

Bergen Community College
Board of Trustees
Section: HR

Policy #: HR 008-005.2026

Effective Date: June 17, 2026

Responsible Official: Title IX Coordinator

Title IX Policy Covering Sexual Discrimination, Harassment, and Misconduct

Policy Statement:

Title IX of the Education Amendments of 1972 is a landmark federal civil rights law that prohibits sex-based discrimination in any education program or activity that receives federal funding. All members of the Bergen Community College (Bergen, the College) community, including students, faculty, and staff, as well as guests and visitors have the right to be free from sexual discrimination, harassment and misconduct, and are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of sexual misconduct is reported or brought to the attention of a college official or administrator, and an individual is found to have violated this policy, disciplinary sanctions will be imposed on the individual to reasonably ensure that such actions are not repeated.

This policy has been developed to affirm the College's compliance with Title IX and its position with regards to discrimination, harassment, and misconduct based on sex and to provide recourse for those individuals whose rights have been violated. For purposes of this policy, the person impacted by an allegation of sexual discrimination, harassment, or misconduct is known as the Complainant, and the perpetrator of such behavior is known as the Respondent. Reference to party is referring to the Complainant or Respondent, while reference to parties or parties involved in an incident is referring to both the Complainant and Respondent. This policy is intended to define the College community's expectations and explain the rights of the Complainant(s) and Respondent(s). The Title IX Procedures Covering Sexual Discrimination, Harassment, and Misconduct establishes a mechanism for determining when those expectations have been violated through an investigation and resolution process and identifies a range of sanctions which may be imposed for behavior which violates this policy.

Reason for Policy:

To provide members of the College community with information about its zero- tolerance position on all forms of sexual discrimination, harassment, and misconduct which considers and is based on the following:

- Promoting equal opportunities and fair treatment of all members of the College community
- Preventing harmful and discriminatory behaviors which can have severe psychological, emotional, and physical consequences for those impacted.
- Promoting a more inclusive and supportive learning and employment environment where members feel valued, safe, and respected.
- Building trust and demonstrating the College's commitment to fairness, equality, and respect, which enhances the College's reputation and image.
- Maintaining a positive environment where diverse perspectives are valued, which creates a more engaged, productive, and innovative learning and employment experience.

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- Complying with all state and federal anti-discrimination laws and regulations that prohibit sex discrimination in employment and education settings, which include Title VI and Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972.

Who Should Read this Policy:

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

Notice of Nondiscrimination:

There are several forms of discrimination and harassment which if not addressed can have profound negative effects on individuals. Such behavior and conduct can create a hostile learning and working environment that affects the mental health and physical safety of those impacted. While Title IX and this policy are focused on sexual discrimination and harassment, Bergen has zero tolerance for all forms of discrimination and harassment. Bergen adheres to all federal and state civil rights laws and regulations banning all forms of discrimination and harassment in its learning environment and workplace. The College prohibits discrimination or harassment against any employee, applicant for employment, student, applicant for admission, or visitor based on any protected class under federal, state, or local law

The College prohibits any form of harassment based on membership in a protected class by any member or group of the College community, which unreasonably interferes with an individual's academic or work environment. Prohibited behavior may be created by conduct that is sufficiently severe, pervasive, and objectively offensive to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment related access, benefits, or opportunities. Merely offensive conduct and/or harassment of a generic nature not based on membership in a protected class may not result in a violation of College policy but may be addressed through education and/or other resolution methods.

Definitions:

This policy distinguishes between the definitions of sexual harassment for Title IX purposes versus non-Title IX sexual harassment, to identify the specific misconduct that is prohibited under Title IX and what misconduct is prohibited generally. The College addresses conduct that does not meet the Title IX definition of sexual harassment under other policies such as the Student and Employee Codes of Conduct, and the Discrimination and Harassment Policy which can be found on Bergen's website under College Policies as follows: <https://bergen.edu/about-us/college-policies/>. The Discrimination and Harassment Policy also addresses misconduct based on the actual or perceived membership in a protected class.

- **Sexual Harassment (Title IX definition)** – a form of sex discrimination based on sex, including sex stereotypes, sex characteristics, and pregnancy or related conditions. Discrimination or harassment based on sex means conduct that is sexual in nature, , which includes one or more of the following:
 - **Quid Pro Quo** - an employee, agent, or other person authorized by an institution, to provide an aid, benefit, or service under the institution's educational and employment programs and activities, explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct. Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting the individual's academic standing, employment status, or participation in a college activity, or submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a college activity.
 - **Hostile Environment** – any unwelcome sex-based conduct that a reasonable person, based on the totality of the circumstances, would find so severe, pervasive, and objectively offensive, that it effectively limits or

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denies a person's equal access and ability to participate in or benefit from an institution's education or employment programs or activities. Severe, pervasive, and objectively offensive are defined as follows:

- **Severe** – the intensity or seriousness of the conduct. A single, very serious act can be severe, but it can also refer to a pattern of behavior that is consistently upsetting or intimidating
- **Pervasive** – conduct that is widespread, frequent, or repeated, and is not just a one-time occurrence, but rather a pattern of behavior that creates an ongoing hostile environment
- **Objectively Offensive** – conduct that is so offensive that a reasonable person would find it to be harmful or intimidating.

➤ **Sexual Violence** - includes domestic violence, dating violence, stalking, and sexual assault.

- **Sexual Harassment (non-Title IX definition)** - 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 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.

- **Dating Violence** - Violence¹ committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition:

- 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**² - Violence (including threats or attempts) committed:
 - 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 is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner.

¹ For purposes of the Policy, violence includes situations where the Respondent intentionally or recklessly causes the Complainant serious physical, emotional, or psychological harm.

- Intent is evidenced when a Reasonable Person would be more likely to act with the purpose of causing serious harm rather than for any other reason
- Recklessness is evidenced by a disregard of obvious risk to the safety of the Complainant
- Legitimate use of violence for self-defense is not chargeable under the Policy because the purpose is safety, not harm. It may also be used as a defense if it is not clear at the time of charging whether the use of violence was for self-defense or not. Self-defense is only to be considered if it is prompted by physical violence or the threat thereof.
- Consensual use of violence, such as in kink relationships, would also not meet this definition in most circumstances
- Threats to seriously harm the Complainant or people they care about may be chargeable under this definition if doing so causes serious emotional or psychological harm
- Threats to harm oneself, even if made to cause emotional or psychological harm, are not considered violence under this definition.

