, graphic, threatening and/or physical conduct that is sufficiently severe, persistent, or pervasive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities. Merely offensive conduct and/or harassment of a generic nature not on the basis of membership in a protected class may not result in a violation of this policy but may be addressed through education and/or other resolution methods.

### **2. Sexual Harassment**

This policy prohibits any form of sexual harassment. Sexual harassment is unwelcome sexual- or gender-based verbal, written, online, and/or physical conduct. Anyone experiencing sexual harassment in any College program is encouraged to report it online ([www.bergen.edu/report](http://www.bergen.edu/report)), to Bergen's Title IX Coordinator or a Deputy Coordinator, or by methods identified in the Complaint Resolution Process in **Procedures Section A**. Sexual harassment creates a hostile environment and offenders may be disciplined when it is sufficiently severe, pervasive, persistent, or objectively offensive that it:

- has the effect of unreasonably interfering with, denying, or limiting employment opportunities or the ability to participate in or benefit from the College's educational, social, and/or community programs, or
- is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Some examples of possible sexual harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student complies with the request.
- A student repeatedly sends sexually oriented jokes on an e-mail list the student created, even when asked to stop, causing one recipient to avoid the sender on campus and stop attending a class in which they are both registered.
- Two supervisors frequently rate several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.

**Consensual Relationships.** There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship may also be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the Employee Code of Conduct. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are strongly discouraged. Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship.

### 3. Sexual Misconduct

This policy prohibits any form of sexual misconduct. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identity of those involved. The definition of consent below will be used in the interpretation and application of this policy:

**Consent.** Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent to a specific sexual contact (such as kissing or fondling) cannot be presumed to be consent for another specific sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Silence or the absence of resistance alone is not consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Individuals can withdraw consent

at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop immediately.

A person cannot consent if he or she is incapacitated. Under this policy, a person is incapacitated if he or she is disabled or deprived of ability to act or reason for one's self, is unable to understand what is happening, or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from taking of an incapacitating substance. A person is incapacitated if the person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance; if a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited; or if the person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the respondent to a claim of sexual misconduct was intoxicated and, therefore, did not realize the other person's incapacity.

The following are types of prohibited sexual misconduct under this policy:

**a. Sexual Harassment**

Sexual harassment is 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.

**b. Non-Consensual Sexual Contact**

Defined as any sexual penetration or intercourse (anal, oral, or vaginal) however slight with any object by a person upon another person that is without consent and/or by force.

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth-to-genital contact or genital-to-mouth contact.

**c. Non-Consensual Sexual Contact**

Defined as any intentional sexual touching however slight with any object by a person upon another person that is without consent and/or by force.

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual or any other bodily contact in a sexual manner.

**d. Sexual Exploitation**

Defined as taking non-consensual or abusive sexual advantage of another; and the conduct does not fall within the definitions of sexual harassment, non-consensual sexual intercourse, or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

- sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed);
- taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity;
- exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent);
- engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection; and/or
- administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge or consent.

**e. Relationship Violence**

Defined as violence between those in an intimate relationship (this includes romantic, dating, or domestic relationships). Examples include, but are not limited to:

- physical assault between two people in a current or prior intimate relationship who do not live together (Dating Violence); and
- physical assault between two people in an intimate relationship who live together (Domestic Violence).

**f. Stalking**

- Defined as a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear or suffer substantial emotional distress. Examples include, but are not limited to: sending multiple unwanted text messages, phone calls, or electronic communications;
- following, watching, photographing, or otherwise tracking an individual without his or her permission; and
- sending unwelcome gifts, notes, or other items to another person.

#### **B. Retaliation**

The College seeks to create an environment where its students and employees are free, without fear of reprisal, to use its procedures to determine if there has been a violation of their civil rights. Any act of retaliation will result in appropriate disciplinary action.

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging a violation of their civil rights, supporting a complainant, or for assisting in providing information relevant to a claim, is a serious violation of this policy. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or Deputy Coordinators.

#### **C. Other Offenses**

This policy prohibits other offenses of a discriminatory, harassing, and/or retaliatory nature not included in the previous sections as follows:

- Intimidation, defined under this policy as implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class;
- Hazing, defined under this policy as acts likely to cause physical or psychological harm or social ostracism to any person within the College community when related to the admission, initiation, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a protected class;
- Bullying, defined under this policy as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class; and
- Violation of any other College rule, when it is motivated by sex or gender or the actual or perceived membership of the victim in a protected class, may be pursued using this policy and process.

## **II. Scope/Jurisdiction/Application**

This policy applies to allegations of discrimination, harassment, and retaliation that take place on Bergen Community College property or at College-sponsored events, regardless of their location. This policy may also apply to allegations of discrimination, harassment, and retaliation that occur off-campus or to actions online when the Title IX Coordinator or Deputy Coordinator determines that the off-campus or online conduct could have an on-campus impact or impact on the educational mission of the College. Such impact includes:

- Any action that constitutes a criminal offense as defined by federal, state, or local law;
- Any situation where it appears that the respondent may present a danger or threat to the health or safety of self or others;
- Any situation that significantly impinges upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests of the College.

### **III. Reporting Responsibilities**

All College employees who are aware of or witness discrimination, harassment, sexual misconduct, or retaliation are required to promptly report to the Title IX Coordinator or a Title IX Deputy Coordinator.

Any student who is aware of, or who witnesses discrimination, harassment, sexual misconduct, or retaliation is encouraged to promptly report to the Title IX Coordinator or a Title IX Deputy Coordinator. All initial contacts will be treated with the maximum possible privacy: specific information on any complaint received by any party will be reported to the Title IX Coordinator, but, subject to the College's obligation to investigate and redress violations, every reasonable effort will be made to maintain the privacy of those initiating a report of a complaint. In all cases, the College will give consideration to the complainant with respect to how the complaint is pursued but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal complaint.

Please note: This section addresses reporting obligations for members of the campus community who are made aware of potential violations of this policy. Methods for filing a complaint and the Complaint Resolution Process are detailed in **Procedures Section A**.

