

**Background:**

CSCC last reviewed the Title IX policy and the Student Conduct Code in 2016. In 2017 these policies were reissued with changes as interim policies, incorporating the evolving body of law on Title IX issues. In December 2017, Steering received a memo from Interim Vice President of Student Affairs Angela Chong requesting a review of both policies.

**Charge:**

On February 7, 2018, the Steering Committee charged CSCC to review these policies to ensure that they are consistent with current practice and to make any other changes to the policies that CSCC deems appropriate. CSCC was asked to pay particular attention to the changes made administratively without governance review in 2017, but was not limit its review to these points.

In conducting this review, the CSCC worked with Jordan Draper (Interim Dean of Students) to review any recommended substantive policy changes. CSCC also sought input from the Office of General Counsel, the Office of Interim Vice President for Student Affairs and Associate Vice President/Chief Diversity Officer.

CSCC created and circulated a Qualtrics survey to the entire campus community in Spring 2018 and held open forum on 3 May 2018 to solicit input from the campus community.

<b>Section:</b>	XI.1.19
<b>Title:</b>	Title IX Policy
<b>Effective Date:</b>	October 24, 2017
<b>Approved By:</b>	Board of Trustees
<b>Responsible Unit:</b>	Division of Student Affairs (609) 771-2201, sa@tcnj.edu
<b>Related Documents:</b>	<ul style="list-style-type: none"> <li>● Student Conduct Code</li> <li>● Policy Prohibiting Discrimination in the Workplace/ Educational Environment</li> </ul>

	<ul style="list-style-type: none"> <li>• Procedures for Internal Complaints Alleging Discrimination in the Workplace/ Educational Environment</li> </ul>	
<b>History:</b>		
<u>Version</u>	<u>Date</u>	<u>Notes</u>
3.0		
2.0	October 24, 2017	Revisions approved by The Board of Trustees
1.0	July 5, 2016	New policy; Initial release

## I. INTRODUCTION

The Title IX Policy (“Policy”) prohibits sexual assault, dating and domestic violence, sexual harassment, stalking and gender based discrimination and harassment.

The [College](#) of New Jersey (“TCNJ” or the “College”), as an institution of higher education and a community dedicated to learning and the advancement of knowledge, expects and requires the behavior of [Students](#), faculty, and staff to be compatible with its high standards of conduct. For the [College](#), this means a firm institutional commitment to protect the community and the rights of its members, and to cultivate and sustain a positive living and learning environment. Thus, sexual harassment, including misconduct such as physical sexual misconduct, domestic or dating violence, and stalking (collectively, “Sexual Violence”) will not be tolerated.

Title IX of the Education Amendments of 1972 (“Title IX”) and its implementing regulations protects people from discrimination, based on sex, in education programs or activities. Title IX states that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” The U.S. Department of Education’s Office for Civil Rights (“OCR”) enforces compliance with Title IX and emphasizes the importance of providing an educational environment free from discrimination. The College prohibits any such unlawful discrimination. Therefore, any acts of [Sexual Violence](#) against an individual<sup>1</sup> (whether [Student](#), faculty or staff) constitutes such discrimination and in some cases may be a crime.

Individuals who have been subjected to [Sexual Violence](#) are strongly urged to promptly report such incidents. The [College](#) will respond promptly to all reports of [Sexual Violence](#). The [College](#) will provide a fair and impartial investigation and resolution and,

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<sup>1</sup> Note, any reference in the *Title IX Policy* to a person or role in the policy or process is intentionally gender neutral to reflect the [College](#)’s commitment to an inclusive policy.

where appropriate, issue interim/remedial measures and/or sanctions. The severity of the corrective action, up to and including termination or expulsion of the party found responsible, will depend on the circumstances of the particular case. Any person who is classified as a “[Responsible Employee](#)” by the [College](#), ([link to list of Responsible Employees](#)) and who learns of an incident of [Sexual Violence](#) must make a report to the [Title IX Coordinator](#). Retaliation against anyone who makes a report of [Sexual Violence](#) or cooperates in an investigation of [Sexual Violence](#) is prohibited by [College Policy](#) as well as Title IX and other state and federal laws.

## II. DEFINITIONS

“**Advisor**” is a person chosen by either the [Respondent](#) or [Reporter](#) to accompany and/or assist that individual with any investigation preparations, hearing proceedings, and/or appeals. The advisor may not participate directly in any proceedings or represent any person involved. Any cost associated with the participation of an advisor is the responsibility of the individual.

“**AVP**” is an Assistant or Associate Vice President (including those serving in an interim or acting role) or a designee appointed by the Vice President of Students Affairs (VPSA).

“**College**” means The College of New Jersey.

“**Communication**” includes, but is not limited to, contact through the use of the Internet, social networking sites, email, voicemail, text message, written message, and telephone, as well as in person.

“**Course of Conduct**” means repeatedly maintaining a visual or physical proximity to a person; following, monitoring, observing, surveilling, threatening, or communicating to or about a person directly or through third parties, by any action, method, device, or means; interfering with a person’s property; repeatedly committing harassment against a person; or repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of [communication](#) or threats implied by conduct or a combination thereof directed at or toward a person.

“**Drug**” refers to a chemical substance, especially one prescribed by a physician that is used in the diagnosis, treatment, or prevention of a condition or disease. A drug is also a chemical substance, such as a narcotic, that affects the central nervous system and is used recreationally for perceived desirable effects on personality, perception, or behavior. Drugs purchased without a prescription may include headache medicines, cough syrups, and similar mild medications, and can be purchased at virtually any pharmacy or retail store. For purposes of this *Policy*, the term “drug” also includes any other chemical substance, compound or combination when used to induce an altered

state, and any otherwise lawfully available product when used for any purpose other than its intended use when such use may cause harm to oneself or others.

**“Effective Consent”** is informed, freely and actively given mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. A person may be unable to give Effective Consent when they are unable to consent due to their age, or because the person is physically helpless, mentally incapacitated, or [Incapacitated](#) from alcohol or other [Drugs](#).

- Effective Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Effective Consent is required regardless of whether the person initiating the act is under the influence of [Drugs](#) and/or alcohol.
- Effective Consent may be initially given but withdrawn at any time.

Effective Consent cannot be given when it is the result of intimidation, force, or threat of [Harm](#). When Effective Consent is withdrawn or can no longer be given, sexual activity must stop immediately.

**“Harm”** creates an intimidating or [Hostile Environment](#) by substantially interfering with a [Student’s](#) education, or by materially impairing the academic pursuits, employment or participation of any person or group in the [College](#) community, or by severely or pervasively causing physical or emotional harm to the [Student](#) or other member of the [College](#) community.

**“Hearing Administrator”** includes any faculty or professional staff member at the [College](#) designated and trained by the Office of Student Conduct and/or Office of Title IX to conduct Title IX formal administrative hearings.

**“Hostile Environment”** is defined as an environment that, through one or more incidents of harassing conduct (e.g., physical, verbal, graphic or written) based on a person’s [Protected Category](#) becomes sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of a reasonable individual to participate in or benefit from a [College](#) program or activity.

**“Incapacitated”** is being in a state where a person lacks the capacity to understand the fact that the situation is sexual, or cannot understand (rationally and reasonably) the nature and/or extent of the situation. A person who knows or should reasonably know that another person is incapacitated may not engage in sexual activity with that person.

Persons who meet any of the following criteria or conditions are incapacitated: (i) sleeping, (ii) passed out, (iii) under the age of consent or under a certain age in relation to the

other party to the sexual activity (both of which are matters of state law) or (iv) due to a disability, do not have the mental capacity to consent.

A person who does not meet any of those criteria or conditions for incapacity may become incapacitated through the use of alcohol or [Drugs](#). Such a person's state of incapacity is a subjective determination that is based on all of the facts available because persons reach incapacitation at different points and as a result of different stimuli.

Alcohol related incapacity results from a level of alcohol ingestion that is more severe than that required to produce the minimum levels of influence, impairment, intoxication, inebriation, or drunkenness. Factors that can influence a person's status include gender, body size and composition; tolerance for alcohol and other [Drugs](#); amount and type of alcohol or other [Drugs](#) taken or administered, and the mixture taken; amount of food intake prior to ingestion; propensity for blacking out; genetics; and time elapsed since the ingestion of the alcohol or [Drugs](#).