² To categorize an incident as Domestic Violence under the Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **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 others; or
 - Suffer substantial emotional distress.

For the purposes of this definition:

 - **Course of conduct** means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the impacted party.
 - **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- **Sexual Assault (as defined by the Clery Act)** - an offense that meets the definition of rape, criminal sexual contact, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program.
 - **Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - **Criminal Sexual Contact (fondling)** is the intentional touching of the clothed or unclothed body parts without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the Complainant of the actor's clothed or unclothed body parts, without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the Complainant is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
 - **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape** is defined as sexual intercourse with a person who is under the statutory age of consent.
- **Complainant** – an individual who is alleged to have been impacted by conduct that could constitute sexual harassment. This includes students, employees, or other individuals who were participating in the College's programs, services, or activities at the time of the alleged incident.
- **Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. The individual is a Respondent when a formal complaint is filed against him/her by the Complainant of alleged prohibited conduct.
- **Reporting Individual or Party** – an individual other than the Complainant/impacted party of a Title IX incident who reports the incident to the Title IX Coordinator, Deputy Coordinator, or other college official. They can, for example, be a witness to the incident or the Complainant's friend or family member.
- **Formal Complaint** – a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment. The following applies:

- At the time of filing a formal complaint, the Complainant must be participating in or attempting to participate in the education program or activity of the College with which the formal complaint is filed.
 - A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the College.
 - The phrase “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the formal complaint.
 - Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process and must comply with requirements for Title IX personnel to be free from conflicts and bias.
- **Resolution (Grievance) Process** - a formal process for addressing complaints of alleged sexual harassment, discrimination, or misconduct in educational settings. Upon the filing of a formal complaint, it typically involves investigating the reported incident, holding a hearing(s) with the parties involved in the incident, and rendering a decision on whether a violation occurred. If a violation occurs appropriate remedies or sanctions are imposed. Both parties have the right to appeal the decision.
 - **Sexual Misconduct** – the overarching category or umbrella which encompasses the non-consensual inappropriate sexual behaviors that include sexual discrimination, harassment, exploitation, intimidation, and violence. All of these behaviors stem from sex-based power imbalances ranging from offensive conduct (discrimination/harassment), abuse of power for sexual gain (exploitation), coercive tactics (intimidation), and/or severe acts (violence).
 - **Sexual Discrimination** – the overarching behavior of treating someone unfairly based on their sex by creating unequal opportunities or environments. It represents different treatment with respect to a person’s employment or participation in an education program or activity based, in whole or in part, upon the person’s actual or perceived sex or gender.
 - **Sexual Exploitation** – Abusing a position of power for sexual purposes which entails non-consensual abuse or exploitation of another person’s sexuality for the purpose of sexual gratification, financial gain, personal benefit, or advantage, or any other non-legitimate purpose. This may include requiring or trading sex for money, promotions, or jobs.
 - **Sexual Intimidation** - threatening behavior of a sexual nature directed at another person or group that reasonably leads the target(s) to fear for their physical well-being or to engage in sexual conduct for self-protection. Some examples of sexual intimidation are threatening to sexually assault another person or engaging in indecent exposure. This is often a tactic associated within sexual harassment or violence.
 - **Supportive Measures** - non-punitive and non-disciplinary individualized services offered as appropriate and as reasonably available without fee or charge to a Complainant or Respondent. They are provided to restore or preserve a Complainant's and/or Respondent's well-being and equal access to the College's educational program or activity while the investigation and/or resolution process is on-going. Such measures focus on the Complainant's and Respondent's needs. They are only provided to a Complainant if a Title IX incident is reported but a formal complaint is not filed, and they are provided to both the Complainant and Respondent when a formal complaint is filed and throughout the resolution/grievance process. Thus, supportive measures can be provided at any time, even without a formal complaint filed. Examples include academic accommodations (e.g., alternative course completion,

rescheduling exams, changes to class schedules), changes in work assignments, counseling services, and assistance with reporting to law enforcement.

- **Protective Measures** - essentially the same and used interchangeably with supportive measures. They are temporary non-punitive and non-disciplinary actions implemented after a Title IX incident is reported and often used in the context of relationship violence (i.e., dating violence, domestic violence) or sexual misconduct. They are focused on protecting the safety of the individuals involved and maintaining a safe campus environment and are provided to the Complainant, Respondent, and the broader campus community. These are a broad range of actions including those taken before, during, or after an investigation. Examples include no-contact orders, campus escort services, increased security presence/monitoring, leave of absence, and counseling and support services.
- **Interim Measures** - temporary non-punitive and non-disciplinary actions which like protective measures provide immediate protection for the individuals involved in a Title IX incident and ensure a safe and equitable environment. Such measures however may feel punitive to the Respondent. These are measures specifically and usually taken at the start of or during the investigation process to address immediate concerns or threats which prioritize safety and prevention. Examples include temporary changes to classes or work schedules or issuing non-contact orders.
- **Remedial Actions/Remedies** - measures that are put in place after a determination of responsibility is made for a Title IX violation, following a resolution/grievance process. Their purpose is to restore or preserve a Complainant's equal access to the College's education program or activity and address the effects of the misconduct. Remedies may include the same individualized services as supportive measures, but they are not necessarily non-disciplinary or non-punitive and may burden the Respondent. Remedies aim to address the effects of the misconduct, restore quality, and prevent recurrence. Examples can range from requiring training for a Respondent, making changes to college policies, or implementing sexual prevention programs for the wider campus community.
- **Sanctions** - Disciplinary actions taken against a Respondent found responsible for committing a Title IX violation. They are intended to hold the Respondent accountable, deter future misconduct, and remedy its effects. Sanctions are typically more formal and can include actions such as warnings, probation, suspension, expulsion, termination, restricted access to certain areas or activities, mandatory training, community service, fines or restitution, and revocation of degree. Sanctions are determined and imposed on the Respondent by the Title IX Team Decision-Maker as part of the formal resolution/grievance process.
- **Education Program or Activity** - Locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and includes any building owned or controlled by a student organization that is officially recognized by the College. This broadly encompasses all of the College's operations which includes all educational, employment, and social programs, services, and activities.
- **Title IX (of the Education Amendments of 1972)** – a federal civil rights law prohibiting sex-based discrimination in any education program or activity receiving federal funding, ensuring equal opportunities in areas like admissions, athletics, housing, and preventing sexual harassment, ensuring equal access and protection for all students and employees. It's a landmark law ensuring that federal funds aren't used to support discrimination and requires institutions to have designated Title IX Coordinators.
- **New Jersey Law Against Discrimination** - a comprehensive state law prohibiting discrimination, harassment, and retaliation based on race, religion, sex, disability, sexual orientation, gender identity, and other protected traits in

employment, housing, and public accommodations, offering broader protections and stronger remedies than federal law, enforced by the NJ Division on Civil Rights.