#### **A. Title IX Officer and Deputy Coordinators**

##### **Title IX Coordinator**

Gwendolyn Harewood, Director of Human Resources & Employee Relations



A-316, Pitkin Education Center  
[gharewood@bergen.edu](mailto:gharewood@bergen.edu)  
201.879.1577

In addition, the following people have been designated to handle inquiries regarding these policies:

**Title IX Deputy Coordinator (for faculty & staff)**

Yvette Aviles, Assistant Director of Human Resources  
A-316, Pitkin Education Center  
[yaviles@bergen.edu](mailto:yaviles@bergen.edu)  
201.879.1259

**Title IX Deputy Coordinator (for students)**

Ralph Choonoo, Executive Assistant to the Vice President of Student Affairs  
L-123, Pitkin Education Center  
[rchoonoo@bergen.edu](mailto:rchoonoo@bergen.edu)  
201.879.7991

**B. Role of the Title IX Officer and Deputy Coordinators**

The Title IX Coordinator and Deputy Coordinators are charged with coordinating the College response to reports of misconduct under this policy. The Title IX Coordinator and Deputy Coordinators do not serve as advocates for either the complainant or the respondent. The Title IX Coordinator or Deputy Coordinators will explain to both parties the informal and formal processes outlined below and the provisions for confidentiality. Where appropriate, the Title IX Coordinator or Deputy Coordinators will provide to both parties information on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator and Deputy Coordinators will coordinate with other campus officials to take appropriate interim actions such as no contact orders, academic accommodations, and rearrangement of academic and work assignments.

**C. Responsible Employees**

A “responsible employee” is a College employee who has the authority to address sexual misconduct, or who has the duty to report incidents of sexual misconduct or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a victim/survivor tells a responsible employee about an incident of sexual misconduct, the victim/survivor has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX Coordinator and/or Deputy Coordinator all relevant details about the alleged sexual misconduct shared by the victim/survivor. The Title IX Coordinator and/or Deputy Coordinator will need to determine what happened – including the names of the victim/survivor and alleged perpetrator(s) if known, any witnesses, and any other relevant facts, including the date, time and location.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College’s response to the report. A responsible employee should not share information with law enforcement:

- Without the victim/survivor’s consent.
- Unless the victim/survivor has also reported the incident to law enforcement.
- Unless otherwise required by the law.
- Clery Act requires certain information to be provided to campus public safety.

**The following employees are the College’s “responsible employees”:**

- Executive Team Members
- Administrative and Professional Staff
- Faculty
- Title IX Coordinator and Deputy Coordinators
- All Human Resources staff – excluding student assistants
- Academic Counselors and Academic Advisors (both Faculty and Staff)
- Athletics professional staff and coaches - – excluding student assistants
- All Student Life professional staff and Student Organization Advisors excluding interns and student assistants
- All Student Affairs professional staff – excluding interns and student assistants
- All Public Safety Staff – excluding interns and student assistants

Before a victim/survivor reveals any information to a “responsible employee,” the employee should ensure that the victim/survivor understands the employee’s reporting obligations – and, if the victim/survivor does not want to report the matter to the College for investigation, the responsible employee should direct the victim/survivor to confidential resources.

#### **D. Police Reporting**

In addition to required campus reporting, reports may also be made to the police and/or campus security, especially if a crime is or may be involved, by calling the following numbers:

- a. Emergency - 911
- b. Office of Public Safety
  - i. Paramus Campus (24hrs): Dial “6” or 201.447.7200
  - ii. Meadowlands Campus, Lyndhurst: 201.301.9600
  - iii. Ciarco Learning Center, Hackensack: 201.301.9700
- c. Bergen County Sherriff’s Office (non-emergency number): 201.336.3500
  - i. 10 Main Street, Hackensack, NJ 07601

#### **D. Federal Timely Warning Obligations**

Victims of sexual misconduct should be aware that College administrators must issue crime alerts for incidents reported to them that represent a serious or continuing threat to students or employees. The College will withhold a victim's name and other identifying information while providing enough information for community members to make safety decisions in light of the potential danger.

### **III. Statement of Rights for Complainants and Respondents**

Both complainants and respondents will be afforded the following rights under this policy:

- To be treated with respect by College officials;
- To take advantage of campus support resources (such as Counseling Services and College Health Services for students, or EAP services for employees);
- To experience a safe educational and work environment;
- To have an advisor (students) or representative (employees) during this process;
- To refuse to have an allegation resolved through informal procedures;
- To be free from retaliation;
- To have complaints heard in substantial accordance with these procedures; and
- To participate in the process.

Please also refer to the **NEW JERSEY CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS (Appendix B)**

### **IV. Records**

In implementing this policy, records of all complaints, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely.

## **Procedures:**

### **Complaint Resolution Process**

The College will respond to any alleged violation of this policy received by the Title IX Coordinator and/or Deputy Coordinators. This section outlines ways in which offenses can be reported by individuals choosing to pursue complaint options.

#### **A. Confidentiality and Reporting of Offenses**

Bergen Community College will make every effort to safeguard the identities of individuals who seek help and/or report discrimination, harassment, and/or retaliation. While steps are taken to protect the privacy of victims, the College's ability to respond may be limited in the event of a request for confidentiality. The College may need to investigate an incident and take action once an allegation is known, whether or not the reporting individual chooses to pursue a complaint.

When a report is made, personally identifiable information (name of victim, name of respondent, etc.) may be initially withheld in cases where the victim is hesitant to come forward. Subsequently, campus officials may need additional information. The College Title IX Coordinator or Deputy Coordinator will conduct an initial inquiry, looking for any sign of pattern, predation, violence, or threat. When such exists, institutional action may be required in an effort to ensure campus safety.

No employee should ever promise absolute confidentiality except those designated as confidential personal counselors, health service providers, victim services advocates, domestic violence resources, local or state assistance agencies, or members of the clergy who are permitted by law to maintain confidentiality. Reports may be private, but not confidential. Reports to police and/or Title IX officials do not obligate the complainant to file any criminal or College conduct charges.

The College will not pursue disciplinary action for improper use of alcohol or other drugs against an alleged victim of sexual misconduct or against another student who shares information as either a witness to or as a reporter of sexual misconduct as long as the report is made in good faith. See "Good Samaritan Provision," Appendix A.

