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Area Student Affairs

Sexual Harassment, Misconduct, and Discrimination Policy

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I. INTRODUCTION

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, the College is committed to fostering an environment where sex and gender-based discrimination, harassment, and misconduct is not tolerated. The College recognizes its responsibility to increase awareness of such misconduct, prevent its occurrence, diligently investigate complaints of misconduct, support students and others who experience sex and gender-based misconduct, and respond fairly and firmly when members of the campus community violate College policy. The College is also committed to supporting students and employees accused of sexual misconduct who go through a resolution process. In addressing issues of sexual misconduct, all members of the College are expected to respect and care for one another in a manner consistent with our deeply held academic and community values.

The *Policy*[1] set out here reflects the College's commitment to a safe and non-discriminatory educational environment and compliance with Title IX of the Education Amendments of 1972 ("Title IX"), the Violence Against Women Act ("VAWA"), Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), and applicable New Jersey state laws.

In May 2020, the U.S. Department of Education's Office for Civil Rights issued a Final Rule[2] under Title IX ("Title IX Final Rule") for colleges and universities that address sexual assault and other sex-based misconduct.

Title IX prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access the College's educational programs and opportunities.

The Title IX Final Rule:

- Defines the meaning of "Sexual Harassment" (including forms of sex-based violence);
- Addresses how institutions **must** respond to reports of misconduct falling within that definition of Sexual Harassment; and
- Mandates a grievance process that institutions **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of Sexual Harassment.

The College remains committed to addressing any violations of its policies, even those not meeting the narrow definition of Sexual Harassment under the Title IX Final Rule. Through this *Policy*the College will be upholding a broad scope of sex and gender related violations referred to as "College Sexual Misconduct". Some forms of College Sexual Misconduct may also be considered violations of Title IX as defined by the Title IX Final Rule depending on the nature, scope, and jurisdiction of the alleged conduct. Collectively these types of violations are referred to as "Prohibited Conduct". Given the College's dedication to addressing all forms of sex and gender-based harassment, misconduct, and discrimination, the College reserves the right to investigate and adjudicate all forms of Prohibited Conduct under this *Policy* regardless of any possible Title IX designation(s). This is further explained below in *Section II, A.: Scope & Jurisdiction.*

The College is committed to creating an inclusive environment and, therefore, Prohibited Conduct can be committed by or against individuals of any sex or gender and can occur between individuals of the same sex/gender or different sexes/genders, regardless of actual or perceived sex, gender, gender identity, gender expression, and/or sexual orientation. The College also recognizes that the legal obligation not to discriminate on the basis of sex in the educational program or activity extends to admission and employment. Under *The College of New Jersey Policy Prohibiting Discrimination in the Workplace/Academic Environment* ("College Discrimination Policy"), forms of employment discrimination or harassment based upon the specific protected categories are prohibited and will not be tolerated.

Behavior by employees that does not fall within the definition of Title IX Sexual Harassment under this *Policy* may be investigated in accordance with the College Discrimination Policy. Please see the *College Discrimination Policy* and its related Procedures for Internal Complaints for additional information.

The elements established in this *Policy* under the Title IX Final Rule have no effect and are not transferable to any other policy of the College for any violation of the *Student Conduct Code*, employment policies, or any civil rights violation except as narrowly defined in this *Policy*. This *Policy* does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

II. POLICY

A. Scope and Jurisdiction

This *Policy* applies to Students, employees (including faculty and staff), Third Parties, and any individuals participating in—or attempting to participate in—the College's Education Program or Activities, or seeking admission or employment to the College. This *Policy* prohibits Sexual Harassment as defined in the Title IX Final Rule, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking. This *Policy* also prohibits Sexual Harassment as defined in Title VII of the Civil Rights Act of 1964, and other forms of College

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Sexual Misconduct. Collectively, all forms of conduct included in this *Policy* and accompanying procedures are referred to as "Prohibited Conduct."[3]

The term "Education Program or Activities" includes all of the College's operations, including locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the College. The Title IX Final Rule does not draw a line between on-campus, off-campus, or online conduct, provided the conduct occurred in an Education Program or Activity in the United States. Examples include College-sponsored, College-funded or College-supported study off-campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises.

In keeping with the College's educational mission and commitment to foster a learning, living, and working environment free from discrimination and harassment, the College will also address through this *Policy* and accompanying procedures: (1) forms of College Sexual Misconduct; (2) Prohibited Conduct that occurs outside the United States, but still within an Education Program or Activity (e.g. College-affiliated study abroad programs); and, (3) under certain circumstances, reports of Prohibited Conduct that occur outside of the Education Program or Activity, but would otherwise constitute a violation of this *Policy*.

B. Prohibited Conduct

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In determining whether reported conduct violates this *Policy*, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Prohibited Conduct can be committed by or against individuals of any sex or gender and can occur between individuals of the same sex/gender or different sexes/genders. Prohibited Conduct can occur between strangers or acquaintances, as well as persons involved in intimate, sexual, dating, domestic, or familial relationships. The various forms of Prohibited Conduct are outlined below and those notated by an (*) indicate behaviors that may also be considered Sexual Harassment as defined by the Title IX Final Rule if the alleged conduct occurred within the scope/jurisdiction of Title IX.

1. **Sexual Harassment**

   Sexual Harassment is a collective term that includes distinct, and sometimes overlapping definitions. The Title IX Final Rule defines Sexual Harassment as conduct on the basis of sex that satisfies one or more of the following:

   a. An employee conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual contact (commonly referred to as "quid pro quo")*;
   b. 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*;

      In addition, consistent with Title VII of the Civil Rights Act of 1964, the New Jersey Law Against Discrimination,[4] and the recognition that Sexual Harassment may occur in a wider variety of contexts, the College also defines Sexual Harassment to include:

   c. 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.

d. 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.

2. **Sexual Assault** [5]
    a. Completed or attempted, Sexual Penetration, however slight, of a person without that person's Effective Consent.[6] *
    b. The touching of an Intimate Body Part of another person for the purpose of sexual gratification, without that person's Effective Consent.*
    c. (Incest) Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.*
    d. (Statutory Rape) Sexual intercourse with a person who is under the statutory age of consent.*
    e. 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** [7]*
    a. Engaging in a course of conduct directed at a specific person under circumstances that would cause a Reasonable Person to fear for their own safety or the safety of others or suffer substantial emotional distress. "Course of Conduct" means two or more acts of 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.[8]
4. **Interpersonal Violence**

    Interpersonal violence includes any act of violence or threatened act of violence[9] against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. Any of the other types of Prohibited Conduct described in this *Policy* may also constitute interpersonal violence. Domestic Violence and Dating Violence are forms of interpersonal violence as defined below:

    a. **Domestic Violence**:[10]* includes any act of violence or threatened act of violence committed by a current or former spouse or intimate partner of the Reporter[11]; by a person with whom the Reporter shares a child in common; by a person who is cohabitating with, or has cohabitated with, the Reporter as a spouse or intimate partner; by a person similarly situated to a spouse of the Reporter under New Jersey state law; or by any other person against an adult or minor Reporter who is protected from that

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person's acts under New Jersey state law.[12]

b. **Dating Violence**:[13]* includes any act of violence or threatened act of violence committed by a person:

    i. who is or has been in a social relationship of a romantic or intimate nature with the Reporter; and

    ii. 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.

5. **Sexual Exploitation**

    a. Engaging in voyeurism which may constitute acts including but not limited to listening, watching or taking pictures, videos, or audio recordings of another person in a state of undress without their Effective Consent or of another person engaging in a sexual act without the Effective Consent of all parties.

    b. Unauthorized display, publication, posting, transmission, or other dissemination (including via the Internet) of another in a state of undress or of a sexual nature without the person's Effective Consent. Consent to be recorded does not imply consent for such records to be displayed, published, transmitted, or otherwise disseminated.

    c. An act or acts committed through abuse or exploitation of another person's gender or 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.

    d. 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.

    e. "Stealthing" which involves intentionally removing a condom without the other person's Effective Consent during sexual activity.

    f. Knowingly exposing another individual to a sexually transmitted infection, disease, or virus without the other individual's knowledge and Effective Consent.

6. **Gender-Based Discrimination or Harassment**

    a. Gender-based discrimination is adverse treatment of an individual based on gender rather than individual merit. Examples of conduct that can constitute gender discrimination because of gender, gender identity, gender expression (referred to collectively below as "gender"), include but are not limited to**:**

        i. Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase) as compared to a similarly situated individual of another gender;

        ii. Failing or refusing to hire or allow participation by an individual in a College or recognized student organization activity, program, or event on the basis of gender; or

        iii. Terminating or removing an individual from employment or an educational

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program on the basis of gender.

b. Gender-based harassment is harassment of an individual on the basis of their gender or for exhibiting what is perceived as a stereotypical characteristic of their gender or for failing to conform to stereotypical notions of masculinity or femininity, which unreasonably interferes with a person's education or participation in educational programs or activities, or creates an intimidating, hostile, demeaning, or offensive academic, campus, or living environment. Examples of conduct that can constitute gender-based harassment include but are not limited to:

    i. Acts of aggression, intimidation, or hostility based on gender or gender stereotyping; or

    ii. Threats of or actual non-consensual disclosure of a person's gender identity (i.e. "outing").

7. **Complicity**

    a. Aiding or assisting means any act that aids, facilitates, promotes, or encourages the commission of Prohibited Conduct under this *Policy* by another person.

8. **Compliance with Directives**

    a. Failure to comply with a duly issued directive by an authorized College Official or law enforcement officer. A directive may be considered any written or verbal mandate.

    b. Failure to fully satisfy all the components outlined within a signed Alternative Resolution agreement in the designated time frames.

9. **Abuse of College Process**

    a. Intentionally making or providing a misleading and/or false statement, information, or report regarding Prohibited Conduct to a College Official.[14]

    b. Attempts, whether successful or not, to destroy or conceal information during an investigation of an alleged *Policy* violation.

    c. Discouraging or attempting to discourage another individual's proper participation in, or use of, a College disciplinary or resolution process.

10. **Retaliation**

    a. Any adverse action, intimidation, threat, coercion or discrimination against an individual (including Students, employees, and Third Parties) for the purpose of interfering with any right or privilege secured by Title IX or its Final Rule, or because the individual has made a report or Formal Complaint of Prohibited Conduct, been accused of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, hearing, or other resolution process under this *Policy*.[15]

11. **Defamation**

    a. Oral or written publication of a false statement of fact relating to allegations reported to the Office of Title IX & Sexual Misconduct (with or without the submission of a Formal Complaint) that exposes the person about whom it is made to hatred, contempt, or ridicule; subjects that person to loss of the good will and confidence of others; or so Harms that person's reputation as to deter others from associating with that person.[16]

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C. Title IX Coordinator

The Title IX Coordinator[17] will oversee the College's review, investigation, and resolution of reports of Prohibited Conduct 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 also work in conjunction with the College's Equal Employment Opportunity (EEO) Officer in Title IX matters involving an employee party/ies.

The Title IX Coordinator and/or EEO Officer generally are:

- Responsible for oversight of the investigation and resolution of all reports of Prohibited Conduct outlined in this *Policy* involving Students and employees;
- Knowledgeable and trained in applicable College policies and procedures, and relevant state and federal laws;
- Available to advise any individual, including a Reporter, Respondent,[18] or 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 Prohibited Conduct;
- Responsible for monitoring compliance with all procedural requirements, recordkeeping, and timeframes outlined in this *Policy*; and
- Responsible for overseeing training, and any reviews of campus climate and culture regarding Sexual Harassment and other forms of Prohibited Conduct outlined in this *Policy*.

See below and on the College's Title IX & Sexual Misconduct Website for Title IX Coordinator's contact information and additional information/resources.