The Policy:

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 based on sex, which includes all forms of sexual misconduct, and any retaliation of such protected rights. Sexual discrimination violates an individual's fundamental rights and personal dignity. The College has zero tolerance for and considers discrimination based on sex and all its forms of sexual misconduct to be a serious offense. Zero tolerance means that all complaints will be taken seriously, and where violations of policy are found, significant sanctions will be applied. This policy and related process, which are based on the Title IX Final Rule 2020 regulations, document Bergen's position that it prohibits discrimination of any kind based on sex in employment and educational programs, services, and activities.

Prohibited Conduct

Title IX prohibits discrimination based on sex (i.e. sexual discrimination) in educational programs and activities that receive federal financial assistance. Such discrimination may include sexual harassment, sexual exploitation, sexual intimidation, and sexual violence. Sexual discrimination is the broad overarching behavior of treating someone unfairly based on their sex or gender. Sexual harassment is a type of sexual discrimination, while sexual intimidation, sexual exploitation, and sexual violence are often components or severe outcomes of sexual discrimination and harassment. All these behaviors and conduct rely on unequal power, which may for example include the following situations, employer/employee (harassment), authority figure/student (exploitation), or intimate partner (violence). Together they form a continuum, from subtle discrimination or unwelcome comments (harassment) to leveraging vulnerability (exploitation) to outright physical force (violence). Sexual misconduct is the broad overarching umbrella which encompasses all of these non-consensual, inappropriate sexual behaviors (i.e. sexual discrimination, harassment, intimidation, exploitation, and violence).

Title IX specifically addresses sex-based discrimination and harassment within educational settings. Title IX applies to all the College's educational programs and activities, whether such programs or activities occur on-campus or off-campus. To ensure compliance with Title IX and other federal and state civil rights laws, Bergen has developed policies and procedures that prohibit sex discrimination in all its forms, which pertain to employment, program/educational offerings, and admission to the College. This Title IX policy applies to all employees (i.e., faculty and staff), students, and visitors that are engaged in any sexual misconduct behavior, both on campus and at college sponsored and/or sanctioned off-campus activities. It governs student-on-student, employee-on-employee, employee-on-student, and student-on-employee sexual discrimination, as well as such behavior involving visitors (i.e., guests, family members, independent contractors, and vendors). Any member of the College community whose acts deny, deprive, or unreasonably interfere with and/or limit access to education, employment, or benefit opportunities of any other member of the College community, guest, or visitor based on the individual's sex is in violation of this policy.

When unwelcome sex-based conduct consists of speech or expressive conduct, the College balances Title IX enforcement with respect for free speech and academic freedom. When informed of alleged or actual incidents of discrimination based on sex, the College assesses if such incidents are violations of Title IX policies, laws, and regulations, while also taking into consideration an individual's First Amendment rights of free speech and academic freedom protections, even when such speech or expression is offensive. As such this policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the learning environment that includes germane but controversial or sensitive subject matters.

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When addressing an alleged Title IX incident and complying with all requirements, the College also considers and does not restrict the rights of parties protected under the Fifth and Fourteenth Amendments of the U.S. Constitution, which address due process, equal protection, and protections against governmental overreach in legal proceedings.

Other discrimination laws such as Title VI and Title VII of the Civil Rights Act of 1964 and the New Jersey Law Against Discrimination cover a broader range of discrimination that impact protected classes (i.e., groups of people who are legally shielded or protected from discrimination or harassment based on specific characteristics). Bergen Community College prohibits discrimination against any employee, applicant for employment, student, or applicant for admission based on the following protected classes/characteristics: race, color, age, gender, sexual orientation, religion, national origin, ethnicity, veteran/military status, disability, genetic information, marital status, political affiliation, pregnancy, or any other basis of prohibited discrimination in its programs and activities. The College adheres to all federal and state civil rights laws banning all forms of discrimination. Therefore, any member of the College community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, social access, benefits, and/or opportunities of any member of the campus community based on their membership in a protected class is in violation of the College's discrimination policies. Bergen's Discrimination and Harassment Policy covers the broader range of discrimination, excluding discrimination based on sex addressed in this policy.

Sexual Misconduct and Consent

This policy prohibits various forms of sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender of those involved, and which exhibit a lack of consent by the Complainant. Therefore, a definition of consent is important in understanding that any sexual activity without consent is prohibited, and that consent must be clearly and freely given. The definition of consent below is used in the interpretation and application of this policy.

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) 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 themselves, is unable to understand what is happening, or is disoriented, helpless, asleep, or unconscious for any reason. 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 based on the influence of a narcotic, anesthetic, or intoxicating substance, if a person is unable to communicate consent 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 complaint of sexual misconduct was intoxicated and, therefore, did not realize the other person's incapacity.

Sexual Exploitation

Defined as taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit, in ways that otherwise do not meet the College's definitions of sexual harassment. Such misconduct may be addressed in the College's grievance process. 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, with the intent to take advantage of the other person.

Individuals who experience discrimination, harassment, or any other form of sexual misconduct may respond to the incident in many ways, including feeling confused, vulnerable, out of control, embarrassed, angry, or depressed. The College provides a variety of supportive measures and resources to assist individuals who have experienced discrimination, harassment, or sexual misconduct to address the effects of the incident, to provide a level of safety and security, and to help them determine whether and how to make a formal complaint about the incident. Supportive measures and resources are also provided to Respondents and are discussed in detail later in this document.