Deliberately false and/or malicious accusations of discrimination, harassment, or retaliation, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as discrimination, harassment, or retaliation and will be subject to appropriate disciplinary action.

- a. Complaints and reports should be made as soon as possible after an incident.**

*There is no time limit for filing a complaint with the College. However, complainants should report possible violations of this policy as soon as possible to maximize the College's ability to respond effectively. Failure to report promptly could result in the loss of relevant evidence and impair the College's ability to adequately respond to the allegations.*

**b. If the incident is an assault:**

Report the incident:

- Emergency – 911 [Call 911 if you are not safe and in need of immediately medical attention.]
- Office of Public Safety
  - Paramus Campus (24hrs): 201.447.7200 or Dial 6 on Paramus campus
  - Meadowlands Campus, Lyndhurst: 201.301.9600
  - Ciarco Learning Center, Hackensack: 201.301.9700
- Bergen County Sherriff's Office (non-emergency number): 201.336.3500
  - 10 Main Street, Hackensack, NJ 07601

Seek immediate **medical attention**:

Do not change clothing, shower, bathe, brush teeth or douche. Delay the above and going to the bathroom (if possible) until you are examined as this preserves evidence of the assault. Medical attention should be accessed at a local hospital.

On-campus resources:

**Center for Health, Wellness and Personal Counseling.** *The RN staff of Health Services provides free First-Aid, emergency medical response, and healthcare maintenance to all members of the campus community.*

- HS-100, Pitkin Education Center, 201.447.9257

Off-campus resources:

**Valley Hospital**

- 223 N. Van Dien Avenue, Ridgewood, NJ, 07450, 201.447.8000

**Hackensack University Medical Center**

- 30 Prospect Avenue, Hackensack, NJ 07601, 551.996.2000

Seek **emotional support**.

**Bergen Community College counselors** for students and/or the **Employee Assistance Program (EAP)** for employees are available to help free of charge and can be seen on an emergency basis.

On-campus resources:

**Center for Health, Wellness and Personal Counseling**

- HS-100, Pitkin Education Center, 201.447.9257

Off-campus resources:

**HealingSpace of YWCA** 24-hour hotline – 201.487.2227

The **Sexual Assault Response Team (SART)** is a free, coordinated community response to assist a survivor in the aftermath of a recent sexual assault. SART offers a compassionate, survivor-centered approach while collecting evidence that can be vital to the investigation and prosecution of the crime.

**SART is available 24 hours a day, 7 days a week. You can activate SART if:**

- Sexual assault occurred within 5 days
- You are at least 13 years old
- You are safe and not in need of immediate medical attention\*
- You want to activate one or more SART professionals
- ***\*Call 911 if you are not safe or need immediate medical attention.***

**To activate SART:**

Call the 24/7 hotline [201-487-2227](tel:201-487-2227) to speak with a Confidential Sexual Violence Advocate who will discuss all of your options with you.

- Note that you may choose to receive an exam with an advocate and nurse, and then choose to report with law enforcement at a later date.

**Magellan Employee Assistance Program** (employees):

Magellan is contracted by Bergen Community College to provide professional consultation to Bergen Community College employees and their eligible dependents in the areas of stress management, family issues, child/elder care, dependency and other matters. Contact [www.magellanassist.com](http://www.magellanassist.com).

**Options for filing a report include:**

**2. Anonymous and Third Party Reporting**

The Title IX Coordinator and Deputy Coordinators accept anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Officer or Deputy Coordinators to investigate and respond as appropriate. The College may

be limited in its ability to investigate or respond to an anonymous or third party report unless sufficient information is provided. (See [www.bergen.edu/report](http://www.bergen.edu/report))

### **1. Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with counselors, health service providers, victim services advocates, domestic violence resources, local or state assistance agencies, or members of the clergy who are permitted by law to maintain confidentiality (except in extreme cases of immediacy of threat or danger or abuse of a minor). These sources may submit anonymous statistical information for timely warning and Clery Act purposes. If a reporting party is unsure of a resource's ability to maintain confidentiality, the reporting party is advised to ask them before talking to them.

Bergen Community College personal counselors for students and/or the Employee Assistance Program for employees are available to help free of charge and can be seen on an emergency basis.

### **2. Private Reporting**

Reports to College employees who are not confidential resources should be treated with the maximum possible privacy. If a reporting party is unsure of a resource's ability to maintain privacy, the reporting party is advised to ask them before talking to them. The resource will be able to explain the resource's reporting obligations and help a reporting party make decisions about who is in the best position to help. If personally identifiable information is shared, it will be shared with as few people as possible under the circumstances and efforts will be made to protect privacy to the greatest extent reasonably possible.

### **3. Formal Reporting**

Complainants are encouraged to speak to College officials, such as the Title IX Coordinator or Deputy Coordinators or Public Safety, to make formal reports. Complainants have the right, and can expect, to have complaints taken seriously by the College when formally reported and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter and only a small group of officials who need to know will be told. Information will be shared as necessary with investigator(s), witnesses, the respondent, and a hearing board if deemed appropriate. The number of people with this knowledge will be kept as few as reasonably possible to preserve a complainant's rights and privacy.

### **4. Criminal Reporting**

If someone is in immediate danger, call 9-1-1. Some acts of discrimination and harassment may also be crimes, such as sexual assault or stalking. Individuals are encouraged to report allegations of criminal conduct to law enforcement even when it is not clear whether the

conduct rises to the level of a crime. Regardless, law enforcement can assist with obtaining medical care, getting immediate law enforcement response and protection, connecting with victim advocate services and counseling support, initiating a criminal investigation as appropriate and answering questions about the criminal process.

## **B. Informal Resolution Process**

Informal resolution is an alternative to the formal complaint resolution process. The Title IX Coordinator will determine if an informal resolution is appropriate, based on the willingness of the parties and the nature of the alleged conduct. 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 College reserves the right to cancel an informal resolution if sufficient evidence suggests a formal investigation or other sanctions or remedies may be necessary and appropriate.

It is not necessary to pursue an informal resolution first in order to make a formal complaint, and anyone participating in an informal resolution can stop that process at any time and request to continue through the formal process.