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D. 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 Mental Health Services, Anti-Violence Initiatives, Alcohol and Drug Education Program, or TCNJ Center for Integrated Wellness when information is disclosed through a clinical relationship. A list of Responsible Employees can be found on the Title IX & Sexual Misconduct website: https://titleix.tcnj.edu/responsible-employee/. Responsible Employees will endeavor to honor a Reporter's request for confidentiality, but must report Prohibited Conduct to the Title IX Coordinator. It is encouraged that Responsible Employees share that they have reported the information to the Title IX Coordinator to the Student or employee who disclosed the alleged Prohibited Conduct. Within 24-hours of receiving the disclosure, the Responsible Employee must 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, and a brief description of the incident by telephone, by email, or through the Online Reporting System.[19] Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

E. 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 ("Clery Act"). It is an expectation of the College 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[20] 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 the ASR to the Department of Education with statistics of Clery Crimes for the last three years, along with other policy statements addressing campus security and safety.

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 Police Services does not collect victim information unless specifically authorized by the Reporter or directly reported from the Reporter to law enforcement. Additionally, even if personally identifiable information is collected/provided to Campus Police Services, it is not disclosed within the ASR, as only aggregated data is included.

F. Training

The College of New Jersey will provide Students and employees with information regarding the prevention of Prohibited Conduct and the procedure to be followed in filing complaints. Every incoming Student is required to complete online training regarding Prohibited Conduct, prevention and intervention, and how to report incidents related to Sexual Harassment and other forms of Prohibited Conduct. The College 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. Additionally, the Title IX Coordinator and all other personnel at the College who serve as investigators, decision-makers (i.e. Hearing Administrators and appeal officers), and facilitators of informal resolution processes, will participate in annual training to cover, at a minimum, the following topics:

- The definition of Sexual Harassment as defined in §106.30 of the Final Title IX Rule, and other forms of behavior that constitute Prohibited Conduct under this *Policy*;
- The scope of the College's Education Program or Activity;
- How to conduct an investigation and grievance process that complies with §106.45 of the Final Title IX Rule;
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- When questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in §106.45;
- How to create an investigative report that fairly summarizes relevant evidence; and
- How to properly utilize any technology utilized while conducting formal administrative hearings.

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

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safe intervention strategies for addressing situations. For additional information on prevention and education see Anti-Violence Initiatives website at and the Office of Title IX & Sexual Misconduct website.

III. PROCEDURAL STANDARDS

A. Reporting Prohibited Conduct

Any person (including Students, employees, and Third Parties) may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the subject of the Prohibited Conduct), to any one or more of the following: Campus Police Services, the Title IX Coordinator, or the College's EEO Officer. These reporting options are not mutually exclusive. Reporting parties may simultaneously pursue a criminal investigation and College disciplinary process. The College will assist Reporters in understanding and assessing their reporting options.

i. **Reporting to the Title IX Coordinator or EEO Officer**

Reports can be made to the Title IX Coordinator or EEO Officer through a variety of methods, including via the College's online Title IX & Sexual Misconduct Reporting Form,[21] as well as in person, by mail, telephone, or email using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator or EEO Officer receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

Title IX Coordinator	EEO Officer
Chelsea Jacoby, Ed.D. Title IX Coordinator Director of Title IX Compliance & Sexual Misconduct Brower Student Center – Room 202 609-771-3112 titleix@tcnj.edu	Crystel Maldonado, Ed.D. Director of Equal Opportunity Programs Roscoe West – Room 202E 609-771-2826 maldonac@tcnj.edu

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ii. **Reporting to Campus Police Services**

In all cases of possible Prohibited Conduct, individuals are also encouraged to promptly file a report by contacting Campus Police Services.

Campus Police Services
(609) 771-2345 or 9-1-1
Administrative Services Building, Room 104
Website: tcnjpd.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 criminal sexual offenses.

When reporting an incident of Prohibited Conduct 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.

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 filing a criminal complaint or having relevant evidence collected, Reporters are encouraged to contact Campus Police Services. Collecting relevant evidence may include the following:

- A forensic sexual assault examination (within five days following an assault, but the sooner the better is recommended). Campus Police Services, if requested, will transport the Reporter to the local hospital for the examination and can help arrange a victim advocate be present during the exam;
- Tests for alcohol and other Drug levels (for potential 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.

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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.

iii. **Protective Orders**

Where an allegation of 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 a judge or magistrate finds that there is an immediate threat to the 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, a No Contact Directives 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, or written Communication with another individual or group, nor shall they coordinate indirect Communications with the other individual or group through a Third Party. A No Contact Directive may be obtained from the Office of Title IX & Sexual Misconduct or the Office of Student Conduct & Off-Campus Services and are enforceable through the College. The Office of Title IX & Sexual Misconduct can also 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 or employee to the appropriate office in order to initiate a petition seeking a protective order.

iv. **Joint Investigation**

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

Campus Police Services and the Title IX Coordinator will work cooperatively to ensure that the Reporter's allegation of Prohibited Conduct 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 College's disciplinary process for alleged Prohibited Conduct.

Campus Police Services and the Title IX Coordinator will advise Reporters of existing and available Supportive Measures. The Reporter will promptly be advised that it is their right to have any allegation of Prohibited Conduct 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 the Title IX Coordinator will work cooperatively to take reasonable and necessary action to prevent further unwanted contact of Reporters and Respondents including notifying the Reporter and Respondent (as applicable) of options for No Contact Directives, housing re-location, and other Supportive 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 potential crimes including, but not limited to, Sexual Assault, Dating Violence, Domestic Violence, and Stalking offenses reported to Campus Police Services by the Reporter. Any Sexual Assault, Dating Violence, Domestic Violence, or Stalking 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, in most cases, officers from Campus Police Services will not contact the Reporter or initiate a criminal investigation without the consent of the Reporter.

v. **Privacy and Confidentiality**

The College is committed to protecting the privacy of all individuals involved in a report of any violation of the *Policy*. All employees who are involved in the response to Prohibited Conduct, including the Title IX Coordinator, Deputy Title IX Coordinators and Investigator(s), receive specific training about respecting and safeguarding private information. During all interactions, College staff will make every effort to protect the privacy and identity of individuals to the extent possible, with exceptions as permitted by the Family Educational Rights and Privacy Act (FERPA), required by law, or as necessary to provide Supportive Measures and conduct a College resolution process (if applicable).

Privacy and confidentiality have two distinct meanings under this *Policy*.

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

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relevant parties and their respective Advisors 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 are expected to 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 sharing confidential information with others unless there is an imminent threat of 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 a Reporter to keep their identity confidential to anyone, 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 take into account the College's commitment to provide a safe and non-discriminatory environment for all Students and employees, and will honor the request whenever possible.

Information gathered during a Prohibited Conduct investigation may be shared with the Office of Student Conduct & Off-campus Services. Information gathered during a Student Conduct investigation may be shared with the Office of Title IX & Sexual Misconduct for the purposes of ongoing investigations and/or administrative hearings.

vi. **Confidential Resources**

The College believes it is important that Students and employees are aware of opportunities for support and assistance. Available confidential resources are listed below. Reporting any allegations of Prohibited Conduct 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 College's ASR.

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

Mental Health Services (MHS)
(609) 771-2247
http://www.mhs.tcnj.edu/
Eickhoff Hall 107

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

Off-Campus Resources

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Employee Assistance Program
(800) 527-0035
https://hr.tcnj.edu/benefits/princeton-healthcare-system-employee-assistance-program-eap/

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 the Resources page on the Office of Title IX & Sexual Misconduct website.

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

vii. **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 Prohibited Conduct. Therefore, in order to remove potential barriers to reporting Prohibited Conduct, the College may 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 Prohibited Conduct.

Recognized Student Organizations may qualify for amnesty if a member(s) of that organization reports alleged Prohibited Conduct to the Office of Title IX & Sexual Misconduct in good faith and within a reasonable timeframe of learning about the alleged behavior.

B. Procedure Following Receipt of Actual Knowledge

i. **Initial Assessment**

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will conduct a preliminary inquiry of the facts to determine whether the College must take any other action, beyond those described in the outreach and Supportive Measures sections below, in response to the reported conduct, including whether the Title IX Coordinator must initiate a Formal Complaint and investigation. The Title IX Coordinator will first determine whether the reported conduct falls within the scope and jurisdiction of the *Policy*, and more specifically, within the jurisdiction of the Title IX Final Rule.

Based on reasonably available information at the time of intake, the Title IX Coordinator's inquiry will include assessing whether:

1. The reported conduct occurred within the College's Education Program or Activity, which includes:
    a. Locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct is reported to have occurred; or
    b. Conduct that occurred in a building owned or controlled by a student organization that is officially recognized by the College;
2. The reported conduct occurred in the United States; and,
3. The facts set forth by the report, if substantiated, would constitute a violation of Prohibited Conduct, under this *Policy* and/or the *College Discrimination Policy* based on facts and circumstances of the information.

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Additionally, the assessment will aim to identify what Policy/ies and procedures are most appropriate to use to respond to the reported allegations. The specific procedures for assessing, reviewing and resolving Prohibited Conduct depend upon the nature of the Respondent's relationship to the College, and when a Respondent is an employee, on the type of Prohibited Conduct alleged.

1. **The Respondent is a Student:** Where the facts set forth in the report would constitute Prohibited Conduct as defined by this *Policy*, regardless of whether the conduct occurred in the United States or in the Educational Program or Activity, the College will follow the procedures outlined within this *Policy*.
2. **The Respondent is an Employee:** Where the facts set forth in the report are made against a non-Student employee, the Title IX Coordinator will assess whether the allegations fall within the jurisdiction of the Title IX Final Rule. Where the allegations do fall within the jurisdiction of the Title IX Final Rule and a Formal Complaint is filed, the College will follow the procedures outlined with this *Policy*. Where the allegations do not fall within the jurisdiction of the Title IX Final Rule, the College will dismiss the allegations in the Formal Complaint related to Sexual Harassment as defined in the Title IX Final Rule. If there are multiple allegations, the College will evaluate each violation individually to determine whether the procedures in the *Policy* are followed or the allegation(s) are dismissed. Any dismissal shall be for purposes of Title IX only and would not preclude the College from addressing the allegations of Prohibited Conduct under the *College Discrimination Policy*.
3. **The Respondent is *both* a Student and an Employee:** The Office of Title IX & Sexual Misconduct will determine whether Student or employee Procedures apply based upon the facts and circumstances, and whether those circumstances relate more closely to

the Respondent's status as a Student or an employee.

4. **The Respondent is a Third Party:** The College will act to eliminate the harassment, address the behavior, and remedy its effect by providing Supportive Measures to Students or employees who have been impacted by the alleged behavior.

When the College receives a report of behavior that could violate this *Policy* as well as other College policies, the College will determine which policy/ies and procedures apply and whether action will be taken under this *Policy* exclusively, or under multiple policies and/or procedures. In the event that at the time of a report or the conclusion of an investigation it becomes apparent that the alleged conduct, if true, would not constitute Prohibited Conduct, the matter may be adjudicated under another applicable policy or procedure.

Further, 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 assess the nature and circumstances of the report and allegations to identify/determine:

- If any personally identifiable information exists;
- Any immediate physical safety and emotional well-being of the Reporter or other campus community members, and address as appropriate;
- Whether the information may constitute Prohibited Conduct outlined in this *Policy*;
- Assess for evidence of a pattern or other similar conduct by the Respondent;
- Possible resolution options that may be available, if any;
- 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; and
- The ages of the Reporter and the Respondent, if known, and, if either party is a minor (under 18 years old), take all necessary actions based upon the facts and circumstances of the case, including contacting the appropriate child protective service agency, if required by law.

ii. **Intake Process**

Any person may submit information to the Office of Title IX & Sexual Misconduct regarding alleged Prohibited Conduct. After receiving a report of possible Prohibited Conduct committed by a Student or employee, the Title IX Coordinator or other delegated Official with Authority will promptly contact the Reporter, if one is identified or identifiable, to (1) discuss the availability of Supportive Measures; (2) ask about the Reporter's wishes with respect to Supportive Measures; (3) explain that Supportive Measures are available with or without the filing of a Formal Complaint; and (4) explain how to file a Formal Complaint.