Scope/Jurisdiction/Application

This policy applies to allegations of sexual discrimination, harassment, or misconduct and any retaliation that take place on Bergen Community College property or at off-campus Bergen-sponsored events, within the United States. This policy may also apply to allegations of discrimination, harassment, and retaliation to actions online or pertaining to off-campus activities not associated with the College that fall outside Title IX jurisdiction. The latter may be the case when the Title IX Coordinator or Deputy Coordinator determines that the online or off-campus 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, the Complainant, 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 program or activity of the College.

Title IX Committee

Bergen has a Title IX Committee comprised of a Title IX Coordinator, Deputy Coordinators, Investigators, Decision-Maker, and Appeal Decision-Maker. All reports of sexual discrimination, harassment, misconduct, and/or retaliation should be promptly made to the Title IX Coordinator or one of the designated Deputy Coordinators. The Assistant Vice

President of Student Affairs serves as the Title IX Coordinator. The Deputy Coordinators and Investigators consist of individuals from various departments of the College including the Human Resources Department, Office of Public Safety, Office of Student Life and Conduct, and the Athletics Department.

Notice to the Title IX Coordinator, Deputy Coordinator, a Mandatory Reporter, or an Official with Authority to institute corrective measures on the College's behalf constitutes ***"actual knowledge"*** to the College of an alleged incident of sex discrimination and will trigger the College's response requirements to the Complainant. Mandatory Reporters and Officials with Authority are discussed later in this policy. 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 insufficient to constitute actual knowledge.
- Notice includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

The College has appointed individuals to these Title IX roles to coordinate the College's compliance with federal, state, and local sex discrimination laws and ordinances. The name and contact information of the Title IX Coordinator is as follows:

Title IX Coordinator

Dr. Jennifer Migliorino-Diaz

Assistant Vice President of Student Affairs

jmigliorino@bergen.edu

OS-140, Pitkin Education Center

(201) 447-7456

The names and contact information of all Title IX Committee members including the Deputy Coordinators, Investigators, Decision-Maker, Appeal Decision-Maker as well as the Title IX Coordinator can be found by accessing the following link: <https://bergen.edu/about-us/title-ix/title-ix-committee/>.

Individuals are encouraged to report any form of sexual discrimination, sexual harassment, or sexual misconduct (whether the reporting person is the impacted party in the incident or not), by using an online reporting form which can be accessed via the following link https://cm.maxient.com/reportingform.php?BergenCC&layout_id=1. Incidents can also be reported in person, by mail, by telephone, or by email, using the contact information of the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours.

Roles of the Title IX Coordinator, Deputy Coordinators, Investigators, Decision-Maker, and Appeal Decision-Maker

The Title IX Coordinator is responsible for ensuring compliance with existing and new Title IX requirements and related federal and state regulations/laws. Additional responsibilities of the Title IX Coordinator include developing and ensuring compliance with related College policies and procedures. The Title IX Coordinator is also responsible for monitoring Bergen's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination, sex-based harassment, and retaliation, and take the necessary steps reasonably determined to address and eliminate such barriers.

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The Title IX Coordinator and Deputy Coordinators are charged with coordinating the College's response to reports of misconduct under Title IX Policy. The Title IX Coordinator and Deputy Coordinators are not advocates for either the Complainant or the Respondent. The Title IX Coordinator or Deputy Coordinators will explain to both parties the informal and formal resolution processes and the provisions for confidentiality. Where appropriate, the Title IX Coordinator or Deputy Coordinators will provide supportive measures to the parties for obtaining advocacy, medical and counseling services, and making criminal reports, and will also 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.

Title IX Investigators are responsible for gathering evidence to determine if the alleged misconduct or violent incident meets Title IX standards, and to provide the evidence which the Decision-Maker uses to base the written documentation of responsibility at the conclusion of the resolution process. The investigation is performed in a prompt, thorough, and impartial manner. This typically includes gathering all relevant evidence, interviewing all parties involved in the incident and witnesses, and preparing an investigative report that fairly and accurately summarizes the relevant evidence.

The Decision-Maker is a neutral, impartial party responsible for the adjudication phase of the Title IX grievance process, evaluating all relevant evidence to determine whether a policy violation occurred, issuing a written determination of the incident, and imposing sanctions and identifying remedies, if necessary. The Decision-Maker is not the same person as the Title IX Coordinator and is not the Investigator for the same complaint. The Appeal Decision-Maker is a separate, impartial individual who was not involved in the investigation or the initial decision-making process. The Appeal Decision-Maker reviews the original decision in the context of the appeal request to determine if the outcome should be affirmed, reversed, or amended based on specific limited grounds for an appeal. The Appeal Decision-Maker is not the same person as the Title IX Coordinator and is not the Decision-Maker or the Investigator for the same complaint.

Collectively, Title IX committee members are responsible for providing sex discrimination education and training; coordinating the College's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct; coordinating and overseeing the College's compliance with Title IX regulations; and monitoring the effectiveness of the College's Title IX Policy and related procedures, to ensure an education and employment environment free from sexual discrimination, sexual harassment, sexual violence, and retaliation.

The College will ensure that the Title IX team members involved in a Title IX incident will not have a conflict of interest or bias for or against Complainants or Respondents generally or for or against any individual Complainant or Respondent. The Title IX team either collectively or individually, based on their responsibilities, receives proper training on the definition of sexual harassment and how to properly conduct an incident investigation and resolution/grievance process regarding Title IX complaints, which may include hearings, appeals, and informal resolution processes, as applicable. Such training also includes how to serve impartially, including the avoidance of prejudgment of the facts at issue, conflicts of interest, and bias. Those Title IX team members involved in live hearings are trained on any technology used in such hearings, and team members are trained on issues of relevance such as how to apply the rape shield protections provided only to Complainants. The various training materials used to train Title IX team members are available to the College community and public to review and inspect.

The College ensures that information concerning a Title IX complaint is maintained confidentially and shared on a need-to-know basis only with those Title IX team members directly involved in the incident (i.e., Title IX Coordinator, Deputy Coordinator, Investigator, Decision-Maker, and Appeal Decision-Maker if the outcome of the incident is appealed). Other Title IX team members not assigned to the complaint are not privy to the details of the incident unless they subsequently become assigned to the complaint. The focus and emphasis is to protect the privacy of all parties involved in the incident while ensuring proper handling of the complaint, with access limited to those who must know the details in order to resolve the matter while maintaining confidentiality.