Except in cases involving criminal activity and/or sexual assault, an employee or student alleging discrimination, harassment and/or retaliation against an employee under this policy is encouraged to consider an informal resolution. If it is appropriate, an attempt to facilitate an informal resolution of the matter will be made. In the event that an informal resolution is not reached, is not appropriate, or is not pursued, the student or employee who is alleging the discrimination, harassment, or retaliation may initiate a formal investigation.

## **C. Formal Resolution Process**

### **1. Filing a Complaint**

Any individual who believes that this policy has been violated should contact the Title IX Coordinator or any Title IX Deputy Coordinator.

#### **A. Complaint Intake**

Following receipt of notice or a complaint, the Title IX Coordinator or Deputy Coordinator will normally, within five college days, make an initial determination as to whether the information has merit to reasonably indicate there may have been a violation of College policy. If it appears a violation may have occurred, an investigation will begin. If the complaint does not appear to allege a policy violation or if conflict resolution is desired by the complainant and appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation. An investigation will be pursued if there is sufficient information to suggest a policy violation, a pattern of misconduct, and/or a perceived threat of further harm to the community or any of its members exists.



**B. Interim Action**

The College will implement interim and/or protective actions upon notice of alleged discrimination, harassment, and/or retaliation and will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor who has violated this policy.

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.

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 the 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 the respondent employee.

**2. Notice of Charges**

Once an investigator has been assigned, written notice of the allegations will be provided to the parties involved. If the respondent is an employee, the written notice will be copied to the employee's department head/director, dean, vice president, and president.

**3. Investigation**

If a complainant wishes to pursue a formal complaint or if the College determines an investigation is necessary, the Title IX Coordinator will assign an investigator, usually within five college days of determining that a complaint should proceed. Investigations will be thorough and impartial and will entail interviews with relevant parties and witnesses, and obtaining available evidence. Conflict of interest (real or perceived) by the investigator will not be allowed. The College aims to complete investigations within 60 days, which can be extended as

necessary for appropriate cause by the Title IX Coordinator with notice to the parties. Investigation may take longer when initial complaints fail to provide direct first-hand information. The College may undertake a short delay (usually 3-10 days, to allow evidence collection) when criminal charges are being investigated. Complainants 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 both a criminal charge and a request for a College resolution simultaneously.

#### **A. Student Withdrawal While Charges Pending**

Should a responding student decide to withdraw from the College and/or not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the College unless any and all sanctions have been satisfied. The Title IX Officer will continue to act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

#### **B. Employee Resignation While Charges Pending**

Should a responding employee resign while charges are pending, the records of the Title IX Coordinator will reflect that status, as will College responses to any future inquiries regarding employment references for that individual. Should an employee decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the employee's absence to a reasonable resolution and that employee will not be permitted to return to the College unless any and all sanctions have been satisfied. The Title IX Coordinator will continue to act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

### **4. Investigation Findings**

#### **A. For Students**

Upon receipt of the investigative report, the Title IX Coordinator will forward it to the Dean of Student Life and Conduct or designee for an appropriate hearing per the Student Code of Conduct procedures. During a hearing:

- Both the complainant and the respondent will receive equivalent notice of the process.
- The complainant will have the opportunity to be present throughout the entire Hearing.
- The complainant will be entitled to the same opportunity to have others present during a Hearing as is provided to the respondent, including an adviser or college support person;

- Both the complainant and the respondent will have the opportunity to present witnesses with information pertinent to the alleged sexual harassment, sexual misconduct or sexual assault, and any relevant information to the Hearing panel during the conduct process;
- The complainant will be provided options for reasonable alternative arrangements if he or she does not want to be present in the same room as the respondent during the Hearing;
- Testimony regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent. If the respondent is found responsible for the conduct alleged in the complaint, his or her past sexual misconduct, if any, may be considered in determining the appropriate outcome.
- The College will document the proceedings.

Following the hearing, the decision of whether a policy violation has occurred will be determined by using a preponderance of the evidence standard. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If, following the hearing, the decision is that no policy violation has occurred the process will end. Regardless of the outcome, the complainant, the respondent, and the Title IX Officer will be notified of the finding in writing.

If, following a hearing, the student is found to have violated College policy, appropriate disciplinary sanctions will be determined after consultation with the Title IX Coordinator. The Dean of Student Life and Conduct (or designee) will notify the respondent, the complainant, and the Title IX Coordinator in writing of the Dean's decision. This written decision must be issued within fifteen college days of the date of receipt of the investigative report from the Title IX Coordinator.

## **B. For Employees**

Investigations will be thorough and impartial and will entail interviews with relevant parties and witnesses, and obtaining available evidence. Both the complainant and the respondent will have the opportunity to present witnesses with information pertinent to the alleged sexual harassment, sexual misconduct or sexual assault, and any relevant information. The investigator will document the proceedings.

Upon receipt of the investigative report, the Title IX Coordinator will determine if this policy has been violated by using a preponderance of the evidence standard. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If the Title IX Coordinator decides that no policy violation has occurred, then

the process will end. Regardless of the outcome, the complainant and the respondent will be notified of the finding in writing. The respondent's department head/director, Dean, Vice President, Executive Director of Human Resources, and the President will also be notified of the finding.

In the event that the employee violated College policy, the Executive Director of Human Resources (or designee) will determine appropriate disciplinary sanctions based on the recommendation from the Title IX Officer. These recommendations will be submitted to the President for review and approval. If a Vice President and/or Executive Director of Human Resources serves as a party or witness in the investigation, the Title IX Coordinator's recommendation will be sent to the President for determination of disciplinary sanctions. Regardless of the outcome, the complainant, the respondent, and the Title IX Coordinator will be notified in writing of the outcome within twenty college days of the date of the notice from the Title IX Coordinator.

## **5. Sanctions**

Sanctions will be recommended by the Title IX Coordinator and forwarded to the decision-making authority. Factors considered when determining a sanction may include:

- The nature of, severity of, and circumstances surrounding the violation;
- The respondent's disciplinary history;
- Previously founded complaints or allegations against the respondent involving similar conduct;
- Any other information deemed relevant by the Title IX Coordinator;
- The need to bring an end to the discrimination, harassment, and/or retaliation;
- The need to prevent the future recurrence of discrimination, harassment, and/or retaliation; and/or
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the victim and the community.