The effects of alcohol and [Drug](#) use often occur along a continuum. For example, alcohol intoxication can result in a broad range of effects, from relaxation and lowered inhibition to euphoria and memory impairment, and to disorientation and incapacitation. Incapacitation due to alcohol or [Drug](#) use is a state beyond "mere" intoxication or even being drunk. It exists when a person lacks the ability to make or act on a considered decision to engage in sexual activity. Indicators of incapacitation may include inability to communicate, lack of control over physical movements, and/or lack of awareness of circumstances. An incapacitated person can also experience a blackout state during which the person appears to give consent but does not have conscious awareness or the capacity to consent. Some medical conditions may also cause incapacitation. Incapacity can result from factors including, but not limited to mental disability, involuntary physical restraint, or from the administration of substances.

**"Intimate Body Parts"** includes the following: sexual organs, genital areas, anal area, inner thigh, groin, buttock, or breast of a person.

**"Prohibited Conduct"** defined in Section III, Part H.

**"Protected Category"** collectively refers to one or more of the following categories: age, race, creed, color, national origin, nationality, ancestry, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

**"Reporter"** is the person who is alleged to have experienced an act of [Prohibited Conduct](#) defined within the *Title IX Policy*.

**“Respondent”** is the person who is subject to an investigation, procedural requirements including proceedings, remedial measures, and/or sanctions as a result of information filed in a report, determined through an investigation, and/or conduct proceeding.

**“Responsible Employee”** defined in Section III, Part C.

**“Sexual Contact”** is an intentional touching by a person, either directly or through clothing, of another’s [Intimate Body Parts](#) for the purpose of degrading or humiliating another or sexually arousing or sexually gratifying the actor.

**“Sexual Penetration”** includes vaginal intercourse, cunnilingus, fellatio, or anal intercourse between persons or insertion of the hand, finger, or object into the anus or vagina either by the actor or upon the actor’s instruction.

**“Sexual Violence”** the collective term used to describe all forms of physical sexual misconduct (sexual assault), dating/domestic violence, stalking, and sexual harassment.

**“Student” or “Students”** includes all persons who accept an offer of admission to the [College](#), register for credit bearing courses or maintain matriculation in a degree program at the [College](#), either full time or part time, degree or non-degree seeking, and have an academic record with Primary Academic Web Services (PAWS), the [College](#)’s records and registration system. The status of other individuals who participate in [College](#)-sponsored or recognized programs will be determined solely at the discretion of the Director of Student Conduct. Participants in certificate programs, that are not otherwise a student at the [College](#), such as the Career and Community Studies program, are responsible for adhering to the standards for conduct outlined in the *Title IX Policy*, but shall be governed by the procedural standards set forth in the applicable certificate program’s policy.

**“Third Party”** includes individuals who are neither [Students](#) nor Employees, including but not limited to contractors, guests, and consultants.

**“Title IX Coordinator”** is the Title IX Coordinator (including those serving in an interim or acting role) or a designee appointed by the Vice President of Student Affairs.

**“VPSA”** is the Vice President of Student Affairs (including those serving in an interim or acting role) or a designee appointed by the President.

**“Weapon”** includes any item that is designed in appearance or function to resemble a firearm, cause harm, and/or invoke fear or intimidation. Weapons include, but are not limited to, knives, brass knuckles, swords, slingshots, or any other item when used to harm or intimidate another.

### III. POLICY

## A. Scope of the Policy

This *Policy* applies to all members of the [College](#) community, including [Students](#), faculty, and staff. It also applies to contractors and other third parties within the [College's](#) control. This *Policy* applies to sexual misconduct, [Sexual Violence](#) and discrimination based on sex:

- That occurs on [College](#) premises, in any [College](#) facility, or on [College](#) property; or
- At a [College](#) sponsored, recognized, or approved program or activity, regardless of location; or
- That impedes equal access to any [College](#) education program or activity or that creates a [Hostile Environment](#) which impacts the education or employment of a member of the [College](#) community regardless of where the conduct occurred; or
- That otherwise threatens the health and/or safety of a member of the [College](#) community.

## B. Title IX Coordinator

The [College's](#) [Title IX Coordinator](#) will oversee the [College's](#) review, investigation, and resolution of those reports to ensure the [College's](#) compliance with Title IX, and related laws and guidance, and the effective implementation of this *Policy*. The [Title IX Coordinator](#) will have adequate training on what constitutes sexual harassment, including [Sexual Violence](#).

The [Title IX Coordinator](#) and/or EEO Officer generally are:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual assault, stalking, and domestic and dating violence involving [Students](#), staff, and faculty;
- Knowledgeable and trained in applicable [College](#) policies and procedures, and relevant state and federal laws;
- Available to advise any individual, including a [Reporter](#), a [Respondent](#), or a [Third Party](#), about the courses of action available at the [College](#), both informally and formally;
- Available to provide assistance to any [College](#) Employee regarding how to respond appropriately to a report of sexual harassment including [Sexual Violence](#);
- Responsible for monitoring compliance with all procedural requirements, record-keeping, and timeframes outlined in this *Policy*; and
- Responsible for overseeing training, and any reviews of campus climate and culture regarding [Sexual Violence](#).

Title IX Coordinator Contact Information (<http://titleix.tcnj.edu/>)

Brower Student Center  
609-771-3266  
[titleix@tcnj.edu](mailto:titleix@tcnj.edu)

### C. Obligation of Responsible Employees

The [College](#) designates certain Employees who have administrative or supervisory responsibilities on campus as [Responsible Employees](#). This includes, for example, members of the Board of Trustees, the President, Vice Presidents, Deans, Directors, Coaches, Student Affairs professionals (including Community Advisors), and Advisors to Student groups. This does not include professional staff in CAPS, AVI, ADEP, or TCNJ Clinic when information is disclosed through a clinical relationship. A list of [Responsible Employees](#) can be found on the Title IX website: <https://titleix.tcnj.edu/responsible-employee/>.

[Responsible Employees](#) will endeavor to honor a [Reporter's](#) request for confidentiality, but must report any incident of sexual harassment including [Sexual Violence](#) to the [Title IX Coordinator](#) and so inform the [Reporter](#)<sup>2</sup>. The [Responsible Employee](#) shall promptly share all details about a report of [Prohibited Conduct](#) including the known details of the incident (e.g., date, time, location), the names of the parties involved, a brief description of the incident and if the incident has been previously reported with the [Title IX Coordinator](#) by telephone or by email or through the Online Reporting System at:

[https://tcnj-advocate.symplicity.com/public\\_report/index.php/pid272784](https://tcnj-advocate.symplicity.com/public_report/index.php/pid272784). Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

### D. Annual Security Report/Crime Statistics

The [College](#) issues the Annual Security Report (ASR) in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. It is the policy of TCNJ to ensure our campus community is informed of all incidents that may impact their safety and security. The campus community is encouraged to report all crimes, whether actual, attempted, or suspected, and all emergency situations to the Office of Campus Police Services. All campus security authorities<sup>3</sup> are required to report this information to Campus Police Services within 24 hours of being notified.

The [College](#) compiles and discloses statistics of reports of the types of crimes specified in the Clery Act for the campus and immediately adjacent areas. In addition, the [College](#) publishes an annual report to the Department of Education with statistics of Clery

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<sup>2</sup> Supervisors are required to report incidents of sexual harassment including [Sexual Violence](#) according to the New Jersey State Policy Prohibiting Discrimination in the Workplace.

<sup>3</sup> Campus security authorities are represented by, but not limited to the following offices: Vice President for Administration, Provost/Vice President for Academic Affairs, Vice President for Human Resources, Vice President for Student Affairs, Residential Education and Housing, Disability Support Services, Student Health Services, Athletics, and Alcohol and other Drug Education Program (ADEP).



Crimes for the last three years, along with other policy statements addressing campus security and safety.

It is important to know that a formal police report or investigation is not needed in order for a crime to be included in the crime statistics provided in this report. Campus security authorities are surveyed monthly for their input during the course of the year. Campus Police Services does not collect victim information unless specifically authorized by the [Reporter](#) or directly reported from the [Reporter](#) to law enforcement.

## **E. Rights of the Reporter and the Respondent**

The rights of the [Reporter](#) and [Respondent](#) in a [Sexual Violence](#) proceeding includes:

- To have access to applicable [College](#) policies and procedures be informed of the nature of all charges connected with the allegations of the [Reporter](#).
- To be treated with due respect by [College](#) officials.
- To have an [Advisor](#) present during any proceeding, investigation meeting, or related meeting. The role of the [Advisor](#) will be limited to being present only; they will not be allowed to speak during any [College Sexual Violence](#) proceeding, investigation meeting, or related meeting.
- Adequate, reliable, and impartial investigation and appropriate resolution of all reports of [Sexual Violence](#).
- To be informed by the [College](#) of options to notify Campus Police Services and/or local law enforcement, and the option to be assisted by Campus Police Services in notifying other law enforcement, if the individual chooses.
- To be notified of available counseling, mental health, academic, legal and other support services, both at the [College](#) and in the community.
- To have allegations investigated by individuals who are properly trained to investigate and resolve allegations of [Sexual Violence](#).
- Equitable participation in the investigation process, including the opportunity to identify witnesses and other appropriate evidence.
- The right to appeal as set forth in these procedures.