External Contact Information

Concerns about Bergen's application of this policy and compliance with Title IX requirements may be addressed to:

Office for Civil Rights (OCR)
U.S Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Customer Service Hotline: 800-421-3481

Facsimile: 202-453-6012

TDD: 877-521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

Reporting Responsibilities

Bergen responds to and addresses all reports of sexual discrimination, harassment and misconduct incidents with the utmost seriousness and promptness. In most instances alleged Title IX incidents are reported by the Complainant/person impacted. However, any individual who is not the impacted person (i.e. third-party reporter) may report a Title IX incident, including a friend, family member or any individual not associated with the impacted party but who witnessed the incident.

Institutions of Higher Education (IHEs) are required and must respond promptly to incidents of discrimination based on sex in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable considering the known circumstances. Employees of the College known as Officials with Authority and Mandatory Reporters are required by Title IX and this policy to report suspected or known incidents of Title IX violations including sexual discrimination, sexual harassment, sexual misconduct, and all other forms of discrimination based on sex, or retaliation to the Title IX Coordinator or other designated college officials. Officials with Authority and Mandatory Reporters will report a Title IX incident when they:

- Witness the incident
- Hear about allegations of a Title IX incident from a Complainant or a third party
- Receive a written or verbal complaint regarding allegations of a Title IX incident
- Become aware of the incident by any other means

Under Title IX, IHEs are allowed to choose whether to have mandatory reporting requirements for all employees, or to designate some employees to be confidential resources to discuss such incidents without triggering a report to the Title IX Coordinator. Bergen recognizes certain positions and individuals in those positions to be confidential resources. All employees (including student-employees), other than those deemed Confidential Employees, are required to promptly and effectively report all details of actual or suspected incidents of sex discrimination, sexual harassment, sexual misconduct, or retaliation to the Title IX Coordinator, Deputy Coordinator, or other appropriate college officials immediately or online at https://cm.maxient.com/reportingform.php?BergenCC&layout_id=1.

When a Complainant tells the Title IX Coordinator, an Official with Authority, or Mandatory Reporter about a Title IX incident, the Complainant has the right to expect the College will take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Notice to an Official with Authority or a Mandatory Reporter (i.e. responsible employees) may convey actual knowledge to the College. These responsible employees must

All policies are subject to amendment. Please refer to the College Policy website (<https://bergen.edu/about-us/college-policies/>) for the official, most recent version.

report to the Title IX Coordinator and/or Deputy Coordinator all relevant details about the alleged sexual misconduct shared by the Complainant. To the extent possible, information reported to a responsible employee will be shared only with college personnel responsible for addressing the College's response to the reported incident. A responsible employee should not share information with law enforcement without the Complainant's consent, unless the Complainant has also reported the incident to law enforcement, unless otherwise required by the law, or unless certain information must be provided to campus Public Safety personnel per the Clery Act. The Clery Act is a federal law that requires colleges and universities to adhere to campus safety and security requirements. The Title IX Coordinator will in turn involve campus Public Safety personnel, local law enforcement, and/or the Bergen County Sheriff's Office depending on the nature and circumstances of the reported incident.

Officials with Authority

Officials with Authority are those employees of the College who are not confidential resources and who are known to either have authority to take or implement corrective action on behalf of the College for specific issues and incidents such as Title IX violations, or have responsibility for administrative leadership, teaching, or advising in Bergen's educational programs or activities. These individuals are often in leadership or management positions and are obligated to notify the Title IX Coordinator of known actual or suspected Title IX incidents, and include for example the President, Vice Presidents, Deans, Department Chairs, Athletic Director, Public Safety personnel, and the Title IX Coordinator and Deputy Coordinators.

Mandatory Reporters

Mandatory Reporters are all other non-confidential employees who are also obligated to notify the Title IX Coordinator of known or suspected Title IX incidents including, for example, administrators, supervisory staff, faculty, academic advisors and counselors, student club advisors, athletic coaches and staff, and student-employees. These individuals can also provide the Complainant/impacted party with the contact information of the Title IX Coordinator and information about how to make a complaint of sex discrimination. In summary, Mandatory Reporters are required to report incidents of sex-based misconduct, while Officials with Authority are not only required to report but also have the authority to institute corrective measures on behalf of the College. Officials with Authority by default are Mandatory Reporters but not all Mandatory Reporters are Officials with Authority.

Reporting Considerations

Officials with Authority and Mandatory Reporters should ensure that the Complainant understands their reporting requirements, and if the Complainant does not want to report the incident to the Title IX Coordinator for investigation, the Official with Authority or Mandatory Reporter should direct the Complainant to confidential resources. Thus, Complainants should carefully consider whether they share personally identifiable details with Officials with Authority or Mandatory Reporters, as those details must be shared with the Title IX Coordinator. If a Complainant requires formal action to be taken in response to his/her allegations, the Complainant can report the incident to the Title IX Coordinator, Official with Authority, or Mandatory Reporter. These responsible employees will assist the Complainant by reporting the alleged crime and/or policy violation to the Title IX Coordinator (and/or law enforcement, if desired by the Complainant or required by law), who will act upon being notified.

Although Title IX does not require students at the College (except for student-workers) to report any incidents, any student who is aware of, or who witnesses sexual discrimination, sexual harassment, sexual misconduct, or retaliation is encouraged to promptly report the incident to the Title IX Coordinator or a Title IX Deputy Coordinator. All initial contacts will be treated with the privacy and confidentiality required by law. 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, with every reasonable effort made to maintain the privacy of those initiating a report or complaint. In all cases, the College will consider the Complainant's wishes with respect to how the complaint is pursued

but reserves the right, when necessary, to protect the community, to investigate, and to pursue a resolution when an alleged Complainant chooses not to initiate or participate in a formal complaint.