### **a. Student Sanctions**

For examples of the range of potential disciplinary sanctions against students, see the section of the Student Code of Conduct entitled *Remedies and Sanction*.

### **b. Employee Sanctions**

Sanctions for an employee who has violated this policy may include, but are not limited to, verbal or written warning, required counseling, training, demotion, reassignment, suspension, and termination.

## **6. Appeals**

Appeals of the decision of the Dean of Student Life and Conduct and/or the Community Standards Review Board process (for students) or the Executive Director of Human Resources/President (for employees) may be filed by the complainant, the respondent or both. All requests for appeal considerations must be submitted in writing to the Title IX Coordinator within five college days of the date of the final written notice.

Appeals are limited to allegations of the following:

- A procedural error or omission that significantly impacted the outcome;
- There is new evidence, unknown or unavailable during the investigation, that could substantially impact the finding or sanction. A summary of this new evidence and its potential impact upon the investigation must be included in the appeal; and/or
- The sanctions imposed are substantially disproportionate to the severity of the violation.

The original finding 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 final. When a party requests an appeal, the other party (parties) will be notified and given an opportunity to respond.

For students: In cases involving student conduct, a person designated by the Vice President for Student Affairs will review the appeal request(s).

For employees: In cases involving employee conduct, a person designated by the President will review the appeal request(s).

Where the designee 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 and/or protective actions may be imposed and/or continued as appropriate.
- The designee will render a decision within ten college days to the Title IX Coordinator who will normally provide written notice of the appeal to all parties within three college 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.
- Once an appeal is decided, the outcome is final: further appeals are not permitted under this policy.

## **7. Failure to Complete Sanctions**

All respondents are expected to comply with conduct sanctions within the time frame specified in their written notice. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension, expulsion, and/or termination from the College. For students, failure to comply may result in a hold to prevent future registration or other transactions with the College.

## **V. Remedial Actions**

In addition to interim actions, the Title IX Coordinator or Deputy Coordinator may provide remedial actions intended to address the short or long-term effects of 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, in order to redress harm to the complainant and the 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 campus community may be jeopardized by the presence on campus of the respondent or the ongoing activity.

These remedies may include referral to counseling and health services or to the Employee Assistance Program (EAP), altering the academic schedule of a respondent student, (or the alleged complainant, if desired), altering work arrangements, providing campus escorts, implementing contact limitations between the parties, or offering adjustments to academic deadlines and/or course schedules.

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### **Related Documents/Policies:**

Policy Prohibiting Discrimination

Policy Prohibiting Discrimination: Policy Prohibiting Sexual Harassment

Student Code of Conduct

Employee Code of Conduct

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### **Policy History: (adopted/amended)**

Section A: AF

Adopted: 10/5/94

Resolution: P14

Updated: 8/7/18,

11/25/19

## **Appendix A**

### **Good Samaritan**

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a victim of sexual misconduct to Public Safety or a medical provider). The College pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.

### **Risk Reduction Tips**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help to reduce risk of experiencing a non-consensual sexual act. Below are suggestions to avoid committing a non-consensual sexual act:

- Know your sexual intentions and limits. You have the right to say "NO" to any unwanted sexual contact. If you are uncertain of what you want, ask your partner to respect your feelings.
- Communicate your limits firmly and directly. If you say "No," say it like you mean it. Avoid giving mixed messages. Back up your words with a firm voice and clear body language. Do not assume that someone will automatically know how you feel or will eventually "get the message" without you having to say anything.
- Remember that some people think that drinking, dressing provocatively, or going to your or your date's room is saying you are willing to have sex. Be clear up front about your limits in such situations.
- Listen to your gut feelings. If you feel uncomfortable or think you might be at risk, leave the situation immediately and go to a safe place.
- Don't be afraid to "make waves" if you feel threatened. If you feel you are being pressured or coerced into sexual activity, don't hesitate to state your feelings and leave the situation.
- Attend large parties with friends you trust. Agree to "look out" for one another. Leave with the group, not alone. Avoid leaving with people that you don't know very well.

- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

### **Sexual Offense Prevention and Educational Programming**

Because Bergen Community College recognizes sex discrimination in all its forms as important issues, the College offers annual educational programming to a variety of groups such as: staff, security, faculty, incoming students, continuing students, student-athletes, and, members of student organizations. Visit [www.NotAlone.gov](http://www.NotAlone.gov) for more information and resources on avoiding and preventing sexual assault.

Sexual Misconduct educational programming may address matters such as: a definition of what constitutes sex discrimination, the causes of sex discrimination, myths involved with sex



discrimination, prevention, the relationship between sex discrimination and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the College sexual misconduct policy, how to make a report and file charges within the College, its conduct system, and/or with the local police department, men's issues and sexual assault, and campus community resources to assist both the survivor and the accused.

### **Federal Enforcer**

The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Individuals with complaints of this nature always have the right to file a formal complaint with the United States Department of Education:

### **Office for Civil Rights (OCR)**

400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline Number: 800.421.3481  
FAX: 202.453.6012  
TDD#: 877.521.2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

**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 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 on victims and the surrounding community 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:**

- 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 personal publicity
- 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
  - 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 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 with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

**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 and provided assistance 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 that institution receives a copy of this document.
- Nothing in this act 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.

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### Bergen Community College Board of Trustees Section (HR)

**Policy #** HR: 002-001: 2018

**Effective Date:** August 8, 2018

**Responsible Official:**  
Director of Human Resources

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### Internal Complaint Processes and Procedures

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**Reason for Policy:** To explain the internal complaint process for filing a Sexual Harassment or Discrimination complaint.

**Entities Affected by this Policy:** Faculty, staff and students

#### 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 the College’s policies. The following procedures accompany the College’s policies on Discrimination and Sexual Harassment.

Although employees and students are encouraged to use this internal procedure, exhaustion of this procedure is not a prerequisite for filing complaints with appropriate federal or state agencies, or for employees, under collective bargaining agreements. Information on rights and responsibilities under these procedures and applicable laws may be obtained through the Office of Human Resources.

#### Procedures:

##### INTERNAL COMPLAINT PROCESS

Any member of the College community who believes that he or she has been subject to conduct that violates the College’s anti-discrimination and harassment policies is encouraged to initiate a report with the Director of Human Resources or his/her designee. Individuals with questions about how to report prohibited conduct should contact the Director of Human Resources.