## **F. Training**

The [College](#) of New Jersey will provide [Students](#) and Employees with information regarding the prevention of [Sexual Violence](#) and the procedure to be followed in filing complaints. Every incoming [Student](#) is required to complete online training regarding [Sexual Violence](#), prevention and intervention, and how to report incidents of [Sexual Violence](#). The [College](#) of New Jersey will provide all new Employees with training on this *Policy* and the related Procedures within a reasonable period of time after each new Employee's appointment date. Refresher training shall be provided to all Employees, including supervisors, within a reasonable period of time. The [College](#) will

also provide supervisors with training on a regular basis regarding their obligations and duties under this *Policy* and the related Procedures. All [College](#) investigators will participate in annual training on trauma-informed investigation techniques to ensure compliance with federal laws and guidelines.

## **G. Prevention and Education**

Prevention strategies employed by the [College](#) include training that focuses on instilling a sense of responsibility in our community members to act when witnessing harmful behavior. This training offered both in person and online, builds confidence and critical skills in our community members to be able to engage in safe intervention strategies for addressing situations. For additional information on prevention and education see Anti Violence Initiatives website at [oavi.tcnj.edu](http://oavi.tcnj.edu) and Title IX website at [titleix.tcnj.edu](http://titleix.tcnj.edu).

## **H. Prohibited Conduct**

This *Policy* prohibits the following conduct:

### **1. Sexual Harassment**

- a. Conduct of a sexual nature or based on gender or sexuality that is severe or pervasive enough to create a [Hostile Environment](#) as defined by a reasonable person under similar circumstances. This may include unwanted, unwelcome, or inappropriate sexual or gender-based activities, or comments.
- b. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made a condition of the conferral of any benefit, or rejection of such advance, request, or conduct implies that a person will suffer adverse consequences from another person in an express or implied position of authority.
- c. Third Party Harassment. This *Policy* also applies to third party harassment. Third Party harassment is unwelcome behavior involving any of the [Protected Categories](#) referred to in (a) above that is not directed at an individual but exists in the workplace/educational environment and interferes with an individual's ability to do their job as an employee or a [Student](#). Third Party harassment based upon any of the aforementioned [Protected Categories](#) is prohibited by this *Policy*.

### **2. Physical Sexual Misconduct (commonly referred to as "Sexual Assault")**

- a. Any [Sexual Penetration](#), however slight, of a person without that person's [Effective Consent](#).
- b. Any intentional, non-consensual [Sexual Contact](#) with an [Intimate Body Part](#) of another, or forcing another to have [Sexual Contact](#) with an [Intimate Body Part](#) of oneself or another, with any object or body part, or any disrobing of another without [Effective Consent](#).

### **3. Stalking**

- a. Purposefully or knowingly engaging in a [Course of Conduct](#) directed at a specific person that would cause a reasonable person to fear for their safety or the safety of a third person, or suffer other emotional distress. Such [Courses of Conduct](#) include but are not limited to alarming conduct, following a specific person or otherwise communicating with a person repeatedly in a manner likely to cause fear for safety, or seriously annoy a reasonable person under similar circumstances.

**4. Dating or Domestic Violence (As listed under Physical Abuse in the Student Conduct Code)**

- a. Any action, statement, or use of force against a person where a personal, intimate, or special relationship exists (defined by marriage, civil union, dating, family membership, or co-habitation), that would reasonably be perceived by that person as a threat or intimidation.

**5. Bullying, Intimidation, and Harassment**

- a. Engaging in conduct, including any gesture, written, verbal or physical act, or any electronic [Communication](#) (which includes e-mails, text messages, and Internet postings on web-sites or other social media),; that is so severe or pervasive and objectively offensive that it substantially disrupts or interferes with the orderly operation of the [College](#) or the rights of any [Student](#) or other member of the [College](#) community; and that:
  - i. involves intimidation or threats to another person's safety, rights of personal privacy and property, academic pursuits, [College](#) employment, or participation in activities sponsored by the [College](#) or organizations or groups related to the [College](#); or
  - ii. a reasonable person should know, under the circumstances, will have the effect of insulting or demeaning any person or group; or
  - iii. creates an intimidating or [Hostile Environment](#) by substantially interfering with a [Student's](#) education, or by materially impairing the academic pursuits, employment or participation of any person or group in the [College](#) community, or by severely or pervasively causing physical or emotional harm to the [Student](#) or other member of the [College](#) community; or
  - iv. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a [Student](#) or other person or damaging the person's property or placing the person in reasonable fear of physical or emotional harm to their person, or to any member of that person's family or household, or of damage to the persons' property.
- b. Any attempt to intimidate, threaten, or unduly influence another person with the purpose to discourage cooperation or truthful participation in a Title IX matter, investigation, or proceeding. This may also include the intentional violation of no

contact directives or interim measures implemented by the [College](#) in response to an open investigation or proceeding.

Abusive or harassing conduct directed at a person or group because of membership in a [Protected Category](#) may result in an enhanced sanction.

**6. Invasion of Privacy including Sexual Exploitation**

- a. Unauthorized making of an explicit or objectively offensive recording (including but not limited to photographs, video, and/or audio) of another person.
- b. Unauthorized display, publication, transmission, or other dissemination (including via the Internet) of explicit or objectively offensive recordings (including but not limited to photographs, video and/or audio) of another person. Consent to be recorded does not imply consent for such records to be displayed, published, transmitted, or otherwise disseminated.
- c. Unauthorized intrusion upon a person's private property or [Communications](#).
- d. Unauthorized appropriation and/or use of someone's identifying or personal data or documents.
- e. An act or acts committed through abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or other non-legitimate purpose without the [Effective Consent](#) of the person.

**7. Obscene or Indecent Behavior**

- a. Exposure of one's sexual organs or the display of sexual behavior or contact that would reasonably be offensive to others or be observed by any other non-consenting persons who would be affronted or alarmed.
- b. Trespassing, spying, or eavesdropping for sexual arousal.

**8. Aiding or Assisting**

- a. Aiding or assisting another to violate the *Title IX Policy*, or acting in any way to further a violation of the *Title IX Policy*.
- b. [Students](#) may be held accountable for the actions of their non-TCNJ guest.

**9. Retaliation**

- a. This *Policy* prohibits retaliation against any [Student](#), faculty, or staff member who in good faith alleges that they were the victim of [Sexual Violence](#), harassment, or discrimination, or provides information in the course of an investigation; or is accused of violating [Prohibited Conduct](#). No Employee or [Student](#) who in good faith files a report, provides information for an investigation, or testifies in any proceeding under this *Policy* shall be subjected to adverse employment or educational consequences based upon such involvement or be the subject of retaliation. For information regarding examples of retaliation in the workplace please refer to [\*The Policy Prohibiting Discrimination in the Workplace/Educational Environment\*](#).

For information regarding retaliation prohibited by the *Student Conduct Code* please refer to section [II. Definitions, U. Retaliation](#).

### **Amnesty**

The [College](#)'s highest priority is the physical and mental health, safety, and well-being of individual [Students](#) and the campus community. An element of promoting safety is providing clear, responsible methods of reporting and addressing incidents of [Sexual Violence](#). Therefore, in order to remove potential barriers to reporting [Sexual Violence](#), the [College](#) will not charge a [Student](#) with violating any [Prohibited Conduct](#) or Violation of Expectations for Student Conduct (*Student Conduct Code*) regarding alcohol or other [Drugs](#) if that [Student](#) reports such conduct within a complaint of possible [Sexual Violence](#).

## **IV. PROCEDURAL STANDARDS**

### **A. Reporting Prohibited Conduct**

All [Students](#), faculty, staff, and [Third Parties](#) may report [Prohibited Conduct](#) to any one or more of the following: Campus Police Services, [Title IX Coordinator](#), or EEO Officer. These reporting options are not mutually exclusive. Reporting parties may simultaneously pursue a criminal investigation and [College](#) disciplinary process. The [College](#) will support [Reporters](#) in understanding and assessing their reporting options.