Police and Other Reporting Sources

In addition to reporting Title IX incidents to the Title IX Coordinator, Deputy Coordinators, Officials with Authority or Mandatory Reporters, incident reports may also be made to the local police, Office of Public Safety (i.e., campus security), or the Bergen County Sheriff's Office, especially if an incident may involve a crime and/or is in progress, by calling the following numbers:

- Emergency – 911
- Local Police with Jurisdiction:
 - Paramus Police: 201.262.3400
 - Hackensack Police: 201.646.7777
 - Lyndhurst Police: 201.939.2900
- Office of Public Safety
 - Paramus Campus (24hrs): Dial "6" or 201.447.7200
 - Meadowlands Campus, Lyndhurst: 201.301.1267 – In house, ext. 9600
 - Ciarco Learning Center, Hackensack: 201.301.9700
- Bergen County Sheriff's Office (non-emergency number):
 - 10 Main Street, Hackensack, NJ 07601: 201.336.3500,
 - Paramus Campus, Room A-114 Pitkin Education Center: 201.689.7607

Confidential Employees

Confidential Employees (aka Confidential Resources) are not required to report sexual harassment, discrimination, misconduct, or retaliation to the Title IX Coordinator, barring an emergency or when required to disclose by law or court order. There are three categories of Confidential Employees:

1. Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors
2. Those whom Bergen has specifically designated as Confidential Resources for purposes of providing support and resources to the Complainant
3. Those conducting human subjects research as part of a study approved by the Bergen Institutional Review Board (IRB).

Confidential Employees in category 1 can respect confidentiality provided they are in a confidential relationship with the Complainant or person reporting the incident, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of being informed of an incident. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

The Title IX Coordinator or Confidential Employee can assist Complainants in accessing supportive measures and resources, whether they file a formal complaint or not. As previously indicated, those designated by the College as Confidential Employees/Resources are not required to report actual or suspected sexual discrimination, sexual harassment, sexual misconduct or retaliation to the Title IX Coordinator in a way that identifies the parties involved in the incident. They will, however, provide the Complainant with information about their status as a Confidential Employee for Title IX purposes, the Title IX Coordinator's contact information, how to make a formal complaint, how the Title IX Coordinator can help, and offer options and resources without any obligation to inform an outside agency or Bergen official unless the Complainant has requested the information be shared.

A Complainant has the right and may initiate a formal complaint about sex discrimination, harassment, or misconduct they experienced even if they choose to leave Bergen's educational program because of that discrimination or for other reasons. If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with counselors, health service providers, victim services advocates, domestic violence resources, or local or state assistance agencies, who are permitted by law to maintain confidentiality (except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required by law or court order). If a Complainant is unsure of a resource's ability to maintain confidentiality, the Complainant is advised to ask the resource(s) before talking to them.

Bergen 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. Clear information and training are provided by Bergen to the College community on when employees must notify the Title IX Coordinator about conduct that reasonably may constitute discrimination based on sex, and how students and employees can seek confidential assistance or make a complaint of sex discrimination which requires Bergen to initiate its resolution process.

Failure of an Official with Authority or Mandatory Reporter to report an incident of sex discrimination, sexual harassment, sexual misconduct, or retaliation which they become aware of is a violation of this policy and can be subject to disciplinary action up to and including termination for failure to comply/failure to report. This includes situations when a Respondent is an Official with Authority or a Mandatory Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this policy. An Official with Authority or Mandatory Reporter who is themselves a target of discrimination, harassment, or other misconduct under this policy is not required to report their own experience, though they are encouraged to do so. In addition, Complainants may speak with the below individuals unaffiliated with the College without concern that this policy will require these unaffiliated individuals to disclose information to the College without permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

Incident Reporting Options – Informal and Formal

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

Informal Incident Reporting:

Examples of informal incident reporting include the following:

Anonymous Reporting

The Title IX Coordinator and Deputy Coordinators address and follow up on anonymous reports of conduct which allegedly violate this policy. The Complainant or Third Party (i.e., Reporting Individual/Party) reporting the incident is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator or Deputy Coordinator(s) to address and respond to the incident as appropriate. The College may be limited in its ability to

investigate or respond to an anonymous report unless sufficient information is provided. (See www.bergen.edu/reportanincident).

Confidential Reporting

If an impacted party would like the details of an incident to be kept confidential, the 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 or elder). If a party is unsure of a resource's ability to maintain confidentiality, the 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 and confidential basis.

Private Reporting

Reports to College employees who are not confidential resources should be treated with the maximum possible privacy. If a party is unsure of a resource's ability to maintain privacy, the 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 party to make decisions about who is in the best position to help. If personally identifiable information is shared, efforts will be made to protect privacy to the greatest extent reasonably possible.

Formal Incident Reporting:

Examples of formal incident reporting include the following:

Formal Complaint

Complainants are encouraged to make a formal complaint by speaking to College officials, such as the Title IX Coordinator, Deputy Coordinator(s), or Office of Public Safety. 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 this policy and associated process and 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 to as few as reasonably possible to preserve a Complainant's rights and privacy.

A Title IX formal complaint is filed by notifying the College's Title IX Coordinator. This can be done in writing, via email, or by contacting the Title IX Coordinator directly. The complaint initiates either an informal or formal resolution process both of which include notifying all parties involved of their rights. Both the informal and formal resolution process are discussed in detail below.

Criminal Reporting

If someone is in immediate danger, 911 should be called. 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.

Confidentiality and Reporting of Title IX Incidents/Offenses

Bergen will make every effort to safeguard the identities of individuals who seek help and/or report sexual discrimination, harassment, and/or retaliation. While steps are taken to protect the privacy of the parties, 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 the required steps and action once an allegation is known whether the impacted party chooses to pursue a formal complaint or not.

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

A College employee to whom a Title IX incident is reported should not promise absolute confidentiality except for those designated as confidential resources by Bergen (i.e., personal counselors) as well as external resources including 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. Incident reports to all other employees may be private, but not necessarily confidential depending on the facts and circumstances. 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 a Complainant or against another student or employee who shares information as either a witness to or as a reporter of sexual misconduct, provided the report is made in good faith. For further content on this topic, see Appendix A "Good Samaritan".

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.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official who is investigating an incident and/or involved in a formal hearing or informal resolution can be subject to discipline under this policy and/or other College conduct policies and operating procedures.

Reports and Formal Complaints should be made as soon as possible after an incident.