The Office of Title IX & Sexual Misconduct will also provide the Reporter with a written explanation of their rights, available resources, options, and other important *Policy* information, including the following:

- Available support and assistance through College and community resources, including the Reporter's option to seek Supportive Measures regardless of whether they choose to participate in a College or law enforcement investigation;

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- The Reporter's right to seek medical treatment, and the importance of obtaining and preserving forensic and other evidence;
- The process for filing a Formal Complaint;
- The College's resolution options, including the Formal Grievance Process and Alternative Resolution Process (if applicable);
- The right to an Advisor of the Reporter's choosing who may be, but is not required to be, an attorney;
- The Reporter's right to contact law enforcement, have a criminal investigation conducted, and/or seek a protective order;
- The College's prohibition against Retaliation against the Reporter, the Respondent, the witnesses, and the reporting parties, how to report acts of Retaliation, and that the College will take prompt action if/when Retaliation is reported;
- Access to the College's *Sexual Harassment, Misconduct, & Discrimination Policy* for reference and the *College Discrimination Policy*, if applicable.

If a Formal Complaint is signed, the Office of Title IX & Sexual Misconduct will ensure the Respondent is informed of the following in writing:

- Notice of the allegations potentially constituting Prohibited Conduct, including the identities of the parties (if known); the date and location of the alleged incident (if known); potential *Policy* violations; that a determination regarding responsibility will be made only at the conclusion of a hearing (if a hearing is applicable); and that the Respondent is presumed not responsible for the alleged Prohibited Conduct prior to the determination;
- The opportunity to discuss with the Title IX Coordinator the Respondent's resources, rights, and options;
- The right to an Advisor of the Respondent's choosing who may be, but is not required to be, an attorney;
- The College and community resources, the right to seek appropriate and available protective and Supportive Measures, and how to request such measures;
- The College's prohibition against Retaliation against the Reporter, the Respondent, the witnesses, and the reporting parties, how to report acts of Retaliation, and that the College will take prompt action if/when Retaliation is reported;
- Access to the College's *Sexual Harassment, Misconduct, & Discrimination Policy* for reference and the *College Discrimination Policy*, if applicable.

Both the Reporter and the Respondent (if a Formal Complaint is signed) are afforded the opportunity to further discuss their resources, rights, and options with the Title IX Coordinator.

Should any individual believe they may require and/or benefit from any Reasonable Accommodation(s) to effectively meet with Title IX & Sexual Misconduct staff and/or participate in the College's resolution options, they are encouraged to contact the Accessibility Resource Center ("ARC") directly at 609-771-3199. Reasonable Accommodation(s) are individualized and accord with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992

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(as amended). All requests must be made in advance and the Title IX & Sexual Misconduct staff will consider any Reasonable Accommodation(s) recommended by the ARC for persons who are both registered with the ARC and are participating in any meeting or proceeding through the Office of Title IX & Sexual Misconduct.

iii. **Supportive Measures**

Supportive Measures are individualized services, accommodations, and other assistance that the College offers to any Students or employees and may be put in place without fee or charge. Supportive Measures are designed to restore or preserve equal access to the College's Programs and Activities, protect the safety of all parties and the College's educational environment, and/or deter Prohibited Conduct, without being punitive or disciplinary in nature or unreasonably burdening the other party.

Supportive Measures are available regardless of whether the matter is reported to the College for the purpose of initiating a proceeding under this *Policy* and before, after, and regardless of whether a Formal Complaint is filed. A Reporter who requests Supportive Measures has the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. The College will also implement Supportive Measures for Respondents as requested and appropriate.

Supportive Measures may include, but are not limited to, the following to the extent reasonably available and appropriate:

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For Students:

- Academic measures, 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;
- Housing measures, such as requiring a Student to relocate College housing assignment pending the outcome of a conduct investigation or proceeding. This may also include facilitating changes from an on-campus housing location to alternate housing, and assistance in exploring alternative housing off-campus.
- Employment measures, such as, arranging for alternate College employment, different work shifts, etc.;
- Arranging a meeting with the Office of Title IX & Sexual Misconduct and/or Campus Police Services to discuss or report alleged violations of Prohibited Conduct;
- Arranging a meeting with the Office of Anti-Violence Initiatives and/or Campus Police Services to discuss safety planning;
- Arranging access to counseling and/or medical services and assistance in setting up initial appointments;
- Transportation or parking accommodations;
- Restorative practices, which would include voluntary 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;
- 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 the Prohibited Conduct; and

- Implementation of a No Contact Directive**.**

For Employees:

- 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 & Sexual Misconduct, 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 and/or 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 a Title IX Sexual Harassment outlined within this *Policy*.

iv. **Interim Measures**

Based on the information received, the Title IX Coordinator and/or other appropriate College administrators may undertake an individualized safety and risk analysis to determine whether interim action(s) are necessary to stop or prevent any further harassment from occurring. Reports of Prohibited Conduct outlined within this *Policy* may require interim measures be implemented to protect the safety and well-being of the Reporter or the Respondent and/or the campus community with or without an investigative and adjudicative process pending. These measures may include the following to the extent reasonably available and appropriate:

1. **Emergency Removal.** The College retains the authority to remove a Respondent from any of the College's programs or activities on an emergency basis where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any Student, employee, self, or other individual arising from the allegations of Prohibited Conduct justifies a removal. Should the College determine that a threat to the health and/or safety of the campus community exists, an emergency removal may be applied for the Respondent.

   Emergency removal involves the immediate separation of a Student from the College. The Dean of Students[22] will oversee the individual safety and risk assessment and reserves the right to remove a Respondent with or without a grievance process pending in the event that an emergency basis is warranted. Through the duration of the emergency removal, the Student may be restricted from College property and may be required to provide prior notice and receive approval from the Title IX Coordinator or other appropriate administrator for the purpose of conducting College business. An emergency removal will be imposed only in exceptional circumstances to ensure the health, safety or welfare of members of the College or College property or to ensure the Student's own safety and welfare. Should the College determine that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Prohibited Conduct justifies removal, the Dean of Students will provide the Respondent with immediate notice in writing, along with details surrounding the

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opportunity and process to challenge the removal within five (5) business days. The Respondent can submit information in writing related to the health and safety concerns outlined in the emergency removal letter and provide rationale for why they believe the decision is unwarranted based on the circumstances. The Dean of Students will consider this information and provide the Respondent a response within a reasonable time frame.

An emergency removal under 106.44(c) of the Final Title IX Rule (which the College also follows in cases of non-Title IX Prohibited Conduct) is not a substitute for reaching a determination as to a Respondent's responsibility for the alleged Prohibited Conduct; rather it is for the purpose of addressing imminent threats posed to any person's physical health or safety arising out of the Prohibited Conduct allegations. Therefore, no permanent change in Student status or disciplinary sanctions will be applied to the Respondent without first completing a Formal Grievance process. However, the College reserves the right to implement Supportive Measures in conjunction with the emergency removal, such as a relocation or removal from housing, academic space, or College property on a temporary basis, as long as it does not punish, discipline, or unreasonably burden the Respondent.

In situations where a Respondent has been removed on an emergency basis and a Formal Complaint has been signed, or the circumstances warrant the Title IX Coordinator to sign a Formal Complaint, the College will make a good faith effort to expedite the Formal Grievance Process within a reasonable period of time after the imposition of the emergency removal to offer a formal administrative hearing in as timely a manner as possible.

Cases involving emergency removal based on allegations reported to the Office of Title IX & Sexual Misconduct may be forwarded to the College's Behavior Intervention Team (BIT) for further assessment of threat to self or others under the *Involuntary Health or Safety Withdrawal* Policy.

If the Respondent is a Third Party, Campus Police Services may request that the individual be banned from the TCNJ campus community.

2. **Administrative Leave.** Following the receipt of a Formal Complaint alleging Title IX Sexual Harassment, the College retains the authority under §106.44(d) of the Final Title IX Rule to place a non-Student employee Respondent on administrative leave pending the completion of a College resolution process. Procedures surrounding the implementation of administrative leave will be consistent with those outlined in the *College Discrimination Policy.*
3. **Interim termination of housing.** Immediate removal and prohibition of a Student from College housing by the Title IX Coordinator pending an investigation or adjudication. Through the duration of the termination of housing the Student will be restricted from entering all residential floors in College buildings.
4. **Administrative hold.** An administrative hold may be placed on a Student's account upon application of formal charges under this *Policy* by a designated College official and pending a completion of the College's Formal Grievance Process. The College reserves the right to withhold the release of a Respondent's official College transcripts and/or diploma, and conferral of a degree until a final decision has been rendered. The awarding of a degree from the College is contingent not only on the completion of academic

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requirements but also on full compliance with the College's regulations throughout the Student's entire time enrolled, including the period between the completion of academic requirements and graduation. If an administrative hold is put in place pending completion of the grievance process, the Respondent will be notified of the hold and be advised how to raise an objection to the hold or request the modification to or lifting of the hold. The imposition of sanctions during the appellate process and the status of the Student shall not change until the Appeals Officer issues a final decision. The administrative hold will remain in place until lifted by the Office of Title IX & Sexual Misconduct or other designated College official with authority to do so.

5. **Behavior Support Plan.** This plan serves as an agreement of understanding between the Student and the College of the Student's duty to meet the College's behavioral expectations. By participating in this plan, the Student acknowledges a commitment to working with a College administrator to establish support(s) and resource(s) on campus with the intention of mitigating disruptive behaviors.

C. Formal Complaints

A "Formal Complaint" means a document – including an electronic submission - filed by a Reporter alleging Prohibited Conduct against a Respondent and requesting initiation of a resolution process through the College under this *Policy*.

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i. **Filing of a Formal Complaint**

The Formal Complaint must describe the facts alleged and include a signature or other indication that the Reporter is the person filing the Formal Complaint, or signed by the Title IX Coordinator. A Formal Complaint may be filed by a Reporter during the initial intake process when meeting with the Title IX Coordinator, or at another time thereafter either in person or electronically. The filing of a Formal Complaint is not required to receive Supportive Measures.

The Reporter reserves the right to withdraw a Formal Complaint at any time by submitting the request to the Title IX Coordinator in writing. The Title IX Coordinator will consider that request, while also weighing the necessity to maintain safety of the campus community. Depending on the facts and nature of the allegations, the College may still be compelled to continue the associated investigation and/or Student Conduct or EEO process.

Further, in order to protect the community, the College reserves the right to take action in response to any incident that comes to its attention, and, in some circumstances, the College may be obligated to investigate and adjudicate serious incidents even when the Reporter would prefer otherwise. In circumstances such as these, the Title IX Coordinator also has the discretion to file a Formal Complaint on behalf of the College. The College endeavors to respect the wishes of a Complainant to not pursue a Formal Complaint, to not be identified and/or to not participate in the process. Where possible, the College attempts to address complaints in accordance with the Reporter's wishes. However, the College may not always be able to do so, and may also be limited in its ability to address incidents of Prohibited Conduct without full participation by a Reporter.

In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Reporter, the Title IX Coordinator will consider factors including, but 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 Prohibited Conduct;
- Whether the Respondent has threatened future physical acts of Prohibited Conduct (including behaviors governed by the College outside of this *Policy*) against the Reporter or others;
- Whether the alleged Prohibited Conduct was committed by multiple parties;
- Whether circumstances suggest there is an increased risk of future acts of 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 specific circumstances afford or prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations therein;
- Whether the alleged conduct would constitute criminal conduct under the New Jersey criminal code (such as involvement of 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).