Preservation of Evidence: The [College](#) recognizes that making the decision to report [prohibited conduct](#) often takes time. Nevertheless, pending the decision to report, reporting parties are strongly encouraged to take immediate steps to preserve all evidence that is relevant to a future report of [Prohibited Conduct](#), a Protective Order, or an investigation by law enforcement, by the [College](#), or both. If interested in a criminal investigation or [College](#) disciplinary process all [Reporters](#) are encouraged to contact Campus Police Services to collect relevant evidence which may include the following:

- A forensic sexual assault examination (within five days). Campus Police Services, if requested, will transport the [Reporter](#) to the local hospital;
- Tests for alcohol and other [Drug](#) levels (for use in determining capacity for [Effective Consent](#));
- Any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Electronic exchanges (e.g., text messages, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
- Photographs (including photographs stored on smartphones and other devices); and

- Voicemail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation. Electronic and photographic evidence may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts or may simply be lost to the passage of time.

The collection of any of the information above from Campus Police Services does not start a criminal investigation without the active and willing participation of the [Reporter](#).

## 1. Reporting to Campus Police Services (Criminal Process)

In all cases of possible [Sexual Violence](#), individuals are also encouraged to promptly file a report by contacting Campus Police Services.

Campus Police Services  
(609) 771-2345 or 911  
Administrative Services Building, room 104  
[Campuspolice.tcnj.edu](mailto:Campuspolice.tcnj.edu)

The [College](#) maintains its own police department, providing law enforcement and security services 24 hours, 7 days a week. Campus Police Services promotes an effective investigation and criminal prosecution, provides [Reporters](#) and their families with guidance and support through the criminal process, and educates the campus community on the prevention of [Sexual Violence](#).

When reporting an incident of [Sexual Violence](#) to Campus Police Services, the Reporter has control over their involvement in the criminal process. Campus Police Services ensures that all [Reporters](#) have a voice in their process and they will treat all persons with equal care, respect, and dignity and will to the best of their ability, preserve the privacy of all persons involved.

## 2. Protective Orders

Where [Prohibited Conduct](#) is reported to the Police, it may be possible to obtain a court-ordered emergency or preliminary protective order. These protective orders may be issued if the judge or magistrate believes that there is an immediate threat to health or safety of the [Reporter](#). Later, after a full hearing, the court may agree to issue a “permanent” protective order, in appropriate cases. “Protective orders” are separate and distinct from “no-contact directives” issued specifically by the [College](#). Protective orders may be obtained only from a court of law and are enforceable anywhere in the United States; their violation may result in criminal charges. In contrast, no-contact directives may be obtained from the Office of Title IX or Office of Student Conduct and Dispute Resolution Services and are enforceable through the [College](#). The Office of Student Conduct and Dispute Resolution Services or the

Office of Title IX can arrange and/or attend a meeting with Campus Police Services, who can explain the process for seeking a protective order and can escort a [Student](#), faculty, or staff member to the appropriate office in order to initiate a petition seeking a protective order.

### 3. **Joint Investigation**

An investigation conducted by Campus Police Services is a separate investigation from the Title IX investigation. These investigations may proceed on parallel paths and involve different legal obligations under federal or state law.

Campus Police Services and Student Affairs will work cooperatively to ensure that the [Reporter](#)'s allegation of [Sexual Violence](#) is treated seriously and that they are treated with dignity. Their collaboration is essential to a sensitive investigation which requires obtaining, securing, and maintaining information for a potential criminal prosecution and/or Title IX investigation.

Campus Police Services and Student Affairs will advise all [Reporters](#) of any sexual crime or misconduct of existing medical, counseling, mental health, and support services. The [Reporter](#) will promptly be advised that it is his/her right to have any allegation of [Sexual Violence](#) investigated by Campus Police Services. There will be full and prompt cooperation and assistance of campus authorities in notifying Campus Police Services. This will be in addition to any campus disciplinary proceedings which may take place. The [Reporter](#) will be advised of the outcome of any criminal or disciplinary proceeding which may take place.

Campus Police Services and Student Affairs will work cooperatively to take reasonable and necessary action to prevent further unwanted contact of [Reporters](#) and [Respondents](#) including notifying the [Reporter](#) of options for no contact directives, housing re-location, and other remedial measures deemed appropriate and reasonable. Campus Police Services will coordinate with state, county, and municipal agencies to develop and implement domestic violence and [Sexual Violence](#) training programs, and continue to effectively work with front line officers to enhance training on the proper handling of these types of crimes.

Campus Police Services will initiate a criminal investigation into all sexual assault and domestic violence offenses reported to Campus Police Services by the [Reporter](#). Any sexual assault or domestic violence offense which comes to the attention of Student Affairs will be reported to Campus Police Services as a Clery reportable offense prior to the initiation of any administrative investigation. However, Campus Police Services investigators will not contact the [Reporter](#) or initiate a criminal investigation without the consent of the [Reporter](#).

### 4. **Confidential Resources**

The [College](#) believes it is important that [Students](#) are aware of opportunities for support and assistance. Available confidential resources are listed below. Reporting any allegations of sexual harassment or [Sexual Violence](#) to any of the listed resources will not result in an investigation without the consent of the [Student](#) or Employee sharing the information, but on-campus resources may report the crime to Campus Police Services with no identifying information for inclusion in the annual campus crime report (Clery).

On-Campus Confidential Resources (available Monday-Friday 8:30-4:30pm)

Office of Anti-Violence Initiatives (AVI)  
(609) 771-2272  
<http://oavi.pages.tcnj.edu/>  
Forcina Hall 308

Counseling and Psychological Services (CAPS)  
(609) 771-2247  
<http://www.tcnj.edu/~sa/counseling/>  
Eickhoff Hall 107

Student Health Services (SHS)  
(609) 771-2483  
<http://health.pages.tcnj.edu/>  
Eickhoff Hall 107

Off Campus Resources (Available 24 Hours)

Capital Health System (Hospital)  
(609)-394-6000  
750 Brunswick Avenue  
Trenton, NJ 08638  
<http://www.capitalhealth.org/>

Womanspace, Inc.  
(609) 394-0136  
1530 Brunswick Avenue  
Lawrenceville, NJ 08648  
<http://www.womanspace.org/>

Mercer County Domestic Violence & Sexual Assault Hotline  
(609) 394-9000

NJ Statewide Domestic Violence Hotline



(800) 572-SAFE

National Hotlines (Available 24 Hours)

Domestic Violence (800) 799-SAFE

Sexual Assault (800) 656-HOPE

For a description of the resources above or for more off-campus resources please visit:

<https://oavi.tcnj.edu/get-help-2/victims-survivors/relatedlinks/>

The confidentiality of information provided to these sources is protected by law and individuals' personal information will not be disclosed without the Student's permission.

## 5. **Privacy and Confidentiality**

The College is committed to protecting the privacy of all individuals involved in a report of any violation of the *Title IX Policy*. All Employees who are involved in the Title IX response, including the Title IX Coordinator, Deputy Title IX Coordinators and Investigator(s), receive specific training about respecting and safeguarding private information. Throughout this process, every effort will be made to protect the privacy of all individuals in a manner consistent with the need for a thorough review of the report.

Privacy and confidentiality have two distinct meanings in this process.

*Privacy* generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those Employees or other relevant parties who "need to know" in order to assist in the active review, investigation, or resolution of the report filed. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

*Confidentiality* means that information shared by an individual with designated confidential resources outlined in this *Policy* cannot be revealed to any other individual without the express permission of the individual. These resources are prohibited from breaking confidentiality unless there is an imminent threat or harm to self or others, a suspicion of child abuse or by order of a court of law.

The Title IX Coordinator is responsible for assessing whether requests by reporting parties not to disclose their identity to anyone else, including the person who allegedly committed the Prohibited Conduct can be granted. While such a request may limit the College's ability to investigate and respond to the report, the Title IX Coordinator, in consultation with Campus Police Services, Office of Anti-Violence Initiatives, and other relevant College administrators (as appropriate), will

consider the request in light of the [College's](#) commitment to provide a safe and non-discriminatory environment for all [Students](#) and Employees , and will honor the request whenever possible. Similarly, the [Reporter](#) may request that the [Title IX Coordinator](#) refrain from conducting an investigation at all. In either case, the [Title IX Coordinator](#) will review and promptly notify the [Reporter](#) making the request whether the request will be granted. Factors to be considered in determining whether a request to maintain an individual's identity as confidential and/or that the report not be investigated may include but are not limited to:

- Whether there is a perceived risk that the [Respondent](#) may have a propensity to commit acts prohibited by this *Policy*;
- Whether there have been other reports about the same [Respondent](#);
- Whether the [Respondent](#) has a history of arrests or records from the community or a prior institution indicating a history of physical [Sexual Violence](#) or harassment;
- Whether the [Respondent](#) has threatened future physical [Sexual Violence](#) or harassment, or other prohibited acts (including non-[Sexual Violence](#)) against the [Reporter](#) or others;
- Whether the alleged Sexual Violence or harassment was committed by multiple parties;
- Whether circumstances suggest there is an increased risk of future acts of [Sexual Violence](#) or harassment or other [Prohibited Conduct](#) under similar circumstances (e.g., whether the report reveals a pattern of perpetration, such as via the illicit use of [Drugs](#) or alcohol, at a given location or by a particular group);
- Whether the alleged [Prohibited Conduct](#) was perpetrated with a [Weapon](#);
- Whether the [Reporter](#) is a minor; and
- Whether the [College](#) possesses other means to obtain relevant information (e.g., security cameras, information known to [College](#) personnel, or physical evidence).