There is no time limit for reporting a Title IX incident or for filing a formal complaint against the Respondent. 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 a sexual assault and/or in progress it should be reported immediately by calling 911 - Emergency if you are not safe and/or in need of immediate medical attention. Otherwise please contact the Public Safety Office at the applicable campus (i.e., Paramus, Meadowlands, or Hackensack) where the incident occurred or the Bergen County Sheriff's Office based on the contact information previously provided.

For incidents involving sexual assault, stalking, domestic violence, and dating violence the preservation of evidence is critical, and impacted parties should seek immediate medical attention as required.

Preservation of Evidence

The preservation of evidence is extremely time sensitive and important to prove that an alleged incident occurred, which will greatly aid in pursuing potential criminal prosecution and/or obtaining restraining/protective orders. The College will inform the Complainant of the importance of preserving evidence which includes taking the following actions depending on the type and nature of the incident:

Sexual Assault:

- Seek forensic medical assistance (i.e., forensic examination) at the nearest hospital, ideally within 120 hours of the incident (sooner is better). Completing a forensic examination does not require the Complainant to file a police report but helps to preserve evidence if a police report is subsequently filed later. Local hospitals are as follows:
 - **Bergen New Bridge Medical Center:** 230 E. Ridgewood Ave., Paramus, N.J., 201.967.4000
 - **Valley Hospital:** 4 Valley Health Plaza, Paramus, N.J., 07652, 201.447.8000
 - **Hackensack University Medical Center:** 30 Prospect Avenue, Hackensack, NJ 07601, 551.996.2000
- Medical assistance can also be provided on-campus by the Center for Health, Wellness, and Personal Counseling (HS-100, Pitkin Education Center, 201.447.9257). The RN staff of Health Services provides free First-Aid, emergency medical response, and healthcare maintenance to all members of the College community.
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if any of these activities are done.
- If oral sexual contact took place, refrain from smoking, eating, drinking, oral rinsing, or brushing teeth.
- Clothing should not be changed. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure an evidence container (if provided by law enforcement).
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

Stalking, Dating Violence, or Domestic Violence:

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email or social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

Counseling and Emotional Support

When sex-based discrimination or harassment incidents occur, they can be traumatic to those who require counseling and emotional support services. The College provides on-campus counselors for students and the Employee Assistance Program (EAP) for employees, which are available free of charge and can be provided on an emergency basis. Off-campus resources are also available to students and employees. Such services are focused on helping to mitigate the immediate and long-term impact of such incidents, which allow impacted parties to continue their education or

employment at the College and maintain their well-being. These services offer a pathway to safety, recovery, and a sense of control, allowing impacted parties to navigate the aftermath of such traumatic experiences.

On-Campus Counseling Services for Students:

- **Center for Health, Wellness and Personal Counseling** - HS-100, Pitkin Education Center, 201.447.9257

Employee Assistance Program for Employees:

- **Magellan Employee Assistance Program** - Magellan is contracted by the College to provide professional consultation to Bergen employees and their eligible dependents in the areas of stress management, family issues, child/elder care, dependency and other matters. Contact www.magellanassist.com.

Off-Campus Resources:

- **HealingSpace of YWCA** 24-hour hotline – 201.487.2227
- **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, which can be activated if:
 - Sexual assault occurred within 5 days
 - The victim is at least 13 years old
 - The victim is safe and not in need of immediate medical attention. Call 911 if the victim is not safe or needs immediate medical attention.
 - The victim can activate one or more SART professionals

To activate SART call the 24/7 hotline 201-487-2227 to speak with a Confidential Sexual Violence Advocate who will discuss all options with the victim. Note that the victim may choose to receive an exam with an advocate and nurse and then choose to report with law enforcement later.

Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, staff 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 the parties have consented at the outset to a romantic or sexual relationship, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy or of the Student and Employee Codes of Conduct. For the personal protection of members of the College community, relationships in which power differentials are inherent 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. This will likely result in the removal of the employee from supervisory or evaluative responsibilities or will shift the supervised/evaluated student or employee from being supervised or evaluated by someone with whom they have established a consensual relationship.

Retaliation

The College seeks to create an environment where students and employees are free, without fear of reprisal, to report any alleged violations of an individual's civil rights. Bergen encourages all members of the College community to exercise their right to report any incidents of wrongdoing. The College has zero tolerance and prohibits any form of punishment, revenge, or negative action against another individual who reports misconduct, participates in an investigation, or opposes illegal or unethical behavior. Any act of retaliation will result in appropriate disciplinary action.

Complaints alleging retaliation may be filed according to the College's prompt and equitable resolution process and procedures. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith during a Title IX resolution proceeding does not constitute retaliation, however, a determination regarding responsibility alone is not sufficient to conclude that any party made a bad faith or materially false statement.

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 resolution process. Examples include retaliation against the Complainant by the Respondent, their friends or co-workers, or a representative of the College. Retaliation against an individual for alleging a violation of their civil rights, supporting a party, or for assisting in providing information relevant to a complaint, is a serious violation of this policy. In some instances, retaliation and its consequences can be more severe than the initial discrimination or harassment it follows.

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, participated or refused to participate in any manner in an investigation, proceeding, or hearing relating to any Title IX complaint.

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 formal complaint of sex discrimination, any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant/impacted party of a Title IX incident, any individual who has been reported to be the Respondent of sex discrimination/harassment, and any witness, except as required by law, or to carry out the requirements of 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 resolution procedures for sex discrimination, harassment, and misconduct as provided in this policy.

Material Misstatement of Fact

Knowingly making a material misstatement of fact when bringing a complaint may subject the Complainant to discipline. Anyone who believes that they have been the subject of a false or misleading complaint may meet with the Title IX Coordinator, Office of Student Affairs, or Human Resources Department to address the allegations. The filing of a complaint that does not result in a finding of prohibited conduct is not alone evidence of the intent to file a false complaint. Several factors are considered when determining if a complaint filed is false, misleading, or containing a material misstatement. This includes inconsistencies in the facts and what was reported by the Complainant, lack of any

evidence or evidence which materially contradicts the complaint, witnesses or information that substantiate the Complainant's bias or prejudice against the Respondent, and any history of the Complainant and Respondent.