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The assessment of whether a Formal Complaint must be initiated will be concluded within a reasonably prompt time frame from the receipt of the report. If upon assessment the Title IX Coordinator determines the College has Actual Knowledge of alleged Prohibited Conduct and signing a Formal Complaint on behalf of the College is necessary, the Title IX Coordinator will sign the Formal Complaint and inform the Reporter of this decision to move forward in writing. The Reporter need not participate in the process further but will receive all notices issued under this *Policy* and process. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not signing on behalf of the Reporter, but rather on behalf of the College and does not assume the role of Reporter or otherwise a party, and must still comply with their regulatory duties.

The College also reserves the right to consolidate Formal Complaints alleging Prohibited Conduct against more than one Respondent, or by more than one Reporter against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

ii. **Dismissal of a Formal Complaint**

At any time during the handling of a Formal Complaint, the Title IX Coordinator may dismiss the complaint, in whole or in part, for the purposes of Title IX or at their discretion. Upon receipt of a Formal Complaint, the information gathered will be continuously assessed to determine whether a Mandatory or Discretionary dismissal is warranted. The types of dismissals and the grounds, processes, and rights associated with each are detailed below.

1. **Types of Dismissals**
    a. ***Mandatory Dismissals.*** The Title IX Coordinator will determine whether the

conduct alleged in the complaint falls within the scope of this *Policy* and the associated definitions of Prohibited Conduct. The Title IX Final Rule requires the Title IX Coordinator to dismiss some or all of the allegations in the Formal Complaint if the conduct alleged in the Formal Complaint:

i. would not constitute Sexual Harassment as defined in *Section II, B.: Prohibited Conduct* of this *Policy*, even if proved;

ii. did not occur in the College's Education Program or Activity;

iii. did not occur against a person in the United States; or

iv. if at the time of filing a Formal Complaint, a Reporter is not participating in or attempting to participate in the Education Program or Activity of the College with which the Formal Complaint is filed.

If any of the above criteria are met, the College must dismiss the Formal Complaint with regard to that conduct for purposes of Sexual Harassment under Title IX. However, where the allegations in the Formal Complaint include other forms of Prohibited Conduct within this *Policy*, the conduct occurs outside of the United States, or the conduct is not within the College's Education Program or Activity (but still within the scope of conduct regulated by the College), these procedures will still apply and the remaining allegations may proceed through a College resolution process set forth below.

b. ***Discretionary Dismissals.*** The Title IX Final Rule grants the Title IX Coordinator discretion to dismiss a Formal Complaint brought under this *Policy*, or any specific allegations therein, at any time during the investigation or hearing, if:

i. a Reporter notifies the Title IX Coordinator in writing that the Reporter would like to withdraw the Formal Complaint or any allegations therein;

ii. the Respondent is no longer enrolled or employed by the College; or

iii. specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations therein.

2. **Associated Dismissal Procedures.** Upon a dismissal, whether mandatory or discretionary, the College will promptly send written notice of the dismissal and rationale for the decision simultaneously to both the Reporter and the Respondent via email. It is the responsibility of parties to maintain and regularly check their TCNJ email accounts. If a Formal Complaint is dismissed for one of the above reasons, each party (referring to the Reporter and Respondent) may appeal that dismissal using the process described in *Section III, F.: Appeals* of this *Policy.* Supportive Measures may still be implemented for parties, as appropriate, even if a Formal Complaint has been dismissed.

D. College Resolution Options

The College recognizes that there is not one universal resolution process that best meets the needs of our Students, employees, and campus community. To adequately address reports of Prohibited Conduct two different procedural processes are outlined. The Formal Grievance Process is the College's default resolution option. To utilize the Alternative Resolution Process in lieu of the Formal Grievance Process there must be

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agreement by both the Reporter and the Student Respondent, and there must be approval by the College. Employee Respondents may be eligible for the Alternative Resolution Process with the consent of the employee Reporter and at the discretion of the College. The College retains the right at any time to utilize the Formal Grievance Process as the most appropriate procedural process. Details regarding the processes for each of the resolution options are outlined below, and associated flowcharts can be found in the appendix section of this *Policy*.

Recordings will not be permitted during any resolution process that falls under this *Policy* with exception of the formal administrative hearing (see below for details).

Should any individual believe they may require and/or benefit from any Reasonable Accommodation(s) to effectively meet with Title IX & Sexual Misconduct staff and/or participate in the College's resolution options, they are encouraged to contact the Accessibility Resource Center ("ARC") directly at 609-771-3199. Reasonable Accommodation(s) are individualized and accord with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992 (as amended). All requests must be made in advance and the Title IX & Sexual Misconduct staff will consider any Reasonable Accommodation(s) recommended by the ARC for persons who are both registered with the ARC and are participating in any meeting or proceeding through the Office of Title IX & Sexual Misconduct.

i. **Formal Grievance Process**

1. **General overview of resolution option.** Once an initial report is received, the Title IX Coordinator will meet with the Reporter to review their option to file a Formal Complaint, along with the process to do so, and discuss available Supportive Measures. Should the Reporter sign a Formal Complaint and request to proceed with the Formal Grievance process, the Title IX Coordinator will notify the Respondent of the allegations against them in writing. The Title IX Coordinator will then assign an Investigator(s) to the case who will follow the proper investigative protocols/procedures. In the event that the Formal Complaint is not dismissed pursuant to the Dismissal of a Formal Complaint section above, the case will move to a formal administrative hearing.
2. **Core Principles.** The investigation process, including a hearing where warranted, incorporates the following core principles, rights, and responsibilities:
    i. *Presumption of good faith reporting.* The College presumes that reports of Prohibited Conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this *Policy* or that there is insufficient evidence to conclude that the incident occurred as reported does not mean that the report was made in bad faith.
    ii. *Participation by the parties and witnesses is voluntary.* Reporters, Respondents, or witnesses may choose to participate or decline to participate in the investigation process. However, even if a Reporter or a Respondent declines to participate, the College may deem it necessary to continue to investigate the allegations.
    iii. *Expectation of Reporter, Respondent, and Witnesses.* The Reporter, Respondent, witnesses, and others sharing information with the Investigator(s) or the Hearing Administrator are expected to provide all relevant and truthful information and to do so at their earliest opportunity to facilitate prompt resolution. A party or witness who elects to participate in the process is expected, although not compelled, to participate in all aspects of the process

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(e.g., a witness who chooses to participate is expected to make themselves available for an interview and hearing if requested to do so).

iv. *Advisors.* The College has a long-standing practice of requiring students who wish to participate in the process to do so directly and not through an advocate or representative. Students participating as a Reporter or Respondent in this process may be accompanied by an Advisor of their choice to any meetings, investigation preparations, hearing proceedings, and/or any appeal processes to which they are required or are eligible to attend. The College will not intentionally schedule meetings or hearings on dates where the Advisors of choice are not available, provided that the Advisors act reasonably in providing their availability and work collegially to find dates and times with mutual availability. Except where explicitly stated by this *Policy*, Advisors of choice shall not participate directly in the process. For more information on Advisors refer to Appendix A and *Section III, D.: College Resolution Options, xi. Advisors* of this *Policy.*

v. *Prior or subsequent conduct of the Respondent.* Prior or subsequent conduct of the Respondent will never be considered to establish responsibility for Prohibited Conduct, but may be considered for other purposes, such as determining pattern, knowledge, or a Respondent's intent for engaging in alleged conduct. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a *Policy* violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of whether pattern evidence may be relevant will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. The Investigator(s) or Hearing Administrator will determine the relevance of this information and both the Reporter and Respondent will be informed via inclusion of such information in the preliminary report or outcome determination if evidence of prior or subsequent conduct is deemed relevant.

vi. *Prior sexual behavior.* Prior sexual behavior, including prior sexual contact between a Reporter and a Respondent, will never be used to prove character or reputation. Moreover, evidence related to the prior sexual behavior of or between the parties is generally not relevant to the determination of a *Policy* violation and will be considered only in limited circumstances.

vii. *Witnesses.* Both parties have equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence throughout the investigation and hearing, if applicable. Any attempt to threaten, intimidate, or otherwise improperly influence the testimony of a witness may result in disciplinary action.

viii. *Presumption of innocence.* Throughout the investigation and the duration of a formal hearing, the Respondent is presumed to be not in violation of a *Policy* violation unless a preponderance of the evidence supports a finding that the Respondent violated the *Policy*. Investigator(s) and decision-makers will also avoid making credibility determinations based on a person's status as a Reporter, Respondent, or witness.

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ix. *Burden of Proof.* The burden of proof (preponderance of evidence), and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the individual parties.

3. **Investigative Protocols/Procedures**

i. **Notice of Investigation and Notice of Interviews.** Both the Respondent and the Reporter will be informed in writing of the initiation of an investigation into the allegations, which will include, but is not limited to: the identities of the parties (if known); the date and location of the alleged incident (if known); potential *Policy* violations; a presumption that the Respondent has not violated the *Policy*; and other information as set forth above in the "Intake Process" section. Such notice will be provided with sufficient time for the parties to prepare for their scheduled interviews for statement collection with the Investigator(s). All subsequent follow up interviews or meetings (if needed) with the Reporter and Respondent will be relayed through written notice of the date, time, location, and purpose in an effort to provide enough time to prepare for the interview.

If, during the investigation, additional information is disclosed that may constitute additional Prohibited Conduct under the *Policy*, both parties will be informed accordingly in writing and will have an opportunity to respond to those allegations consistent with these procedures.

ii. **Evidence Collection.** For all investigations there will be one or more trained Investigator(s)[23] designated to gather evidence who must be free from any conflict of interest and bias. A staff member from the Office of Title IX & Sexual Misconduct or designee will be the lead Investigator and coordinate meetings with the Reporter, Respondent, and any other relevant individuals, including fact and expert witnesses, in a reasonably prompt timeframe. Both parties will be interviewed and asked to share any information they have regarding the incident, as well as all relevant documentation (i.e. text messages, emails, photographs, other documents, etc.), and identify any witnesses who may provide information pertinent to the allegations in the Formal Complaint. Investigator(s) will also interview relevant witnesses identified by the parties and/or the College. The investigator has the discretion not to interview a witness if based on the available information there is no indication that the witness possesses relevant evidence, or if the evidence provided would be cumulative.

Both parties may also request Investigator(s) interview witnesses identified as experts of a particular subject matter. If either party wishes to provide expert testimony or evidence, they are solely responsible for securing attendance of any expert witness at a hearing, and for the costs or fees associated with any expert report or testimony. If the Investigator(s) determines that expertise on a topic will assist the Hearing Administrator in making a determination(s), the Investigator(s) may include in the investigative record medical, forensic, technological, or other expert testimony and materials (such as writings and recordings) that the Investigator(s) deems relevant and reliable.

In the event that the Investigator(s) consults an expert, the Investigator(s) will determine what, if any, expert testimony and materials will be included in the

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investigation report and the expert's identity will be shared with both parties so that they may also have the opportunity to identify any risk of possible conflicts or bias for assessment by Investigator(s).

Following the interview(s) with each party and any identified witness(es), each will be provided a draft summary of their own statement or key relevant information therefrom so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. Any resulting feedback provided during this review may be attached or otherwise incorporated into the preliminary investigation report to the extent deemed relevant by the Investigator(s).

Although the College is responsible for gathering readily available evidence sufficient to reach a determination regarding responsibility, all parties and witnesses are expected to share any relevant information and/or any information that is requested by the Investigator(s), and to do so as early in the process as possible or upon request. The Hearing Administrator may consider refusal to provide information when judging credibility of witnesses.

iii. **Preliminary Investigation Report.** Only information directly related to the allegation(s) provided by the Reporter, Respondent, witnesses, or gathered from another source will be considered by the Investigator(s) and they have the sole discretion in determining whether witnesses and/or relevant documentation provided relate to the Prohibited Conduct. Witnesses and information are relevant to a Prohibited Conduct investigation if they help to show that an allegation of Prohibited Conduct is more or less likely to be true. Therefore, after the Reporter and Respondent have had the opportunity to comment on their own statement and to identify witnesses and other potential information, and the Investigator(s) has completed interviews and the gathering of evidence, all evidence directly related to the allegations in the Formal Complaint obtained as part of the investigation will be shared with the parties for their review and comment through a preliminary investigation report.