## **B. Interim Measures/Remedies**

Reports of [Sexual Violence](#) or harassment in violation of this *Policy* may require immediate interim measures to protect the safety and well-being of the [Reporter](#) or the [Respondent](#) and/or the campus community pending the outcome of the investigative and adjudicative processes. Interim measures may include the following to the extent reasonably available and appropriate:

**No Contact Directive** is an official [College](#) directive that serves as notice to an individual that they must not have physical contact with or proximity to, or direct verbal, electronic, written, and/or indirect [Communications](#) intentionally made through another individual.

## 1. For Students:

- Academic accommodations, such as, assistance in transferring to another section of a course, assistance in requesting withdrawal or an incomplete grade in a particular course, leaves of absence or withdrawal from the [College](#), or assistance requesting alternate methods of completing coursework, and
- Housing accommodations, such as, requiring a [Student](#) to relocate housing assignment pending the outcome of a conduct investigation or proceeding. This may also include facilitating changes in on-campus housing location to alternate housing, assistance in exploring alternative housing off-campus, and
- Employment accommodations, such as, arranging for alternate [College](#) employment, different work shifts, etc.,
- Arranging a meeting with the Office of Title IX and/or Campus Police Services to discuss or report [Prohibited Conduct](#);
- Arranging a meeting with Anti-Violence Initiatives and/or Campus Police Services to discuss safety planning;
- Arranging access to counseling services and assistance in setting up initial appointments;
- Arranging access to medical services and assistance in setting up initial appointments;
- Transportation or parking accommodations;
- Assigning [Respondent](#) to interim suspension status; and
- Any other measure that may be arranged by the [College](#) (to the extent reasonably available) to ensure the safety and well-being of a [Student](#) and/or the [College](#) community affected by [Prohibited Conduct](#).

## 2. For Faculty/Staff:

- Employment accommodations, such as, temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management;
- Arranging a meeting with the Office of Title IX, EEO, and/or Campus Police Services to discuss or report [Prohibited Conduct](#);
- Arranging a meeting with Campus Police Services to discuss safety planning;
- Arranging access to counseling services and assistance in setting up initial appointments;
- Arranging access to medical services and assistance in setting up initial appointments;
- Transportation or parking accommodations; and
- Any other measures that may be arranged by the [College](#) (to the extent reasonably available) to ensure the safety and well-being of an Employee who has been affected by [Prohibited Conduct](#).

## C. Investigation or Resolution Procedures and Protocols

### 1. Initial Assessment

Upon receipt of a report of [Prohibited Conduct](#), the [Title IX Coordinator](#) will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In this initial assessment, the [Title IX Coordinator](#) will:

- A. Assess the [Reporter](#) and [Respondent](#)'s safety and well-being and offer the [College](#)'s immediate support and assistance;
- B. Inform the [Reporter](#) and [Respondent](#) of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- C. Inform the [Reporter](#) and [Respondent](#) of the right to contact law enforcement, have a criminal investigation conducted, and/or seek a protective order;
- D. Inform the [Reporter](#) and [Respondent](#) about [College](#) and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- E. Inform the [Reporter](#) of the right to seek resolution under this *Policy*, and determine whether the [Reporter](#) wishes (i) to seek such resolution, or (ii) to request confidentiality (i.e., that their name or other identifying information not be shared with the [Respondent](#), that no investigation be pursued, and/or that no disciplinary action be taken) if possible considering the unique circumstances of the case;
- F. Explain the [College](#)'s prohibition against Retaliation;
- G. Assess the nature and circumstances of the report, including whether it provides any identifiable information;
- H. Determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

The [Title IX Coordinator](#) will ensure the [Reporter](#) receives a written explanation of all [College](#) resources and options and are offered the opportunity to meet with the [Title IX Coordinator](#) to discuss those resources and options. When a decision is reached to impose interim protective measures, to initiate an investigation or to take any action that involves notifying a [Respondent](#), the [Title IX Coordinator](#) will also ensure that the [Respondent](#) receives a written explanation of all [College](#) resources and options and are offered the opportunity to meet with the [Title IX Coordinator](#) to discuss those resources and options.

### 2. Time Frame

The [College](#) will attempt to resolve every report involving a [Student](#) as the [Respondent](#) within 60 calendar days of an initial report, excluding any relevant appeal

period. If applicable the procedural standards outlined in the *Student Conduct Code* regarding summer, end of term, and geographically remote cases will apply. Absent exigent circumstances, the [College](#) will attempt to resolve every report involving a faculty and/or staff member as the [Respondent](#) within 120-180 calendar days of the complaint being filed, subject to possible adjustment may be required by applicable negotiated agreement.

The [College](#) recognizes that each case has its own unique circumstances, and time frames for each stage of the process may vary depending on the details of a case and at certain times of the academic year (for example, during breaks, study periods or final exams). The [College](#) may extend any time frame for good cause, with a written explanation to the [Reporter](#) and the [Respondent](#).

The [College's](#) process for responding to, investigating and adjudicating reports under this *Policy* may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the [Title IX Coordinator](#) and based upon the unique circumstances of every case. Prior determinations made or sanctions imposed under these procedural standards will not be subject to change because criminal charges arising out of the same facts giving rise to violation of this *Policy* are later dismissed, reduced, or resolved in favor of the criminal law defendant. The investigation may be temporarily delayed so law enforcement may gather evidence, but the investigation will resume once law enforcement has completed evidence-gathering and generally will not wait for the conclusion of any related criminal proceeding.

### 3. Resolution Process

The [College](#) recognizes that there is not one universal resolution process that best meets the needs of our [Students](#) and campus community. To adequately address reports of [Prohibited Conduct](#) three different procedural processes are outlined. Option One: Administrative Hearing is the default process. To utilize Option Two or Option Three in lieu of Option One there must be consensus of both the [Reporter](#) and the [Respondent](#). The [College](#) retains the right at any time to select Option One: Administrative Hearing as the most appropriate procedural process.

Any person may file a report regarding a possible Title IX incident at any time. The [Title IX Coordinator](#) will receive the report and determine whether: (i) the allegations in the report, if found more likely than not to have occurred, would constitute a violation of this *Policy*, (ii) there is sufficient information to warrant an investigation, and (iii) the [Reporter](#) will participate in the [College](#) investigation process. Based on the information received, the [Title IX Coordinator](#) and [College](#) Administrators may determine that interim action(s) may be necessary

to stop or prevent any further harassment from occurring. Should the [Title IX Coordinator](#), in consultation with the [AVP](#), determine that a threat to the health and/or safety of the campus community exists, an interim suspension may be applied for the [Respondent](#) pending the outcome of a conduct proceeding. No permanent change in [Student](#) status will occur pending the outcome of the conduct proceeding, however the [Respondent](#) may be relocated or removed from housing, academic space, or [College](#) property on a temporary basis. If the [Respondent](#) is neither an Employee nor a [Student](#), the Campus Police Services may request that the [Respondent](#) be banned from the TCNJ campus community.

For all investigations there will be one or more trained investigators present. The [Title IX Coordinator](#) will be the lead investigator and coordinate meetings with the [Reporter](#) and the [Respondent](#).<sup>4</sup> Once an initial report is received, the [Title IX Coordinator](#) will meet with both the [Reporter](#) and [Respondent](#) to gather additional information related to the complaint and ask which resolution process, if any, they would like to utilize. Once a decision is made regarding the resolution process, the investigators will follow the proper protocol outlined below.

Flow charts outlining the process described for all three options can be found in the appendix section of this *Policy*.

