

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

Policy # HR: 001-002: 2019

Effective Date:

Aug 14, 2020

Responsible Official:

Title IX Coordinator

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

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 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 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.

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).

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

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 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
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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.