The preliminary report, prepared by the Investigator(s) will include, as applicable, the Reporter's statement, the Respondent's statement, each witness' statement and a summary of any other information the Investigator(s) in their discretion deems relevant.

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained throughout the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to the conclusion of the investigation. This provides each party the opportunity to review the information the Investigator(s) has collected and respond to evidence deemed irrelevant or not directly related to the allegations.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations in the Formal Complaint. It will include any:

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- Evidence that is relevant, even if that evidence is not ultimately relied upon by the College in making a determination regarding responsibility;
- Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

Evidence that is deemed **irrelevant**, and would not be included in the inspection and review period, consists of the following:

- Evidence about the Reporter's sexual predisposition or prior sexual behavior unless:
    - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Reporter; or
    - They concern specific incidents of the Reporter's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party's medical, psychological, and/or similar records unless the party has given voluntary, written consent.

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Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator(s) to be directly related to the allegations in the Formal Complaint, rather than relevant, will be separated out from the investigation report and organized in a separate document.

Review and Response to Preliminary Report. Through an electronic format, the Investigator(s) will provide the parties and their respective Advisors, if any, with (1) the preliminary report along with any supplemental media, (such as video recordings to the extent possible), and (2) all evidence directly related to the allegations in the Formal Complaint that was obtained as part of the investigation.

In accordance with the Family Educational Rights and Privacy Act ("FERPA"), the Investigator(s) will redact names and other identifying information of other students from the report and related materials, except to the extent that doing so would interfere with the parties' rights under this *Policy*. If supplemental media is unable to be shared electronically, Investigator(s) will make the content available for individual review at a prearranged time.

Additionally, prior to gaining access to the available evidence, the parties and their respective Advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Formal Grievance Process.

The parties and their respective Advisor will have ten (10) calendar days to inspect and review the evidence and submit a written response via email to the Investigator(s). The parties should use this time to submit to the Investigator(s) any comments, feedback, additional documents, evidence, requests for additional investigative steps, names of additional witnesses, or any other information they deem relevant. Additionally, arguments for the inclusion/exclusion of evidence in the preliminary investigation report should also be included as necessary in parties' responses.

iv. **Final Investigation Report.** Following the ten-day (10) review period, Investigator(s) will then shift evidence between the investigation report and directly related evidence document at their discretion based on party feedback, undertake any additional investigative steps as needed (as determined by the Investigator(s)) and issue a final investigation report. The final investigation report will fairly summarize all relevant information received throughout the investigation, such as interview summaries, witness statements, supplemental media, and include both inculpatory and exculpatory evidence.

Review and Response to Final Report. The parties will have another ten (10) calendar days to inspect and review the final investigation report and submit a written response to the Investigator(s). The Reporter and Respondent also have an opportunity to submit information or concerns regarding any conflict of interest and/or bias with the investigators for the consideration of the Hearing Administrator, if applicable. The Investigator(s) will consider the submitted information and may revise the investigation report and/or directly related evidence document based on the responses received. Any information provided in the parties' responses that are not included in the finalized investigation report due to not being deemed relevant by Investigator(s), can be raised during the live hearing. A copy of the finalized investigation report and the directly related evidence document will be shared with both parties, their respective Advisors (if applicable), and the Hearing Administrator (if applicable). Any evidence subject to inspection and review will be available at any formal administrative hearing, including for purposes of cross-examination.

v. **Ongoing Assessment.** If at any time during the handling of a Formal Complaint of Prohibited Conduct, the Title IX Coordinator determines that:

- The conduct alleged in the Formal Complaint would not constitute Title IX Misconduct if proved;
- The conduct alleged in the Formal Complaint did not occur in a College Program or Activity; or
- The conduct alleged in the Formal Complaint did not occur against a person in the United States.

The Title IX Coordinator reserves the right to dismiss the Formal Complaint, in partial or full, at any time during the investigation if it becomes apparent, even if substantiated and believed to be true, would not constitute Prohibited Conduct as defined in this *Policy* or could not have occurred (see discretionary dismissals in *Section III, C.: Formal Complaints*). In that event, the parties will

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be notified in writing that the allegations of Title IX Sexual Harassment must be dismissed and the reason for dismissal. If the behavior at issue would still, as alleged, constitute a form of Prohibited Conduct under this *Policy*, this dismissal for Title IX purposes may have no practical effect on the College's investigation and the allegations of Prohibited Conduct may continue to be addressed under these Procedures. If a Formal Complaint of Title IX Sexual Harassment is dismissed for one of the above reasons, the parties may appeal that dismissal using the process described in *Section III, F.: Appeals*.

vi. **Additional Considerations.** If at the conclusion of an investigation it is determined that a dismissal is warranted but there may be violations of the *Student Conduct Code*, the Investigator(s) may transfer the case to the Office of Student Conduct & Off-Campus Services for further investigation and/or 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 this *Policy*, the Title IX Coordinator in consultation with the Director of Student Conduct may decide to adjudicate all charges through this *Policy*'s grievance process.

4. **Formal Administrative Hearing Protocols & Procedures**

i. **General overview.** A formal hearing is an administrative process that reflects the College's obligation to provide a positive and healthy living/learning environment for all members of our academic community. The hearing is not intended to be a repeat of the investigation, rather it is an opportunity to gather and evaluate relevant information to determine whether the Respondent's actions violated provisions of this *Policy,* and afford all parties due process protections, including the right to present evidence and witnesses at a live hearing before an impartial decision maker.

ii. **Pre-hearing Meeting.** The Reporter and Respondent will meet separately with the Title IX Coordinator to plan for the hearing and to identify their Advisor (who may also attend the pre-hearing meeting); to review the Formal Complaint; to describe the procedures to be followed at the hearing; to identify the names of the witnesses that will be asked to appear; to discuss any technology that will be used at the hearing and how to operate such technology; and to answer any other questions or share information prior to the hearing. The Title IX Coordinator also will discuss the time allotted for the hearing and any time limitations. The Title IX Coordinator will provide all relevant and significant information to the parties at the pre-hearing meeting. If either party does not attend the pre-hearing meeting, the Title IX Coordinator will determine whether and how that absence affects the ability of the College to move forward with the hearing, as well as the hearing schedule.

iii. **Hearing Administrator.** The following describes the role of the Hearing Administrator within the described grievance process:

- The Hearing Administrator is any person hired and/or trained by the College who is designated by the Office of Title IX & Sexual Misconduct to conduct a formal administrative hearing. The Hearing Administrator will have the authority and responsibility of overseeing the formal administrative hearing and objectively evaluating all relevant evidence (both inculpatory and exculpatory) to make an

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independent determination of responsibility. The Hearing Administrator may be assisted by an Advisor, who may be a member of the Office of General Counsel or another attorney retained by the College.

- No Hearing Administrator will also have served as the Title IX Coordinator, Title IX Investigator, or Advisor to any party in the case, nor may any Hearing Administrator serve as the appeals officer in the case.
- The Hearing Administrator will be free of any conflicts of interest or bias in favor of or against Reporters or Respondents generally, or in favor or against the parties to the particular case.
- The Hearing Administrator will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Reporters, and any technology to be used at the hearing.
- The Hearing Administrator is responsible for maintaining an orderly, fair, and respectful hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person(s).

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The Hearing Administrator will be informed of the identities of the parties so that they can identify any conflict of interest to the Title IX Coordinator. At the discretion of the Title IX Coordinator, an alternate Hearing Administrator may be assigned. The parties will be notified of the identity of the selected Hearing Administrator in advance of the hearing, and parties may, within three (3) calendar days of such notice, object to the Hearing Administrator by providing a written statement as to why the party believes that the Hearing Administrator has a conflict of interest or bias that would impact their ability to objectively evaluate the relevant information and make a decision regarding responsibility. The Title IX Coordinator will make decisions regarding such objections and the appointment of alternate Hearing Administrators, as necessary. If a potential conflict of interest is discovered outside of the three (3) days, it is within the discretion of the Title IX Coordinator to appoint an alternate Hearing Administrator.

iv. **Private hearing.** A hearing is conducted in private. The Reporter, Respondent, the person bringing the complaint on behalf of the College, and Advisor(s) are allowed to attend the entire portion of the hearing at which information is received with the exception of deliberations. Admission of any other person to the hearing shall be at the discretion of the Hearing Administrator.

v. **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.

vi. **Record of the hearing.** Recordings by parties or witnesses will not be permitted during any phase of the College Formal Grievance process. There will be a single record, such as a digital audio recording, of all formal hearings (excluding deliberations), which will be made by and be the property of the

College. Following the hearing, a copy of the recording will be made available to the Reporter or Respondent upon written request. Prior to obtaining access to any evidence, the parties and their Advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the formal grievance proceeding. Once signed, this Agreement may not be withdrawn.

vii. **Physical structure of the hearing.** As a default, the College will offer a live hearing with the parties located in separate rooms within the same building with technology enabling the Hearing Administrator and the parties to simultaneously see and hear the party or the witness answering questions in real time. At the College's discretion, the entire live hearing may also be conducted virtually, with technology enabling all participants (Hearing Administrator, parties, Advisors, and witnesses) to see and hear one another in real time.

viii. **Hearing Procedures.** All formal administrative hearings conducted under this grievance process will be conducted as follows, and specific details regarding these procedural components are further outlined in sections below:

1. The Hearing Administrator will open and establish rules and expectations for the live hearing;
2. The Reporter and Respondent will each be given the opportunity to provide opening statements;
3. The Hearing Administrator will ask questions of the parties and fact and expert witnesses (if applicable);
4. The Reporter and Respondent will be given the opportunity for live cross-examination of parties and fact and expert witnesses (through their Advisor) (as applicable) after the Hearing Administrator conducts their initial round of questioning. During the parties' cross-examination, the Hearing Administrator will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions and any time necessary in order to enforce the established Rules of Decorum.
5. After examination of all parties and witnesses is complete, the parties will each be given the opportunity to provide closing statements and the Hearing Administrator may ask any final questions of parties at the Hearing Administrator's discretion;
6. The hearing will adjourn, and the Hearing Administrator will objectively evaluate the relevant information and independently make a decision regarding responsibility of the Respondent;
7. The hearing will reconvene once the Hearing Administrator has made their decision, and the Hearing Administrator will notify the parties of the outcome;
8. If the Hearing Administrator finds the Respondent in-violation of Prohibited Conduct outlined in this *Policy*, the Reporter will have the opportunity to present an impact statement and the Respondent will have the opportunity to share a character statement on their own behalf and have character witnesses present statements either in

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writing or in-person at the hearing. Both parties will also have the opportunity to make recommendations for sanctioning. If the Hearing Administrator finds the Respondent not in-violation of Prohibited Conduct outlined in this *Policy*, the hearing concludes after the Hearing Administrator has announced their decision.

9. Upon the conclusion of the hearing, parties will be notified that they will receive a written decision letter through the Advocate-Symplicity system outlining the decision, any sanctions or remedies imposed on the Respondent (if found in-violation), and the rationale for the decision and any sanctions imposed (if applicable).