### **Option One: Administrative Hearing for Cases involving Student Respondent**

Both the [Reporter](#) and [Respondent](#) will be interviewed and asked to share information they have regarding the incident, as well as all relevant documentation (i.e. text messages, emails, photos, etc.), and identify witnesses who may provide direct information regarding the allegation. The investigator(s) will gather all information and create a statement summary which will be provided to each person providing information for acknowledgement. At that time the [Reporter](#) or the [Respondent](#) can make additions to or note any concerns or clarifications to their statement summary. The [Title IX Coordinator](#) will then add the document to the Title IX Investigation Report. Whenever possible, investigator(s) will gather all information within 35-40 calendar days. (Please refer to the section on time frames for information about delays).

Once all information is gathered and compiled into an investigation report, the investigator(s) will meet separately with the [Reporter](#) and [Respondent](#) for a final review of information. The full investigation report, which does not include any finding or determinations, will be reviewed by the Assistant Vice President ([AVP](#)) to ensure that procedural protocol was followed. The [AVP](#) will either confirm that protocol was

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<sup>4</sup> The [College](#) may retain the right to use external investigators to resolve complaints and will notify both the [Reporter](#) and [Respondent](#) prior to this decision.

followed and the incident was fully investigated, or will ask the investigator(s) to further examine section(s) of the investigation report or seek additional information. Once satisfied with the process review, the [AVP](#) will determine whether there are charges based on the facts in the investigation report. The [AVP](#) will make that determination within 10 calendar days of receiving the investigation report. If the [AVP](#) determines that there are no charges then the [Reporter](#) has an opportunity to appeal this finding by following the process outlined in the *Appeal for Student Cases* section of this *Policy*. If charges are assigned, the [AVP](#) will then forward the investigation report to a trained staff member who will serve as the Hearing Administrator. The [Hearing Administrator](#) will conduct a hearing in which the [Reporter](#), [Respondent](#), and all relevant witnesses, are invited to present and question information gathered for the investigation report. Once all information is shared the [Hearing Administrator](#) will make a determination of responsibility based on a *more likely than not* standard to determine whether a violation of the *Policy* occurred.

If the [Hearing Administrator](#) determines there are no findings of responsibility the [Reporter](#) may appeal the decision by following the process outlined in the *Appeal for Student Cases* section of this *Policy*. If the [Hearing Administrator](#) makes a determination of responsibility, they will ask the [Reporter](#) and [Respondent](#) to submit character references or statements and the [Reporter](#) may submit an impact statement. Previous conduct history will also be reviewed. After reviewing this information, the [Hearing Administrator](#) will determine appropriate sanctions based on the facts of the case as well as all mitigating and aggravating information.

**Formal hearing guidelines.** Formal hearings shall be conducted according to the following guidelines.

**Private hearing.** A hearing is conducted in private. The [Reporter](#) and [Respondent](#), and [Advisor\(s\)](#) are allowed to attend the entire portion of the hearing at which information is received (this excludes deliberations). Admission of any other person to the hearing shall be at the discretion of the [Hearing Administrator](#).

**Joint hearing.** In cases involving more than one [Respondent](#), the [Hearing Administrator](#) may permit the hearing concerning each party to be conducted either separately or jointly.

**Advisors.** The [Hearing Administrator](#), the [Reporter](#) and, the [Respondent](#) may be assisted by an [Advisor](#) of their choice, at their expense. [Students](#) must notify the [Title IX Coordinator](#) of whom they have designated as their [Advisor](#) five business days prior to the scheduled hearing. A representative from the [College's](#) Office of the General Counsel may also be present at the hearing. All individuals are responsible for presenting their own information, and therefore [Advisors](#) are not permitted to speak or to participate directly in any hearings. A [Student](#) should select as an [Advisor](#) a person whose schedule

allows attendance at the scheduled date and time for the hearing as delays will not normally be allowed due to the scheduling conflicts of an [Advisor](#).

**Questions.** The [Hearing Administrator](#), the [Reporter](#), and the [Respondent](#) may arrange for witnesses to present pertinent information. The [Reporter](#) and the [Respondent](#) may suggest questions to be answered by one another and/or one another's witnesses, but the questions must be directed to the [Hearing Administrator](#) rather than to the other party or witness directly. The [Hearing Administrator](#) will determine whether questions or potential information are appropriate at their discretion.

**Additional information.** Relevant records, exhibits and written statements (including [Student](#) impact statements and/or character statements during the sanction phase) may be accepted as information for consideration at the discretion of the [Hearing Administrator](#).

**Decline to provide information.** The [Respondent](#) and the [Reporter](#) have the right to decline to provide any written or oral statements, answer questions posed in a hearing, or provide any information on their behalf. However, the [Hearing Administrator](#) may draw an adverse inference from the [Student's](#) absence of information or refusal to answer questions.

**Procedural questions.** All procedural questions are subject to the final decision of the Hearing Administrator.

**Basis for decision.** The [Hearing Administrator's](#) determination shall be made on the basis of whether it is *more likely than not* that the [Respondent](#) violated the *Title IX Policy*. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings.

**Hearing recorded.** There will be a single record, such as a digital audio recording of all formal hearings. Deliberations will not be recorded. The record will be the property of the [College](#).

**Decision in absentia.** If a [Respondent](#), with notice, does not appear for a hearing, the [Hearing Administrator](#) may postpone the hearing or hear the information in support of the charges in the [Respondent's](#) absence and will make a decision on the available information.

**Special accommodation.** The [Hearing Administrator](#) may accommodate persons with concerns for the personal safety, well-being, and/or fears of confrontation during the hearing by providing separate facilities or physical dividers, and/or by permitting participation by telephone, videophone/conferencing, videotape, audio tape, written statement, or other viable means as determined by the [Title IX Coordinator](#) or Director of Student Conduct to be appropriate.



**Differing abilities accommodation.** The [Hearing Administrator](#) will provide any reasonable accommodation for hearing participants who have a disability and are registered with, or notify the Office of Disability Services and the Office of Student Conduct in a timely manner.

If at the conclusion of a Title IX investigation it is determined that there are no charges of violating to the *Title IX Policy* but there may be violations of the *Student Conduct Code* the [Title IX Coordinator](#) may transfer the case to the Office of Student Conduct for adjudication. If the [Title IX Coordinator](#) determines that there are violations of expectations outlined in the *Student Conduct Code* that directly relate to a violation of the *Title IX Policy* the [Title IX Coordinator](#) in consultation with the Director of Student Conduct & Dispute Resolutions may decide to adjudicate all charges through the Title IX process.

### **Option Two: Investigatory Model for Cases involving Student Respondent**

Both the [Reporter](#) and [Respondent](#) will be interviewed and asked to share information they have regarding the incident, as well as all relevant documentation (i.e. text messages, emails, photos, etc.), and identify witnesses who may provide direct information regarding the allegation. The investigator(s) will gather all information and create a statement summary which will be provided to each person providing information for acknowledgement. At that time the [Reporter](#) or the [Respondent](#) can make additions to or note any concerns or clarifications to their statement summary. The [Title IX Coordinator](#) will then add the document to the Title IX Investigation Report. Investigator(s) will strive to gather all information within 35-40 calendar days. (Please refer to the section on time frames for information about delays).

If the [Reporter](#) and [Respondent](#) consent to the investigatory model, after gathering all information the lead investigator will make a determination of responsibility based on a "more likely than not" standard to determine whether a violation of the *Policy* occurred.

Once the investigator(s) have made a determination regarding responsibility, the full investigation report, including this finding, will be reviewed by the [AVP](#) to ensure that procedural protocol was followed. The [AVP](#) will either confirm that protocol was followed and the incident was fully investigated, or will ask the investigator(s) to further examine section(s) of the investigation report or seek additional information. The [AVP](#) will make that determination within 10 calendar days of receiving the investigation report.

If the investigators determine there are no charges or findings of responsibility and the [AVP](#) confirms the investigation to be complete, the [Reporter](#) may appeal the decision by following the process outlined in the *Appeal for Student Cases* section of this *Policy*. If after the investigation and [AVP](#) review, it is determined that the [Respondent](#) is responsible for violation of this *Policy*, the [AVP](#) will forward the report to the Office of

Student Conduct and Dispute Resolution Services to assign appropriate sanction(s). Both the [Reporter](#) and [Respondent](#) will then be contacted and asked to submit character references and the [Reporter](#) may submit an impact statement to be taken into consideration when determining sanctions. Previous conduct history will be also be reviewed. After reviewing this information, the Office of Student Conduct will determine appropriate sanctions based on the facts of the case as well as all mitigating and aggravating information.

Any sanctions will typically be assigned and communicated to the [Reporter](#) and [Respondent](#) by the Director of Student Conduct & Dispute Resolutions or designee within 10 calendar days of receiving the investigation report. The [Reporter](#) and [Respondent](#) will then have an opportunity to appeal by following the process outlined in the *Appeal for Student Cases* section of this *Policy*.