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A complaint against a student arising out of his or her conduct as a student should be reported to the Office of Student Life and Conduct. A complaint alleging that a student has committed a sexual assault, sexual harassment, sexual exploitation, stalking, relationship violence, or other form of sexual misconduct, may also be submitted to the Title IX Deputy Coordinator, Office of Student Life and Conduct or the Title IX Deputy Coordinator of the Office of Human Resources.

College employees and/or students should attempt informal resolution of an alleged complaint. If this is not possible, a formal complaint of alleged discrimination may be filed. Complaints should be filed within thirty (30) calendar days after the incident(s) occurred to ensure that nothing hinders an investigation of a complaint or that the individual bringing the complaint is not subjected to continuing prohibited behavior.

Conduct that implicates the College's anti-discrimination and harassment policies may be handled in a variety of different ways, and therefore the College is prepared to help identify a number of options available to those who believe that they have been subjected to such conduct. An individual may contact the Director of Human Resources to discuss options available to him or her. These options will depend on a number of factors, including the seriousness of the offense, the amount of evidence presented, the degree of confidentiality sought, and the outcome desired by the individual. The Director of Human Resources, or his or her designee, will provide guidance and assistance to an individual interested in alternative options to a formal complaint and investigation process.

A complainant may also discuss any interim measures that he or she feels are necessary during the pendency of the College's resolution process. A complainant may select an informal or formal resolution process, as described below. The "informal resolution" focuses on stopping the discriminatory or harassing, or other behavior without a formal investigation. A formal resolution process ("formal resolution") involves an investigation. Depending on the circumstances, both informal and formal resolution processes may be utilized.

A complaint, whether initiated through the informal or formal resolution process, must be submitted promptly to the Director of Human Resources within 30 calendar days after the incident which gave rise to the complaint. The use of the informal resolution process shall not extend the time limit for initiating a formal complaint.

### **A. INFORMAL REVIEW AND RESOLUTION**

The Director of Human Resources, or his or her designee, will provide guidance to a complainant interested in informal resolution. There are various methods available to attempt informal resolution, and the method or methods chosen should be tailored to the particular circumstances. Methods may include, but are not limited to, coaching the complainant on how to directly address a situation; assisting the complainant and department with the

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resolution of a real or perceived problem, such as by mediating a resolution within the department or by aiding in the modification of a situation in which the offensive conduct occurred; and/or arranging a meeting with the alleged offender to discuss the requirements of the pertinent College Policy. The use of the informal resolution process is not a precondition for initiating the formal resolution process.

### **B. FORMAL REVIEW AND RESOLUTION**

#### **1. Complaint Filing**

The formal complaint process is initiated with the filing of a signed, written complaint to the Director of Human Resources. Upon receipt and review of a complaint, the Director of Human Resources may request additional information from the complainant if it is unclear whether the complainant's allegations raise an issue of a violation of a College policy. If additional information is received and the Director of Human Resources determines that the allegation does not present a clear violation of a College policy, the Director of Human Resources will accordingly advise the complainant, in writing, and close the complaint. The complainant may appeal the Director of Human Resources' decision to close the matter to the College President or his or her designee within 10 working days.

If the Director of Human Resources requests additional information from a complainant, and the complainant does not submit additional information, the Director of Human Resources may cease the investigation and inform the complainant, in writing, that the case has been closed, and that he or she may resubmit the written complaint with the supplemental information if he or she wishes to proceed with a complaint at that time. The complaint must be resubmitted within 30 days of the alleged events and/or conduct which is the subject of the complaint.

Supervisory employees should immediately report all alleged violations of the College's anti-discrimination and harassment policies, whether reported to or observed directly by the supervisor, to the Director of Human Resources or his/her designee.

If the Director of Human Resources accepts the complaint as drafted, he or she will notify the complainant that the case has been assigned for investigation and simultaneously send a copy of the complaint to the respondent and the president, dean, or vice president of the respondent's department, as applicable. The Director of Human Resources or his or her designee may investigate possible violations of College policies regardless of whether the specific policy is identified in the complaint. The Director of Human Resources will advise the respondent which College policies are at issue.

#### **2. Internal Investigations**

The Director of Human Resources and/or his or her designee shall conduct an impartial investigation into the alleged harassment or discrimination submitted by a complainant

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against any College employee. The investigation will be conducted as expeditiously as possible to conduct a full and fair investigation. Upon completion of the investigation, the investigator will report in writing to the Director of Human Resources setting forth the steps taken in the investigation and the specific investigatory findings.

- i. Within five (5) working days after a formal or informal complaint of discrimination and/or harassment has been filed, the individual alleged to have committed the alleged infraction, his/her immediate supervisor, and the area dean/vice president will be notified in writing that a complaint has been filed and the timeline for processing the complaint.
- i. At each opportunity during the investigation, conciliation or an informal settlement that is satisfactory to the parties concerned will be explored.
- ii. College employees and students are required to cooperate with the investigation of complaints and any recommendations or final directives issued as a result. Absent extraordinary circumstances, failure to respond to an investigation within forty-eight (48) hours may result in disciplinary action, up to and including termination.

The complainant and the respondent are permitted to have their respective legal counsel or union representative present for any meeting with investigators to discuss a pending complaint filed by or against them, as applicable. However, legal counsel and union representatives are not permitted to participate in the investigation process. They may sit in on meetings with the investigator but they are not permitted to comment and/or ask questions during those meetings. Each party is responsible for notifying the other party of the attendees prior to the meetings.

The only exception would occur in instances in which the complainant or the respondent requires the services of a translator in order to communicate effectively with the investigator. Support person availability shall not be sufficient grounds for postponing meetings with investigators.

### **3. Independent College Investigations**

The College reserves the right to investigate allegations of conduct prohibited by any of its policies in appropriate circumstances, even in the absence of a formal written complaint filed by a complainant pursuant to the Complaint Process upon the recommendation of the College President. In such cases, the College will follow the Complaint Process set forth above.

### **4. Completion of the Investigation**

The Director of Human Resources or his or her designee will conduct initial intake of the complaint to obtain information regarding the complaint. A thorough and impartial investigation into the alleged harassment or discrimination will take place to include



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interviews with any witnesses identified by complainant and others who have relevant information.