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

x. **Hearing decorum.** See Appendix C for details on the College's Rules of Decorum for formal administrative hearings. All parties, witnesses, and Advisors are required to adhere to the stated Rules of Decorum.

xi. **Advisors.** Each party may have an Advisor of their choice present at the hearing. The Advisor does not participate in the hearing except for the limited purpose of conducting cross-examination on behalf of the Reporter or Respondent. Advisors may be, but are not required to be, attorneys. Parties must inform the Investigator(s) of any Advisor of choice who will accompany them to the hearing within five (5) calendar days of receiving notice of the hearing, so that it is known whether or not there is a need to arrange for the presence of a College-provided Advisor. If a party does not have an Advisor of their choice present at a hearing, the College will, without fee or charge to the party, provide an Advisor of the College's choice, for the sole and limited purpose of conducting cross-examination on behalf of that party. During a formal administrative hearing, a party may request to consult with their Advisor at any point in a non-disruptive manner. However, the Advisor may not represent or otherwise speak for the party they are supporting except during the cross-examination portion of hearing. All parties and their Advisors shall be subject to the College's Rules of Decorum, and may be removed from a hearing or other proceeding upon violation of those Rules (see Appendix C).

xii. **Relevant Questioning & Cross-examination.** The Hearing Administrator reserves the right to ask questions of all parties and witnesses who participate in the hearing. Once the Hearing Administrator has concluded asking all relevant questions, each party's Advisor is permitted to ask the other party and any witnesses any relevant questions and follow-up questions, including those challenging credibility, subject to the Hearing Administrator's control and rules regarding relevance. Such questioning must be conducted directly, orally, and in real time by the party's Advisor and never by a Reporter or Respondent personally.

Before any party or witness(es) answers a cross-examination question, the Hearing Administrator must first determine whether the question is relevant. Questions posed through cross-examination will only be permitted if they are deemed relevant to the allegation(s) in question. If the Hearing Administrator deems a question irrelevant, they will provide their explanation for excluding

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that question. The basic test for relevance is whether the question posed is probative on the question of responsibility. In determining whether a question is relevant, the focus is on whether the evidence is pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true. While an Advisor may offer explanation as to the relevance of a question, a Hearing Administrator has the final discretion over the determination of relevance and their determination is not subject to challenge during a hearing but may be raised as a procedural error on appeal.

Questions and evidence about the Reporter's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Reporter's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Reporter, concern specific incidents of the Reporter's prior sexual behavior with respect to the Respondent and are offered to prove Effective Consent or due process would otherwise require such questions and evidence under applicable laws.

Information protected under a legally recognized privilege (e.g., privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), are not considered unless the information is relevant and the person holding the privilege has waived the privilege.

xiii. **Additional information.** New 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.

xiv. **Decline to provide information.** All parties and witnesses have the right to decline to provide any written or oral statements, submit to cross-examination during a hearing, or provide any information on their behalf. In any of these circumstances, the Hearing Administrator cannot draw any inferences about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross- examination or other questions.

xv. **Basis for decision.** The Hearing Administrator may consider any information provided in the final investigative materials and shared during the hearing that the Hearing Administrator finds reliable and credible. The Hearing Administrator's determination shall be made on the preponderance of evidence standard, which uses the basis of whether it is more likely than not that the Respondent engaged in Prohibited Conduct, and therefore violated terms outlined within this *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 Prohibited Conduct proceedings. 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.

xvi. **Decision in absentia.** If a Respondent, with notice, does not appear for a

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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 information available for consideration at the time. However, the Hearing Administrator is prohibited from drawing an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross- examination or other questions.

xvii. **Written Notice of Sanction(s)/Outcome(s).** The Reporter and Respondent will simultaneously receive the written hearing decision letter, which includes: a) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination; b) Findings of fact supporting the determination; c) Conclusions regarding the application of the College's relevant policies to the facts; d) A statement of, and rationale for, the result as to each allegation, including: any disciplinary sanctions the College imposes on the Respondent; and whether remedies designed to restore or preserve equal access to the College's Education Program or Activity will be provided by the College to the Reporter; and e) information regarding the appeal process, including permissible grounds for appeal.

5. **Timeframe for Formal Grievance Process.** The timeframe for the Formal Grievance process begins with the filing of a Formal Complaint. The Formal Grievance process will be concluded within a reasonably prompt manner, and the College will make every effort to not exceed ninety (90) business days after the filing of the Formal Complaint, provided that the process may be extended for a good reason, including but not limited to the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Should the Reporter or Respondent need a reasonable extension, without undue delay, a written request must be submitted to the Investigator(s) for consideration.

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ii. **Alternative Resolution Process**

1. **General overview.** Alternative Resolution is a voluntary process within The College of New Jersey's *Sexual Harassment, Misconduct, & Discrimination Policy* that allows a Respondent in a Prohibited Conduct case to accept responsibility for their behavior and/or potential Harm. By fully participating in this process the Respondent will not be charged with a violation of College *Policy*. 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 and Respondent while still maintaining the safety of the overall campus community.

   Restorative processes encompass 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.

2. **Required Elements for Participation.** The Alternative Resolution process will only be used at the Reporter's request after the submission of a Formal Complaint, upon the agreement of both the Reporter and Respondent, and under the direction of the Office of Title IX & Sexual Misconduct. A request to utilize the Alternative Resolution process can

be made at any time during an investigation prior to a scheduled formal hearing, however, this process may not be an appropriate mechanism to resolve all allegations. In order for the Alternative Resolution process to be an appropriate resolution option, both parties must have an understanding of and agree on the necessary elements of the process. Both the Reporter and Respondent will have to agree to the following terms should they wish to participate in the Alternative Resolution process:

- 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;
- 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 *Student Conduct Code* and/or the *Sexual Harassment, Misconduct, & Discrimination Policy*;
- The Reporter and Respondent must agree to all recommendations outlined in the formal agreement or the matter may be referred to the Title IX Coordinator for further action;
- Information documented during this process may be subpoenaed if a criminal investigation is initiated;
- Participation in this process does not constitute a responsible finding of a *Policy* violation and therefore is not reflected on the Respondent's disciplinary record;
- If the Respondent is documented and found in violation of any *Policy* violations in the future, an Alternative Resolution agreement can be used in the sanctioning phase of that process; and
- The College reserves the right to suspend or terminate the Alternative Resolution process and revert back to an investigation at any time.
- The Respondent may be charged with *Compliance with Directives, part b.* under the *Sexual Harassment, Misconduct, & Discrimination Policy* for failure to meet the requirements laid out in an Alternative Resolution agreement.

Any agreement reached as part of the Alternative Resolution process must be documented, signed in-person or via email by the Reporter and Respondent, and approved by the Title IX Coordinator. If no agreement is reached, the matter may be referred to the Title IX Coordinator for further action.

The Alternative Resolution process is beneficial when both parties participate in good faith. Should the Respondent not complete the agreement, the case can either revert back to an investigation or the Respondent can be charged with *Compliance with Directives, part b.* If the College determines that proceeding with the *Compliance with Directives* charge is the appropriate route, the original Title IX & Sexual Misconduct staff member who facilitated the agreement may serve as a witness in that proceeding. The Reporter who originated the initial Formal Complaint and the Respondent will have full access to the outcome and rationale.

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Both the Reporter and the Respondent may be accompanied by an Advisor at any meeting with Title IX & Sexual Misconduct staff during the Alternative Resolution process.

3. **Sample Restorative/Educational Activities.** Possible options that Students may incorporate into the Alternative Resolution process are outlined below:
    - Restorative Circle
        - 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(s), and can help the Respondent restore their standing in the community and repair relationships that were damaged by their actions. During the circle, both Students can have a support person present. A support person differs from an Advisor as this person can have an active role during this process. A support person must be approved by the lead facilitator.
    - Salient Analysis of Interpersonal Dynamics (SAID) Workshop
        - Consists of 3 individual one-on-one sessions (1 hour each) with the Respondent and a trained College staff member that are designed to create a space for those accused of Prohibited Conduct under this *Policy* and/or Violations of the *Student Conduct Code* to examine their behavior and receive contextual information surrounding it with the goal of sparking behavior change, skill-building, and self-reflection.
    - Reporter Impact Statement
    - Counseling Sessions
    - Alcohol Education Class(es)
    - Bi-weekly or Monthly check in meetings with the Title IX Coordinator
    - Implementation of a No Contact Directive with the College
    - Restriction from participation in specific clubs and/or organizations
    - Restriction from participation in particular events (e.g. Senior Week)
    - Completion of a master education plan with regular meetings with a faculty or staff member of the College
    - Community Service

    For more information on a description of these possible resolution options, please refer to the Title IX & Sexual Misconduct website.
4. **Exceptions for Use of Alternative Resolution Process.** The Alternative Resolution process is an additional resolution option provided by the College. The process is voluntary for all individuals involved and must be approved by the College prior to utilization. The College will consider several factors when determining if this resolution process is appropriate:

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- The Respondent's disciplinary history;
- Whether the Respondent has had several allegations and/or reports of escalation against them;
- Whether there was a use of a weapon or force;
  Whether physical bodily injury was sustained;
- Whether the alleged incident was committed by multiple perpetrators; and
- Whether the Reporter is a minor and/or affiliated with a vulnerable population.

5. **Timeline for Alternative Resolution Process.** The Office of Title IX & Sexual Misconduct will make every effort to develop an Alternative Resolution Agreement, in consultation with the Reporter, which is both thorough and prompt. To determine the due dates for each educational, administrative, or restorative activity outlined in the agreement, the Title IX & Sexual Misconduct staff will consider aspects including, but not limited to:
   - Number of activities included on the contract
   - Type of activities included on the contract
   - Timing of the semester
   - Graduation date(s) of the Reporter and Respondent

   In consideration of the information above, the Office will attempt to have all deadlines for components of the agreement completed within 60 business days of the Agreement being signed provided that the process may be extended for good cause, including but not limited to the absence of a party, a party's Advisor or support person (applicable only for the participation in a restorative circle) for a meeting or activity; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

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E. Remedies & Sanctions

If the Respondent is found to have violated the *Policy*, the Respondent will receive sanctions and the Reporter will be provided appropriate remedies. The College has wide latitude in the imposition of sanctions and remedies tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Reporter and College community, and accountability for the Respondent. Sanctions may also serve to remedy the discriminatory effects of the Prohibited Conduct on the Reporter and others, including systemic actions found to be appropriate for the broader College community. Remedies will be designed to restore or preserve equal access to the College's Program or Activity.

The various outcomes listed below, alone or in any combination, may be imposed upon any Student or employee specifically noted in the section below found to have violated this *Policy*. If a Student-employee is found to have engaged in Prohibited Conduct, the Student-employee may be subject to sanctions both in connection with their employment (outside the scope of the Office of Title IX & Sexual Misconduct and this *Policy*) and in connection with their Student status, as appropriate under this *Policy* and other applicable processes.

i. **Status Outcomes (Status Sanctions) for Student Respondents**

   The following outcomes, commonly referred to as sanctions, directly impact the status of a

Student with the College:

- **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.
- **Probation.** This status serves as a disciplinary status assigned to a Student for a specified period of time. While on this status, any further violations of College *Policy* will result in more severe disciplinary action and may result in additional Administrative Directive Outcomes and/or Suspension. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct for seven years after a Student separates from the College.
- **Pending suspension.** The pending suspension status is assigned to a Student for a specified period of time before that person is suspended from the College. While on this status, any further violations of College *Policy* may result in suspension from the College. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct for seven 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 will be restricted from College property and may be required to provide prior notice and receive approval from the Title IX Coordinator 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. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct 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. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct 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. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct indefinitely. Degree revocation is reserved for only those cases 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.

ii. **Educational Outcomes for Student Respondents**

Examples of available educational outcomes include but are not limited to:

- **Mediation.** Participation in a mediated discussion with other disputants facilitated by multi-partial, trained mediators with the hope of developing a negotiated agreement

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serving as resolution to the dispute. Unlike other sanctions, all participants must voluntarily agree to participate in mediation.