If at the conclusion of a Title IX investigation it is determined that there are no charges pertaining to the *Title IX Policy* but there may be violations of the *Student Conduct Code* the [Title IX Coordinator](#) may transfer the case back to the Office of Student Conduct for adjudication. If the [Title IX Coordinator](#) determines that there are violations of expectations outlined in the *Student Conduct Code* that directly relate to a violation of the *Title IX Policy* the [Title IX Coordinator](#) in consultation with the Director of Student Conduct & Dispute Resolutions may decide to adjudicate all charges through the Title IX process.

An [Advisor](#) of the [Reporter](#) or [Respondent's](#) choice may be present during the initial meeting, investigation, and any additional meetings with [College](#) staff in relation to a Title IX incident but [Advisors](#) may not represent the party or actively participate in the meeting. The [Title IX Coordinator](#) or investigator(s) may also have an [Advisor](#) present at their discretion.

### **Option Three: Alternative Resolution for Cases involving Student Respondent**

Alternative resolution is a voluntary process that allows the [Respondent](#) to accept responsibility for their behavior. The alternative resolution process is designed to eliminate the [Prohibited Conduct](#), prevent its recurrence, and remedy its effects in a manner that meets the needs of the [Reporter](#) while still maintaining the safety of the overall campus community.

The alternative resolution process will only be used at the request and agreement of both the [Reporter](#) and [Respondent](#) and under the direction of the [Title IX Coordinator](#). The alternative resolution options available under this *Policy* recognize:

- Participation in this process is voluntary and either the [Reporter](#) or [Respondent](#) can choose to end the process at any time prior to signing the agreement and pursue an investigation;

- Mediation, even if voluntary, will not be used in cases involving sexual assault;
- Both the [Reporter](#) and [Respondent](#) must participate in individual conference meetings with appropriate staff to learn more about the resolution process prior to participating;
- The process can only be used once and will not be considered if requested by a repeat [Respondent](#) under the *Title IX Policy*;
- The [Reporter](#) and [Respondent](#) must agree to all recommendations laid out in the formal agreement or the case reverts back to investigation; and
- The [Respondent](#) may be charged with *Failure to Comply with a Directive of a College Official* (Charge 5a.) under the *Student Conduct Code* for failure to meet the requirements laid out in the agreement.

Possible options that [Students](#) may utilize in this process are outlined below:

Restorative Processes is a philosophical approach that embraces the reparation of harm, healing of trauma, reconciliation of interpersonal conflict, and reintegration of people who have been marginalized through participatory learning and improved decision making skills. Rather than focusing on what policies have been violated, Restorative Processes instead identify who has been harmed and what actions are necessary to repair the harm.

- Formal Restorative Conference- Participation in a discussion by trained facilitators with any persons harmed and development of a shared agreement of how to correct the harm. The [Reporter](#) and [Respondent](#) (and possible community members) work together to develop an agreement that resolves the issue, and can help the [Respondent](#) restore their standing in their communities and repair relationships that were damaged by their actions.
- Informal Restorative Conference- The [Title IX Coordinator](#) will meet separately with the [Reporter](#) and the [Respondent](#). The meetings will include discussion on the behavior, the impact on the [Reporter](#), [Respondent](#) and the community. At the culmination of the meetings, the [Title IX Coordinator](#) will have a final meeting with the [Respondent](#) who will be required to complete exercises and/or educational activities to acknowledge the harm their actions caused. All information discussed in this meeting will be shared with the [Reporter](#).
- Informal Restorative Statements- This may include structured voluntary apology letters, affective questions towards the [Respondent](#) including; who was affected, how were they affected, and what was the harm caused, etc. This could be done either in-person with the [Respondent](#) or via written statements. All information discussed in this meeting will be shared with the [Reporter](#).

**Additional options:**

- Counseling Sessions

- Alcohol Education Classes
- Bi-weekly or Monthly check in meetings with the [Title IX Coordinator](#)
- Permanent extension of a No Contact Directive with the College
- Restriction from participation in specific clubs and/or organization
- Restriction from participation in particular events (ie. Senior Week)
- Completion of a master education plan with regular meetings with the Director of Student Conduct & Dispute Resolutions
- Community Service

The College reserves the right to stop this process at any time and revert back to investigation.

Any agreements that are reached during the alternative resolution process must be documented, signed by the [Reporter](#) and [Respondent](#), and approved by the [Title IX Coordinator](#). If no agreement is reached than the matter may be referred to the [Title IX Coordinator](#) for further action.

Both the [Reporter](#) and the [Respondent](#) may be accompanied by an [Advisor](#) at any meeting during the alternative resolution process.

#### **D. Appeal for Cases Involving Student Respondent**

If at the conclusion of a Title IX investigation, there is a finding of responsibility, both the [Respondent](#) and the [Student Reporter](#) are afforded the opportunity to appeal decisions and/or any sanctions issued within five business days of the date of the written decision. Appeals will be reviewed by the Vice President of Student Affairs ([VPSA](#)).

All appeals must be in writing, and include any supporting documentation that the [Student](#) wishes to be considered. Deference is given to the original Investigator's findings of fact and decision of responsibility and/or any sanctions, therefore the burden of proof is on the [Student](#) filing an appeal to sufficiently demonstrate cause to alter procedures, the original decision or any sanctions. An appeal will generally be limited to a review of the investigation report and supporting documents for one or more of the purposes below, provided however the administrator may request additional information or clarification from the accused [Student](#), complaining party, witnesses, investigator(s), and/or other administrators for purposes of this review.

- Process review. To determine whether the investigation process was conducted in accordance with published procedures and without bias on the part of the Investigator(s). Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
- Information review. To determine whether there was information presented in the investigation that, if believed by the board or administrator, was sufficient to establish that a violation of the *Policy* occurred.

- Sanction review. To determine whether any sanctions imposed were appropriate for the violation of the *Policy* which the [Student](#) was found to have committed.
- New information. To consider new information, submitted by the appealing [Student](#) within the prescribed five business day period, sufficient to alter a decision or other relevant facts not brought out in the original investigation, because such information was not known to the [Student](#) appealing at the time of the original investigation.

Appeal decision. An administrator reviewing an appeal may make one of the following decisions.

- Affirm. The administrator may decide to affirm the decision of the original Investigator(s).
- Alter sanction. The administrator may alter the sanctions issued by the Office of Student Conduct. Alteration in the sanction may include reducing or increasing the sanction or requirements.
- New investigation. The administrator may determine that a new investigation by different investigators is warranted to correct procedural irregularity or to consider new information. A [Student](#) may appeal a decision of the new investigators.
- Remand. The administrator may direct the original Investigators to review their original decision subject to any instructions from the administrator; and may affirm that decision or render a new decision consistent with those instructions. A [Student](#) may appeal a decision made by the original Investigator(s) if there are any changes after the review.

The decision of the administrator reviewing the submitted appeal is the final and conclusive decision of the [College](#) and is appealable only to the New Jersey Superior Court, Appellate Division in accordance with the New Jersey Rules of Court.

#### **E. Investigation for Cases Involving Employee Respondent**

[Prohibited Conduct](#) falling under this *Policy* by Employees is prohibited under the *Policy Prohibiting Discrimination in the Workplace/ Educational Environment* (<http://ogc.pages.tcnj.edu/reporting>). Procedures for Internal Complaints Alleging Discrimination in the Workplace/ Educational Environment may be found at <http://affirm.pages.tcnj.edu/complaint>). When a complaint of alleged discrimination is received, the [Title IX Coordinator](#), EEO/AA Officer, or authorized designee will conduct an investigation and prepare an investigatory report including a summary of the complaint, a summary of facts developed through the investigation, and an analysis of the allegations and facts. The report is submitted to the President of the [College](#) who will issue a final determination. Absent exigent circumstances, an investigation and/or disposition will be completed within 120-180 calendar days of the date the complaint is

filed, subject to possible adjustment may be required by applicable negotiated agreement.

While an investigation is underway, appropriate and relevant interim protective measures may be put in place including, but not limited to position re-assignment, counseling through college resources, or suspension. Any determination by the investigator and the President will be made on the basis of whether it is more likely than not that the [Respondent](#) violated the *Policy Prohibiting Discrimination in the Workplace/Educational Environment*. Both the [Reporter](#) and [Respondent](#) are entitled to equitable participation in the investigation process.