Other Offenses

Other offenses of a discriminatory, harassing, and/or retaliatory nature that are not based on sex and thus not covered under Title IX and this policy are prohibited by the College as addressed in the Student and Employee Codes of Conduct, which include the following types of behavior:

- Intimidation, which is defined as implied threats or acts that cause a reasonable fear of harm in another based on actual or perceived membership in a protected class.
- Hazing, which is defined 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 based on actual or perceived membership in a protected class.
- Bullying/Cyberbullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally based on actual or perceived membership in a protected class.
- Violation of any other College rule or policy, when motivated by actual or perceived membership in a protected class.

Supportive and Protective Measures

When an alleged Title IX incident is reported, the Title IX Coordinator promptly contacts the Complainant confidentially to discuss the availability of supportive and protective measures provided by the College. The Title IX Coordinator considers the Complainant's wishes with respect to supportive and protective measures, informs the Complainant of the availability of those measures with or without filing a formal complaint, and explains the process for filing a formal complaint. Complainants are also provided with a Victim's Rights written notification which addresses many topics including their rights to such supportive measures and accommodations provided by the College. Bergen offers and provides a range of appropriate and reasonable supportive and protective measures to the Complainant(s) upon notice of alleged sexual discrimination, sexual harassment, sexual violence and/or retaliation. Supportive and protective measures are also provided to the Respondent during the resolution process once a formal complaint has been filed by the Complainant.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered without fee or charge to the parties, to restore or preserve their well-being and access to Bergen's educational program or activity and/or to provide support during the College's investigation and formal resolution procedures or during the informal resolution process. Such measures focus on the Complainant's and Respondent's needs. Protective measures are similar and frequently interchangeable with supportive measures. They are temporary non-disciplinary, non-punitive measures designed to protect the safety of all parties and the College's educational environment and to deter sexual discrimination, sexual harassment, and/or retaliation. Such measures are focused on and aim to identify and reduce risks and vulnerabilities of the Complainant, Respondent, any reporting party, or any witness to a Title IX incident as well as the rest of the College community. Protective measures are often used in the context of relationship violence (i.e., dating or domestic violence) or sexual assault offenses (i.e. rape, criminal sexual contact, incest, or statutory rape).

The College provides supportive and protective measures to students and employees regardless of where the incident occurred. Such measures are provided whether the incident occurred on or off any of the College's three campuses.

Students and employees have a right to the supportive and protective measures offered by the College, and many options to choose and benefit from.

The Title IX Coordinator promptly makes such measures available upon receiving notice/knowledge of an incident. At the time supportive and protective measures are offered, if a formal complaint has not been filed, the Complainant is informed in writing that they may file a formal complaint with the College either at that time or in the future. The Title IX Coordinator will work with the Complainant to ensure that their wishes are considered with respect to any planned and implemented measures. Supportive and protective measures may also be referred to as interim measures or remedial actions/remedies.

Bergen will maintain the confidentiality of supportive and protective measures provided confidentiality does not impair the College's ability to provide those measures. Bergen will act to ensure as minimal an academic and occupational impact on the parties as possible and will implement measures in a way that does not unreasonably burden any party and cannot be imposed for punitive or disciplinary reasons. Such accommodations and measures are made available by the College to the parties involved in a Title IX incident whether specifically requested by the parties or not, if they are reasonably available, and do not pose an undue hardship on the College. Such accommodations are available to the Complainant regardless of whether the incident is reported to the Title IX Coordinator, Public Safety, the Bergen County Sheriff's Office, or local law enforcement. Supportive and protective measures are provided before and/or after the filing of a formal complaint and when no formal complaint has been filed.

The range of supportive and protective measures include the following:

- Referral to counseling, medical, mental health, and/or other healthcare services.
- Referral to the Employee Assistance Program
- Referral to community-based service providers including victim advocacy groups.
- Legal assistance
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering work arrangements for employees or student employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact restrictions (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders.
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence.
- Increased security and monitoring of certain areas of the campus.
- Any other actions deemed appropriate by the Title IX Coordinator.

The Title IX Coordinator can also be contacted to request any supportive measures required, including any requested changes to academic, transportation, or working arrangements, and/or any requests for protective measures (e.g., no-contact orders levied by the College or adhered to by court order). Since all three Bergen locations do not have residential halls, campus housing, or residential facilities, requested changes to living arrangements are not applicable. However, the College will assist students and employees in addressing any concerns they have in their personal off-campus housing/living arrangements.

Federal Timely Warning Obligations

Those impacted by sexual misconduct should be aware that the College 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 n impacted person's name and other identifying information while providing enough information for members of the College community to make informed safety decisions regarding the potential danger.

Maintenance of Records

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

The College will maintain the following records:

- Details and facts gathered relating to the initial incident reported/filed.
- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript.
- All meetings and information gathered from the formal resolution (i.e., grievance) process.
- Any disciplinary sanctions imposed on the Respondent,
- Any remedies provided to the Complainant and/or Respondent designed to restore or preserve equal access to the College's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- All materials used to train the Title IX Coordinator, Deputy Coordinators, Investigators, Decision-Maker, and Appeal Decision-Maker. The College will make such training materials publicly available.

Records requiring longer retention include the following:

- If there is ongoing litigation, claims, or an audit involving records, which must be preserved until the litigation or action is completed.
- Cases resulting in a permanent sanction, such as expulsion or termination which may require permanent record retention.
- Records that may require longer retention periods to comply with college policies or state/federal regulations.

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 assist 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 person impacted by 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 blaming tone, even unintentionally. With no intention to 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 nonconsensual 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:

- 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
 Customer Service Hotline Number: 800.421.3481
 FAX: 202.453.6012
 TDD#: 877.521.2172
 Email: OCR@ed.gov
 Web: <http://www.ed.gov/ocr>

Related Documents/Policies:

Student Code of Conduct
 Employee Code of Conduct

Policy History: (adopted/amended)

Section A: AF
 Adopted: 10/5/94
 Resolution: P14
 Updated: 8/7/18, 8/14/20, 3/7/23, 6/16/26
 Title IX Coordinator's Name Updated: 11/4/2025

All policies are subject to amendment. Please refer to the College Policy website (<https://bergen.edu/about-us/college-policies/>) for the official, most recent version.