Determinations concerning whether any interim corrective measures are necessary to prevent continued policy violation(s) shall be reviewed by the Director of Human Resources or his/her designee. Absent extraordinary circumstances, the investigative report will be completed within sixty (60) days of receipt of complaint notice. The time for completion of an investigation may be extended for up to thirty (30) additional working days in cases involving exceptional circumstances. A written report will be prepared and shall include at a minimum:

- A summary of the complaint;
- A summary of the parties' positions;
- A summary of facts developed during the investigation; and
- An analysis of the allegations and facts.

The investigatory report will be submitted to the Director of Human Resources or his/her designee unless the representative has been actively involved as a witness in the investigation. In that case, the report shall be submitted directly to the Executive Director of Human Resources or the President or his or her designee.

### **5. Fact-Findings and Conclusions**

The Director of Human Resources or his or her designee will review the investigatory report and make a determination as to whether the allegations of a violation of the College's policy prohibiting discrimination, harassment, and hostile environments have been substantiated.

Within ten (10) working days of receiving the investigatory report, the Director of Human Resources or his or her designee will issue a final letter of determination to all parties, containing the results of the investigation. The time for issuance of a final letter of determination may be extended for up to ten (10) additional working days in cases involving exceptional circumstances. All parties will be notified of the extension in writing by the investigator.

The final letter of determination shall include at a minimum:

- A brief summary of the parties' positions;
- A brief summary of the facts developed during the investigation; and
- An explanation of the determination, which shall include whether:
  - The allegation was either substantiated or not substantiated; and
  - Whether a violation of a College policy did or did not occur.

If the final determination concludes that the complaint was substantiated and a violation did occur, the alleged discriminator will be notified in writing separately regarding any

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disciplinary action to be taken.

### **C. RETALIATION**

The College prohibits retaliation against individuals who, in good faith, assert their right to bring a complaint, participate in an investigation, or protest conduct prohibited by any College policy. Retaliation is an offense that is separate from the original complaint, and it will be considered independent 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 for investigation.

### **D. FALSE ALLEGATIONS**

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 discuss 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.

### **E. CONFIDENTIALITY**

The Director of Human Resources or his or her designee shall work to honor the confidentiality of all parties and limit disclosure of complaints to only those who have a need to know the facts and the parties to a complaint. Reporting and disclosure requirements required by law may present limitations to such confidentiality. Nonetheless, the College will treat all parties with equal care, respect, and dignity and will make every effort to preserve the privacy of all parties involved.

In some instances, a complainant may choose to take no action or to defer action until a later date in order to maintain anonymity. In these instances, the College expressly reserves the right to limit disclosure and to take appropriate action in order to ensure the safety and well-being of members of the College community. If a complainant refuses to cooperate with an investigation, or asks that his or her identity not be revealed to the respondent or witnesses, the Director of Human Resources, or his or her designee in his or her discretion, will investigate to the extent possible based on the information provided, but his or her ability to respond may be limited.

The Director of Human Resources shall work to ensure that all parties, witnesses, and support persons involved in an investigation respect the confidentiality of the investigation as well. Any manager, supervisor or other employee who violates confidentiality as to a complaint of an alleged violation of a College policy will be subject to appropriate disciplinary action. Please contact the Director of Human Resources with any questions regarding confidentiality.

### **F. RECORD KEEPING**

The record of a complaint, informal resolution, or final decision shall be retained in a file in

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the Office of Human Resource. Disciplinary action will be documented in the appropriate individual personnel file.

### **G. FILING COMPLAINTS WITH FEDERAL OR STATE AGENCIES**

Although employees and students are encouraged to use this internal procedure, exhaustion of this procedure is not a prerequisite for filing complaints with appropriate federal or State agencies, or for employees, under collective bargaining agreements.

Information on the rights and responsibilities of individuals under these procedures and applicable laws may be obtained through:

Bergen Community College  
The Office of Human Resources  
Attention: Director of Human Resources  
400 Paramus Road, Room A-316  
Paramus, NJ 07652  
Telephone (201) 447-7442  
Email: HumanResourcesGroup@bergen.edu

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### **Related Documents/Policies:**

Policy Prohibiting Discrimination  
Student Code of Conduct  
Employee Code of Conduct  
Title IX Policy

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### **Policy History: (adopted/amended)**

Adopted: 8.7.18



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**BOARD OF TRUSTEES ACTION I-2**  
**Approval Date: September 1, 2020**

**Resolution**

Authorization to approve settlement of litigation entitled, Jane Doe v. Bergen Community College et al., Docket No. BER-C-156-20.

**Submitted By:**

Dr. Anthony Ross, Interim President  
Brock L. Fischer, Ph.D., Vice President of Academic Affairs

**Action Requested**

Approve settlement of litigation entitled, Jane Doe v. Bergen Community College, et al., Docket No. BER-C-156-20, authorizing the President to enter into a settlement agreement in the amount of \$6,500, in exchange for which plaintiff shall release all claims and dismiss the litigation against defendants.

**Justification**

Resolve pending litigation filed by student who was summarily dismissed from nursing program. Settlement will restore student's academic standing, reinstate student to nursing program and reimburse a portion of student's legal fees.



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**BOARD OF TRUSTEES ACTION: P1**  
**Approval Date: September 1, 2020**

**Resolution**

Appointment: Support Staff (This appointment is being made in accordance with the Bergen Community College Support Staff Association (BCCSSA) contract, Article XV, after successful completion of the probationary period.)

**Submitted By**

Dr. Anthony Ross, Interim President

Mr. William Corcoran, Vice President, Facilities Operations, Planning and Public Safety

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the appointment of the following individuals to the positions and annual salaries indicated.

<u>Name</u>	<u>Position/Division</u>	<u>Salary</u>	<u>Effective Date</u>
Mehmet Arslan	Custodian/Building and Grounds	\$31,124.00 (pro-rated)	01/27/20 (retroactive)
Desmond Aultman	Custodian/Building and Grounds	\$31,124.00 (pro-rated)	02/04/20 (retroactive)
Carlo Capone	Custodian/Building and Grounds	\$31,124.00 (pro-rated)	01/28/20 (retroactive)

**Justification**

To fill budgeted positions through successful search process and completion of probationary period.