Both the [Reporter](#) and the [Respondent](#) will be sent notifications simultaneously in writing of the result of any institutional disciplinary proceeding (including appeal) that arises from an allegation of discrimination including dating violence, domestic violence, sexual assault, or stalking. Sanctions for a determination that discrimination took place may include but not limited to any of the following sanctions alone or in any combination: warning/reprimand, position re-assignment, training, counseling, loss of privilege, demotion, suspension, or removal from employment.

#### **F. Appeals for Cases Involving Employees as Respondent**

Appeal Process: If the [Reporter](#) disagrees with the determination of the [College](#), depending on the [Reporter](#)'s status as a career, unclassified, or senior executive service Employee or applicant for employment, they may have the right to submit a written appeal, within 20 calendar days of the receipt of the letter of determination from the [College](#) to the Merit System Board, P.O. Box 312, Trenton, NJ 08625. The appeal should contain a concise explanation of the disagreement. Regulations governing the appeal process are set forth at N.J.A.C. 4A: 7-3.2.

Filing with External Agencies: Any Employee can file a complaint directly with external agencies that investigate discrimination/harassment charges in addition to utilizing this internal procedure.

### **Sanctions**

#### **G. Student Sanctions**

The following sanctions, alone or in any combination, may be imposed upon any [Student](#) found to have violated this *Policy*.

##### **1. Status Outcomes.**

- **Warning.** A notice in writing to the [Student](#) that the [Student](#) is violating or has violated institutional regulations and that further violations may result in more severe disciplinary action.
- **Pending termination of housing.** This status serves as a housing probationary status assigned to a [Student](#) for a specified period of time before their housing privileges are terminated. While on this status, any further violations of [College Policy](#) may result in termination of housing. In addition, this status constitutes a disciplinary record that will remain on file with the Office of [Student](#) Conduct for five years after a [Student](#) separates from the [College](#).
- **Termination of housing.** Removal or prohibition of a [Student](#) from [College](#) housing after a specific date and for a specified period of time. Through the duration of the termination, the [Student](#) will be restricted from entering all residential floors in [College](#) buildings. [Students](#) removed from [College](#) housing for disciplinary reasons will receive the refund available based on the time of the semester according to the Department of Residential Education and Housing policies and the housing contract. In addition, this status constitutes a disciplinary record that will remain on file with the Office of [Student](#) Conduct for five years after a [Student](#) separates from the [College](#).
- **Pending suspension.** This status serves as the disciplinary probation status assigned to a [Student](#) for a specified period of time before he or she is suspended from the [College](#). While on this status, any further violations of [College Policy](#) may result in suspension from the [College](#). In addition, this status constitutes a disciplinary record that will remain on file with the Office of [Student](#) Conduct for five years after a [Student](#) separates from the [College](#).
- **Suspension.** Termination of course registration and residency (if applicable) from the [College](#) after a specific date and for a specified time. Through the duration of the suspension, the [Student](#) may be restricted from [College](#) property and may be required to provide prior notice and receive approval from the Director of [Student](#) Conduct for the purpose of conducting [College](#) business. Before a [Student](#) may be readmitted to the [College](#) after the designated period of time, the [Student](#) must meet with the Dean of [Students](#) to show satisfactory completion of any assigned directives or to discuss stipulated conditions for their return. In addition, this status constitutes a disciplinary record that will remain on file with the Office of [Student](#) Conduct indefinitely. Should a [Student](#) wish to return to the [College](#) after the suspension period, the [Student](#) must comply with any academic standards and procedures then in effect.
- **Expulsion.** Permanent dismissal from the [College](#) and restriction from [College](#) property. In addition, this status constitutes a disciplinary record that will remain on file with the Office of [Student](#) Conduct indefinitely. Expulsion is the most serious disciplinary action taken by the [College](#) and is generally reserved

for only those cases of behavioral misconduct in which all the relevant facts and aggravating circumstances support a conclusion that the only reasonable sanction is permanent removal from the [College](#).

- **Degree Revocation.** Permanent revocation of an earned degree from the [College](#) and restriction from [College](#) property. In addition, this status constitutes a disciplinary record that will remain on file with the Office of [Student](#) Conduct indefinitely. Degree revocation is reserved for only those case of behavioral misconduct that occur while an individual is a [Student](#), but is not made known to the [College](#) until after a degree is earned, and in which all the relevant facts and aggravating circumstances support a conclusion that the only reasonable sanction is permanent revocation of an earned degree from the [College](#).

## 2. Education Outcomes.

- **Restorative practices.** Participation in a discussion by trained facilitators with any persons or departments harmed and development of a shared agreement of how to correct the harm. Unlike other sanctions, all participants must voluntarily agree to participate in the restorative process.
- **Mediation.** Participation in a mediated discussion with other disputants facilitated by multipartial, trained mediators with the hope of developing a negotiated agreement serving as resolution to the dispute. Unlike other sanctions, all participants must voluntarily agree to participate in mediation.
- **Master education plan.** Develop a master education plan with the aid of the Director of Student Conduct and mentor committee, agree to the terms of the plan, and to continuous evaluation.
- **Other Discretionary sanctions.** Work assignments, essays, presentations, research projects, conduct contracts, service to the [College](#), or other discretionary assignments.

## 3. Administrative Directive Outcomes.

- **Administrative Relocation of Housing.** Administrative transfer of a [Student](#) from one campus housing location to another.
- **Loss of privilege.** Denial of any specified privilege for a designated period of time. Examples include but are not limited to: guest privileges, restriction from a [College](#) event or program, and/or area or building.
- **Restitution.** Compensation for loss, damage, or injury to [College](#) property. This may take the form of appropriate service and/or monetary or material replacement.



- **Parental notification.** Notification may be sent to parents or guardians of a [Student](#) who is under 18 years of age, or financially dependent on their parents or guardians, depending on the circumstances surrounding the incident. Parents or guardians may also be notified of alcohol and other [Drug](#) incidents for [Students](#) less than 21 years of age, regardless of financial dependency or resulting sanction.
- **No Contact Directive/Extension of Existing No Contact Directive.** This may include a new directive (as described above), or an extension of an original directive with or without altered or additional parameters or instructions. Sanctioned no contact directives may only be removed at the discretion of the Director of [Student](#) Conduct, and at the written request of all involved parties.

The [College](#) is required by law to disclose possible sanctioning practices for certain violations of the *Student Conduct Code*. The descriptions below include possible ranges of sanctions that may be applied to [Students](#) who are found responsible for violations meeting the definitions described below. Mitigating or aggravating factors may impact the severity of sanctions assigned.

### **Physical Sexual Misconduct and Dating and Domestic Violence Sanctions**

As required by the federal Jeanne Clery Act, the [College](#) must disclose the range of possible sanctions that may be imposed following an institutional disciplinary procedure addressing [Sexual Violence](#) or intimate partner violence.

An administrator may impose any sanction that it finds to be fair and proportionate to the violation and that is authorized for violations of the *Policy*. In determining an appropriate sanction, the administrator may consider any record of past disciplinary matters as well as the nature and severity of the misconduct. The Investigator(s) will consider as part of deliberations whether the [Respondent](#) poses a continuing risk to a member or members of the [College](#) community. The [College](#) expects all cases involving a finding of responsibility for [Sexual Violence](#) to involve consideration of the sanctions of suspension or expulsion. Any sanction imposed shall be explained or supported in a written decision of the administrator.

A [Student](#) found responsible for [Sexual Penetration](#) that occurs without the [Effective Consent](#) of the person, or that occurs when the person is unable to give consent will be issued sanctions ranging from suspension to expulsion. [Students](#) found responsible for any intentional, non-consensual [Sexual Contact](#) with an intimate body part of another, or forcing another to have [Sexual Contact](#) with an intimate body part of oneself or another, with any object or body part; or any disrobing of another without [Effective Consent](#) will be issued sanctions ranging from pending termination of housing and pending suspension statuses to expulsion.

Dating and Domestic violence includes any action, statement or use of force against a person where a personal, intimate or special relationship exists (defined by marriage, civil union, dating, family membership, or co-habitation), and would reasonable threaten or intimidate that person. This may include forms of stalking. A [Student](#) found responsible for dating or domestic violence will be issued sanctions ranging from being moved to a different housing location with pending termination of housing status to expulsion.

## **V. Disciplinary Actions for Faculty and Staff**

Any Employee found to have violated any portion or portions of this *Policy* may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion, loss of privileges for supervising [Students](#), loss of privileges for travel, or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

Appendix A (Option 1- For Student Respondents)

## Appendix B (Option 2- For Student Respondents)

Appendix C (Option 3: For Student Respondents)

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Appendix D- For Employee [Respondents](#)