- **Other discretionary sanctions.** Work assignments, essays, presentations, research projects, service to the College, or other discretionary assignments deemed appropriate by the Hearing Administrator based on the individual nature and circumstances surrounding the case.

iii. **Administrative Directives for Student Respondents**

- **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 Title IX & Sexual Misconduct for seven 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 Title IX & Sexual Misconduct for seven years after a Student separates from the College.
- **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.

iv. **Sanctions for Employee Respondents**

Any employee found in violation of Title IX Sexual Harassment under 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;
- Formal written reprimand;
- Suspension;
- Reassignment;
- Demotion;
- Loss of privileges for supervising Students;
- Loss of privileges for travel;
- De-tenuring; or
- Termination of employment.

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Referral to another appropriate authority for review for possible violation of State and/or Federal statutes may also be appropriate

v. **Remedies**

The Title IX Coordinator and EEO Officer, will be responsible for identifying and implementing any non-disciplinary actions necessary to prevent recurrence of the conduct and to remedy its discriminatory effects on the Reporter and others as appropriate, including any systemic actions found to be appropriate for the broader College community. Such interventions may include, but are not limited to:

- Academic modification/flexibility;
- Work schedule modification/flexibility;
- Counseling;
- Reimbursement;
- Community-focused restorative processes;
- Education or training; or
- Monitoring or other individual support needed to remedy the harm.

The Title IX Coordinator will identify what actions the College will take, who will be responsible for implementing such actions, and by when. To the extent, the Title IX Coordinator determines that non-disciplinary interventions for the Reporter or others are not necessary, the Title IX Coordinator will identify why such remedies are not needed.

vi. **Factors Considered in Sanctioning**

Proper sanctioning for violations of Prohibited Conduct requires careful review of numerous different factors and circumstances. Some factors are specific to the Respondent party, such as a prior history of misconduct, evidence of a pattern of behavior, and/or multiple violations within the same occurrence. Other factors relate to the circumstances surrounding or contributing to the offense at issue, such as the inherent severity of the incident, the intentionality or premeditation of the behavior, and/or whether the conduct involved physical violence and/or the use of a weapon. The respective Hearing Administrator must also assess these considerations in light of the obligation to stop, prevent, and remedy incidents of discrimination and harassment. Careful consideration of all of these factors is paramount to the determination of appropriate, equitable, and effective sanctions and other outcome(s) (where applicable).

Violations involving Prohibited Conduct often include "mitigating" and/or "aggravating" factors, which tend to render a violation either more or less egregious than other violations of the same policy. As a result, a one-size-fits-all approach, such as expelling all Students or terminating all employees who violate a particular policy, can be disproportionately harsh (or lenient), is often ineffective at discouraging misconduct, and fails to consider the circumstantial differences that contribute to behavior that violates policy. Instead, each Prohibited Conduct violation should allow for a range of sanctions, where a violation that is more egregious receives more severe sanctions within the allotted range and a less egregious violation results in less severe sanctions within the same range. This provides consistency and transparency for the parties involved in the sanctioning process, helps to avoid arbitrary and capricious sanctioning decisions and the appearance of the same, and simultaneously recognizes that certain instances of a particular type of misconduct can

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be articulated as being more severe than others.[24]

vii. **Designated Sanction Ranges**

As required by the Title IX Final Rule and the federal Jeanne Clery Act, the College must disclose the range of possible sanctions that may be imposed following an institutional disciplinary procedure addressing Prohibited Conduct.

The Hearing Administrator may impose any sanction that they find to be fair and proportionate to the violation and that is authorized for violations of the *Policy*. The College expects all cases where a Respondent is found to be in violation of Prohibited Conduct to involve consideration of the sanctions of suspension or expulsion (for Student Respondents) and suspension or termination of employment (for employee Respondents). Any sanction imposed shall be explained or supported in a written decision of the administrator.

As required by the Title IX Final Rule and the federal Jeanne Clery Act, the College must disclose the range of possible sanctions that may be imposed following an institutional disciplinary procedure addressing Prohibited Conduct. See below for the table containing details regarding specific sanction ranges designated for Student Respondents, and subsequent information pertaining to employee Respondents.

Designated Sanction Ranges for Student Respondents	
Prohibited Conduct	**Sanction Range**
Sexual Harassment	
b. 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.	Probation to Expulsion
c. 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.	Warning to Expulsion
d. 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.	Warning to Expulsion
Sexual Assault	
a. Completed or attempted, Sexual Penetration, however slight, of a person without that person's Effective Consent.	Suspension to Expulsion
b. The touching of an Intimate Body Part of another person for the purpose of sexual gratification, without that person's Effective Consent.	Pending Suspension to Expulsion
c. (Incest) Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.	Warning to Expulsion
d. (Statutory Rape) Sexual intercourse with a person who is under the statutory age of consent.	Suspension to Expulsion

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e. 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.	Pending Suspension to Expulsion
Stalking	
a. Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.	Warning to Suspension
Interpersonal Violence	
Domestic Violence	Probation to Expulsion
Dating Violence	Probation to Expulsion
Sexual Exploitation	
a. Engaging in voyeurism which may constitute acts including but not limited to listening, watching or taking pictures, videos, or audio recordings of another person in a state of undress without their Effective Consent or of another person engaging in a sexual act without the Effective Consent of all parties.	Probation to Expulsion
b. Unauthorized display, publication, posting, transmission, or other dissemination (including via the Internet) of another in a state of undress or of a sexual nature without the person's Effective Consent. Consent to be recorded does not imply consent for such records to be displayed, published, transmitted, or otherwise disseminated.	Probation to Expulsion
c. An act or acts committed through abuse or exploitation of another person's gender or 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.	Pending Suspension to Expulsion
d. 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.	Probation to Suspension
e."Stealthing" which involves intentionally removing a condom without the other person's Effective Consent during sexual activity.	Pending Suspension to Expulsion
f. Knowingly exposing another individual to a sexually transmitted infection, disease, or virus without the other individual's knowledge and Effective Consent.	Pending Suspension to Expulsion
Gender-Based Discrimination or Harassment	
Gender-Based Discrimination	Warning to Expulsion
Gender-Based Harassment	Warning to Expulsion

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Complicity	
a. Aiding or assisting means any act that aids, facilitates, promotes, or encourages the commission of Prohibited Conduct under this Policy by another person.	Probation to Suspension
Compliance with Directives	
a. Failure to comply with a duly issued directive by an authorized College Official or law enforcement officer. A directive may be considered any written or verbal mandate.	Warning to Pending Suspension
b. Failure to fully satisfy all the components outlined within a signed Alternative Resolution agreement in the designated time frame.	Probation to Suspension
Abuse of College Process	
a. Abuse of, interference with, or failure to comply in a College grievance or resolution process(es).	Probation to Suspension
b. Attempts, whether successful or not, to destroy or conceal information during an investigation of an alleged Policy violation.	Probation to Suspension
c. Discouraging or attempting to discourage another individual's proper participation in, or use of, a College disciplinary or resolution process.	Probation to Suspension
Retaliation	
a. Any adverse action, intimidation, threat, coercion or discrimination against an individual (including Students, employees, and Third Parties) for the purpose of interfering with any right or privilege secured by Title IX or its Final Rule, or because the individual has made a report or Formal Complaint of Prohibited Conduct, been accused of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, hearing, or other resolution process under this Policy. Retaliation also includes such conduct through associates or agents of a Reporter, Respondent, Third Party, or participant in any investigation, proceeding, or resolution process related to this Policy.	Probation to Suspension
Defamation	
a. Oral or written publication of a false statement of fact relating to allegations reported to the Office of Title IX & Sexual Misconduct (with or without the submission of a Formal Complaint) that exposes the person about whom it is made to hatred, contempt, or ridicule; subjects that person to loss of the good will and confidence of others; or so Harms that person's reputation as to deter others from associating with that person.	Warning to Expulsion

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In cases where the Respondent has previous disciplinary history in which the minimum sanction for the alleged Prohibited Conduct is less than the Respondent's current status sanction, the College reserves the right to extend the sanction range as appropriate.

An employee found in violation of any form of Title IX Sexual Harassment will be issued sanctions ranging from a formal written reprimand to termination of employment.

F. Appeals

Both the Reporter and Respondent have the opportunity to appeal, as applicable, the dismissal of a Formal Complaint and any decision and/or outcome(s) rendered by a Hearing Administrator during the Formal Grievance Process. The circumstances available to appeal, the specific grounds to which parties can appeal on, and the procedures associated with submitting and evaluating appeals are outlined below.

i. **Appeal Procedures.** All appeals must be submitted in writing within five (5) business days of receiving the written notice (of dismissal or hearing outcome), and include any supporting documentation that the Party wishes to be considered. Deference is given to the Title IX Coordinator's rationale for dismissal of the Formal Complaint or the Hearing Administrator's findings of fact and decision regarding responsibility and/or any sanctions. Therefore, the burden of proof is on the party 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 Appeal Officer may request additional information or clarification from the Respondent, Reporter, witnesses, Investigator(s), Title IX Coordinator, and/or other relevant administrators for purposes of this review.

ii. **Grounds for Appeal.** The dismissal of a Formal Complaint or the determination of responsibility (hearing decision) may be appealed on the following grounds as applicable:

   a. ***Process Review.*** Procedural irregularity that materially affected the outcome of the matter;

   b. ***New Information.*** New evidence that was not reasonably available at the time the dismissal or determination regarding responsibility was made, that could materially affect the outcome of the matter;

   c. ***Conflict of Interest or Bias.*** The Title IX Coordinator, Investigator(s), Hearing Administrator, and/or other associated decision-maker(s) (as applicable) had a conflict of interest or bias for or against Reporters or Respondents generally or the individual Reporter or Respondent that materially affected the outcome of the matter; and/or

   d. ***Information Review.*** To determine whether there was information presented in the Formal Complaint, investigation process, and/or formal administrative hearing (as applicable) that, if believed by the administrator, was sufficient to warrant the continuation of a College resolution process or establish that a violation(s) of the *Policy* occurred.

   Either party may also appeal the assigned sanction(s) on the following ground:

   a. ***Sanction Review.*** The sanction(s) designated by the formal Hearing Administrator was clearly inappropriate and/or disproportionate to the Prohibited Conduct for which the Respondent was found in violation.

iii. **Review of Appeal.** In the event that either or both parties submit an appeal, the Title IX Coordinator will notify the parties that an appeal was received and forward the appeal and any supporting documentation to the non-appealing party for reference and the applicable Appeal Officer. Appeals on the dismissal of a Formal Complaint will be reviewed by either the Assistant Vice President for Student Affairs (AVP)[25] or a Human Resources representative depending on whether the Respondent is a Student or Employee. Appeals relating to decisions and sanction(s) rendered

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following a formal administrative hearing will be reviewed by the Vice President for Student Affairs (VPSA)[26] for cases involving a Student Respondent, or t**he Vice President for Inclusive Excellence, or designee, for employee Respondents.**

In all cases, regardless of the nature of the appeal, the Appeal Officer must be impartial and free from bias or conflict of interest. If the Appeal Officer has concerns that they cannot conduct a fair or unbiased review, the Appeal Officer must report those concerns to the Title IX Coordinator and a different Appeal Officer will be assigned to the appeal. Similarly, a Reporter or a Respondent who has concerns that the assigned Appeal Officer cannot conduct a fair and unbiased review, may report those concerns to the Title IX Coordinator who will assess the circumstances and determine whether a different Appeal Officer should be assigned to the appeal.

