

Bergen Community College
Board of Trustees
Section (HR)

Policy # HR

Effective Date:

August 14, 2020

Responsible Official:

Title IX Coordinator

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

Reason for Policy:

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

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

Policy Statement:

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

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

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

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

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

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

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

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

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

I. Prohibited Conduct

A. Discrimination

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

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

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

B. Harassment

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

1. Sexual Harassment

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

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

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

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

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

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

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

2. Consensual Relationships.

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

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

3. Sexual Misconduct

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

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

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

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

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

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

A. Sexual Harassment

Sexual harassment is any unwelcome sexual advances, requests for sexual favors, or other unwelcome written, verbal, or physical conduct of a sexual nature when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive environment for that individual's employment, education, or participation in a College activity; or
- Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting the individual's academic standing, employment status, or participation in a College activity; or
- Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a College activity.

B. Sexual Assault

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

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

C. Domestic and Dating Violence

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

C. Bias-Related Harassment

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

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

II. Retaliation

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

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

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

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

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

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

III. Other Offenses

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

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

A. Sexual Exploitation

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

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

IV. Scope/Jurisdiction/Application

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

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

V. Reporting Responsibilities

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

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

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

A. Title IX Officer and Deputy Coordinators

Title IX Coordinator

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

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

Title IX Deputy Coordinator (for Off Campus Sites)

Magali Muniz

Managing Director, Off Campus Sites

Lyndhurst and Hackensack Sites

mmuniz@bergen.edu

201.689.7006

Title IX Deputy Coordinator (for faculty & staff)

Yvette Aviles

Assistant Director of Human Resources

A-316, Pitkin Education Center

yaviles@bergen.edu 201.879.1259

Title IX Deputy Coordinator (for students)

Dr. Ralph Choonoo

Executive Assistant to the Vice President of Student Affairs

L-123, Pitkin Education Center

rchoonoo@bergen.edu 201.879.7991

B. Role of the Title IX Officer and Deputy Coordinators

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

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

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

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

C. Officials with Authority

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

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

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

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

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

G. Student Affairs Managerial Staff

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

Mandatory Reporting

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

The following employees are considered Mandatory Reporters:

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

D. Police Reporting

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

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

E. Federal Timely Warning Obligations

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

VI. Statement of Rights for Complainants and Respondents

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

- A. To be treated with respect by College officials;
- B. To take advantage of campus support resources (such as Counseling Services and College Health Services for students, or EAP services for employees);
- C. To experience a safe educational and work environment;

- D. To have an advisor (students) or representative (employees) during this process;
- E. To refuse to have an allegation resolved through informal procedures;
- F. To be free from retaliation;
- G. To have complaints heard in substantial accordance with these procedures; and
- H. To participate in the process.

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

VII. Records

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

The College will maintain the following records:

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

Appendix A

Good Samaritan

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

Risk Reduction Tips

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

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

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

- 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>

APPENDIX B

BERGEN COMMUNITY COLLEGE

NEW JERSEY CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS

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

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

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

Bill of Rights

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

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

Human Dignity Rights:

- The crimes to be assured of any other right guaranteed under this policy.
- To be free from any suggestion that victims must report.
- To have any allegations of sexual assault treated seriously; the right to be treated with dignity personal publicity.
- To be free from any suggestion that victims are responsible for the commission of crimes against them.
- To be free from any pressure from campus personnel to:
 - Report crimes if the victim does not wish to do so;
 - Refrain from reporting crimes to avoid unwanted publicity; and/or
 - Report crimes as lesser offenses than the victim perceives them to be.

Rights to Resources On – and Off – Campus:

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

Campus Judicial Rights:

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

Legal Rights:

- To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported.
- To receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities.
- To receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

Campus Intervention Rights:

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

Statutory Mandates:

- Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation.
- Each campus shall make every reasonable effort to ensure that every student at such campus receives a copy of this document.

- Nothing in this policy or in any “Campus Assault Victim’s Bill of Rights” developed in accordance with the provisions of this act shall be construed to preclude or in any way restrict any public or independent institution of higher education in the state from reporting any suspected crime or offense to the appropriate law enforcement authorities.

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