Charge to: College Operating Funds

Account Number: 10-06-620100-601135



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**BOARD OF TRUSTEES ACTION P2**  
**Approval Date: September 1, 2020**

**Resolution**

Reappointment: Project Personnel – Grants

**Submitted By**

Dr. Anthony Ross, Interim President

Dr. Brock Fisher, Vice President, Academic Affairs

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

That the grant personnel listed below be reappointed to the positions indicated for the period commencing October 1, 2020 through June 30, 2021.

<u>Name</u>	<u>Position</u>
Barbara Abolafia	Summer Explorations Coordinator (Title V)
Luis DeAbreu	STEMatics Grant Program Director (STEMatics)
Lauren Fowler	Professional Success Coach/Academic Counselor (Title V)
Laura Frazer	Sr. Grant Manager/Compliance Officer - Grants Administration (Title V, STEMatics, Perkins, CCAMPIS, IDC)
Matthew Greene	STEMatics Academic Counselor (STEM)
Randi Greene	Financial Literacy Specialist/Buyer (STEMatics/Grants Administration)
Erica James	Professional Success Coach/Academic Counselor (Title V)
Laura Madera	Peer Mentor Coordinator/Coach (Title V)
Alan Manzueta	Professional Success Coach (Title V)
Iqra Shabbir	Supplemental Instruction (SI) STEMatics Coordinator (STEM HSI/Cerullo Learning Assistance Center)
Lark Lo Sontag	Project Coordinator – Child Development Center (CCAMPIS)
Jacqueline Stoddardt	STEMatics Academic Counselor (STEM)
Majeda Sultana	STEMatics Academic Counselor (STEMatics)

**Justification**

Reappointments of grant-funded positions. These positions are at-will.



**BOARD OF TRUSTEES ACTION P3**  
**Approval Date: September 1, 2020**

**Resolution**

Stop Stipend

**Submitted By**

Dr. Anthony Ross, Interim President

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To stop the monthly stipend for the following individual as indicated:

<u>Name</u>	<u>Position/Division</u>	<u>Monthly Amount</u>	<u>Effective Date</u>
Laura Frazer	Sr. Manager of Grants/Compliance Officer/Grants Administration	\$500.00	09/01/20

**Justification**

To stop the monthly stipend for additional day-to-day operational responsibilities within Grants Administration.

Charge to: College: Grants Administration

Account Number: 10-01-199500-601153



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**BOARD OF TRUSTEES ACTION P4**  
**Approval Date: September 1, 2020**

**Resolution**

Retirement: Confidential Staff

**Submitted By**

Dr. Anthony Ross, Interim President

Mr. Ronald Miller, Executive Director, BCC Foundation

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the retirement of the following individuals:

<u>Name</u>	<u>Position/Department/Division</u>	<u>Effective Date</u>
Laura Montenegro	Database and Office Coordinator/BCC Foundation	01/01/21

**Justification**

Retirement





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**BOARD OF TRUSTEES ACTION P5**  
**Approval Date: September 1, 2020**

**Resolution**

Retirement: Support Staff

**Submitted By**

Dr. Anthony Ross, Interim President

Mr. William Corcoran, Vice President, Facilities Planning, Operations & Public Safety

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the retirement of the following individual:

<u>Name</u>	<u>Position/Department/Division</u>	<u>Effective Date</u>
Jason Leight	Sr. Maintenance Repairperson/Buildings and Grounds	09/01/20

**Justification**

Retirement



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**BOARD OF TRUSTEES ACTION P6**  
**Approval Date: September 1, 2020**

**Resolution**

Amend Retirement: Support Staff

**Submitted By**

Dr. Anthony Ross, Interim President

Dr. Brock Fisher, Vice President, Academic Affairs

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the amended retirement (P6 – July 7, 2020) of the following individual to change the retirement date:

<u>Name</u>	<u>Position/Department/Division</u>	<u>Effective Date</u>
Barbara Bliss	Executive Secretary/Business, Arts and Social Sciences/Academic Affairs	01/01/21

**Justification**

Retirement date change



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**BOARD OF TRUSTEES ACTION P7**  
**Approval Date: September 1, 2020**

**Resolution**

Resignation: Grant Funded Staff

**Submitted By**

Dr. Anthony Ross, Interim President

Dr. Brock Fisher, Vice President, Academic Affairs

Ms. Gwendolyn Harewood, Director, Human Resources and Employee Relations

**Action Requested**

To accept the resignation of the following individual:

<u>Name</u>	<u>Position/Department/Division</u>	<u>Effective Date</u>
Vittoria Fronte	Research Assistant (Grants Administration/TitleV/ STEMatics/FITW)	08/10/20 (retroactive)

**Justification**

Resignation

**BOARD OF TRUSTEES ACTION P8**  
**Approval Date: September 1, 2020**

**Resolution**

Resignation – Professional Staff

**Submitted By**

Dr. Anthony Ross, Interim President

Mr. Ronald Spaide, Chief Information Officer

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the resignation of the following individual:

<u>Name</u>	<u>Position/Department/Division</u>	<u>Effective Date</u>
Rogério Faria	Network Administrator II / Information Technology	08/28/20 (retroactive)

**Justification**

Resignation



**BOARD OF TRUSTEES ACTION P9**  
**Approval Date: September 1, 2020**

**Resolution**

Termination: Grant

**Submitted By**

Dr. Anthony Ross, Interim President

Dr. Brock Fisher, Vice President, Academic Affairs

Ms. Gwendolyn Harewood, Director of Human Resources and Employee Relations

**Action Requested**

To approve the termination of the following individuals:

<u>Name</u>	<u>Position/Division</u>	<u>Effective Date</u>
Reyniel Afuang	Program Assistant (First in the World)	09/30/20
Randy Dodd	Mentoring Coordinator (TPSID 2)	09/30/20
Erin Meccia	Professional Success Coach (TPSID 2)	09/30/20
Colleen Tedesco	Success Coach (TPSID 2)	09/30/20

**Justification**

To terminate these individuals in the grant-funded positions due to the expiration of the First in the World and TPSID 2 grants.