Similarly, a Reporter or a Respondent who has concerns that the assigned Appeal Officer cannot conduct a fair and unbiased review, may report those concerns to the Title IX Coordinator who will assess the circumstances and determine whether a different Appeal Officer should be assigned to the appeal.

iv. **Appeal Decision.** The Appeal Officer responsible for reviewing the appeal may make one of the following decisions:

   a. ***Affirm.*** The Appeal Officer may decide to affirm the decision of the Title IX Coordinator (to dismiss the Formal Complaint, all or in part) or the Hearing Administrator.

   b. ***Alter sanction.*** The Appeal Officer may alter the sanctions issued by the Hearing Administrator. Alteration of a sanction may include reducing or increasing the sanction or requirements.

   c. ***New hearing.*** The Appeal Officer may determine that a new hearing by a different Hearing Administrator is warranted to correct procedural irregularity or to consider new information. Both parties may also appeal the decision rendered by the new Hearing Administrator.

   d. ***Remand.*** The Appeal Officer may direct the Title IX Coordinator or Hearing Administrator (as applicable) to review their original decision subject to any instruction from the Appeal Officer. The Title IX Coordinator or Hearing Administrator (as applicable) may then affirm their original decision or render a new decision consistent with the instructions provided by the Appeal Officer. Both parties may appeal a decision made by the Title IX Coordinator or Hearing Administrator if there are any changes after the review.

v. **Timeframe for Appeal Review.** Barring any extenuating and/or unforeseen circumstances, the Appeal Officer will issue a determination within fifteen (15) business days of receiving the written appeal documentation. In the event where a delay may be present, good faith efforts will be made to ensure a decision is rendered and updates are communicated to the Reporting and Responding parties in a reasonably timely manner.

Once an outcome has been rendered, both the Reporter and the Respondent will be notified simultaneously via their institutional email of the result of the Appeal Officer's written decision. The decision of the Appeal Officer 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. For more information regarding appealing to the New Jersey Superior Court, please consult the following webpage: https://www.njcourts.gov/courts/appellate.html

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vi. **Additional Considerations.** The imposition of sanctions may be deferred during the appellate process and the status of the Student shall not change until the Appeal Officer issues a final decision, except that a hold may be placed on the Student's transcript and no degree will be awarded to the Respondent pending completion of the appeals process or completion of the determined sanctions.

Related Documents:

- Student Conduct Code
- Policy Prohibiting Discrimination in the Workplace/ Educational Environment
- Procedures for Internal Complaints Alleging Discrimination in the Workplace/ Educational Environment

History:

Version	Date	Notes
6.2	November 11, 2021	Edited to correct typographical error and to comply with legal authority
6.1	August 19, 2020	Edited to correct typographical error and to comply with legal authority
6.0	August 11, 2020	Interim Approval by The Board of Trustees; Formerly the *Title IX Policy*
5.0	June 30, 2020	Revisions approved by The Board of Trustees
4.0	July 9, 2019	Interim Approval by The Board of Trustees
3.0	July 10, 2018	Revisions approved by The Board of Trustees
2.0	October 24, 2017	Revisions approved by The Board of Trustees
1.0	July 5, 2016	New policy; Initial release; Board of Trustees Policy

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APPENDIX A - POLICY DEFINITIONS

"Actual Knowledge" is notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College. The College may have Actual Knowledge of Sexual Harassment even where no person has reported or filed a Formal Complaint about the Sexual Harassment. This Actual Knowledge standard is not met when the only official of the College with Actual Knowledge is the Respondent.

"**Advisor**" is a person who is present throughout any meetings, investigation preparations, hearing proceedings, and/or any appeal process to provide support and/or assistance to an individual. Individuals may be accompanied by one Advisor of their choice. The Advisor may be any person of the individual's choosing, and may, but is not required to be an attorney. If an Advisor is also an attorney, the Advisor is still limited to the supportive and non-participatory role. Except where explicitly stated by this *Policy*, as consistent with the Title IX Final Rule, Advisors of choice shall not participate directly in any process or represent any person involved; nor can an Advisor speak, write, or otherwise communicate with an Investigator, conduct administrator, Hearing Administrator, or appeal officer on behalf of the individual they are advising as per standard policy and practice of TCNJ. Advisors may not engage in behavior or advocacy that harasses, abuses, or intimidates either the Reporting or Responding party, a witness, or individuals involved in resolving the complaint. Advisors who do not abide by these guidelines and/or create undue delay(s) of the process due to their involvement may be excluded from the process.

The College's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this *Policy*, and the College cannot agree to extensive delays solely to accommodate the schedule of an Advisor of choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The College will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of choice, and may offer the party the opportunity to obtain a different Advisor or utilize one provided by the College. As such, it is the responsibility of the individual party to coordinate scheduling with their Advisor for any meetings and/or proceedings.

An Investigator or Hearing Administrator may also be accompanied by an Advisor, which may include a representative from the Office of General Counsel, who may participate only in a manner to ensure procedural standards are upheld, but that does not disrupt the overall proceeding. Any cost associated with the participation of an Advisor is the responsibility of the individual party.

"College" or "Recipient" refers to 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.

"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.

"Education Program or Activity" includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.

"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**.**

"Formal Complaint" a document (or electronic submission, such as by electronic mail or through an online portal provided for this purpose by the College) filed by a Reporter (containing their physical or digital

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signature, or otherwise indicates that the Reporter is the person filing the Formal Complaint) or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the College utilize a College resolution process to adjudicate or resolve the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Reporter must be participating in or attempting to participate in the Education Program or Activity of the College with which the Formal Complaint is filed.

"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 person hired and/or trained by the College who is designated by the Office of Title IX & Sexual Misconduct to conduct formal administrative hearings surrounding violations of Prohibited Conduct.

"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 a state in which a person lacks the capacity to understand the fact that a situation is sexual, or cannot understand or make a rational and reasonable judgment about the nature and/or extent of a situation (the "who, what, when, where, why and how" of the sexual interaction). A person who knows or should reasonably know that another person is incapacitated may not engage in sexual activity with that person.

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Persons who meet any of the following criteria or conditions are incapacitated: (i) sleeping; (ii) passed out or otherwise unconscious; (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 is conscious, but has limited ability to form or retain memories, and may exhibit verbal or non-verbal (e.g., a nod) expressions that under normal circumstances between two individuals acting with full capacity might reasonably be interpreted as conveying consent. Because that person does not have the capacity to consent, despite those expressions, consent is lacking. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication due to alcohol and/or Drug use. The relevant standard that will be applied is whether the Respondent knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.

Some medical conditions may also cause incapacitation. Incapacity can result from factors including, but not limited to mental disability, involuntary physical restraint, or 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.

"Official with Authority" any official of the College who has authority to institute corrective measures on behalf of the College. When an Official with Authority receives a disclosure or becomes aware of alleged Prohibited Conduct, this conveys Actual Knowledge to the College and triggers the College's response obligations under the Final Title IX Rule. Examples of Officials with Authority include, but are not limited to, representatives from the Dean of Students Office, Residential Education (limited to professional staff), Human Resources, and Campus Police Services.

"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.

Abusive or harassing conduct directed at a person or group *because of* actual or perceived membership in a Protected Category (sometimes generally known as "bias incident(s)", "bias crime(s)", or "hate crime(s)") may result in an enhanced sanction.

"Reasonable Accommodations" are adjustments or modifications made in a system or process to ensure accessibility for individuals with disabilities. Reasonable accommodations are determined by the Accessibility Resource Center (ARC) on a case-by-case basis.

"Reasonable Person" is a person of a reasonably sound mind under similar circumstances and with similar identities to the individual in question.

"Reporter" is the person who is alleged to have experienced an act(s) of Prohibited Conduct defined within this *Policy*. Please note that while non-Students may report a Student to the Office of Title IX & Sexual Misconduct, *Procedural Standards* may not apply to non-Student Reporters.

"Respondent" is the individual who has been reported to have allegedly engaged in Prohibited Conduct, and may be subject to an investigation, procedural requirements including proceedings, emergency measures, and/or sanctions as a result of information filed in a report, determined through an investigation, and/or Prohibited Conduct proceeding.

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"**Responsible Employee**" defined in Section II, Part D.

"**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 intercourse (anal, oral, or vaginal), including penetration with a body part (*e.g.*, penis, finger, hand, or tongue) or an object either by the actor or upon the actor's instruction.

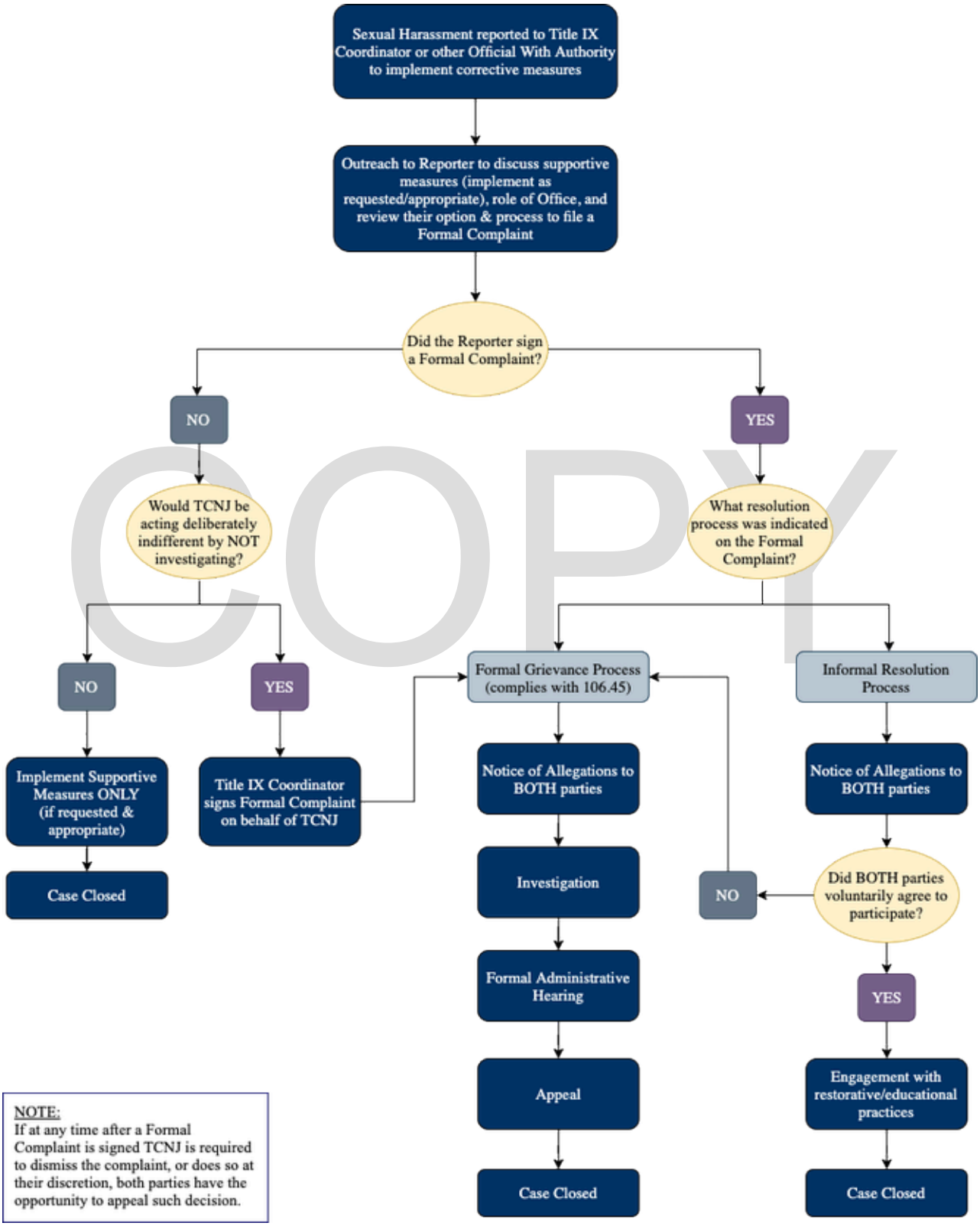
"**Student" or "Students**" includes all persons who accept an offer of admission to the College, register for credit bearing courses or maintain matriculation in a degree or certificate program at the College, either full time or part time, degree or non-degree seeking, and have an academic record with 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 Title IX Coordinator or Director of Student Conduct.

"**Third Party**" includes individuals who are neither Students nor employees, including but not limited to contractors, guests, and consultants.

"**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.

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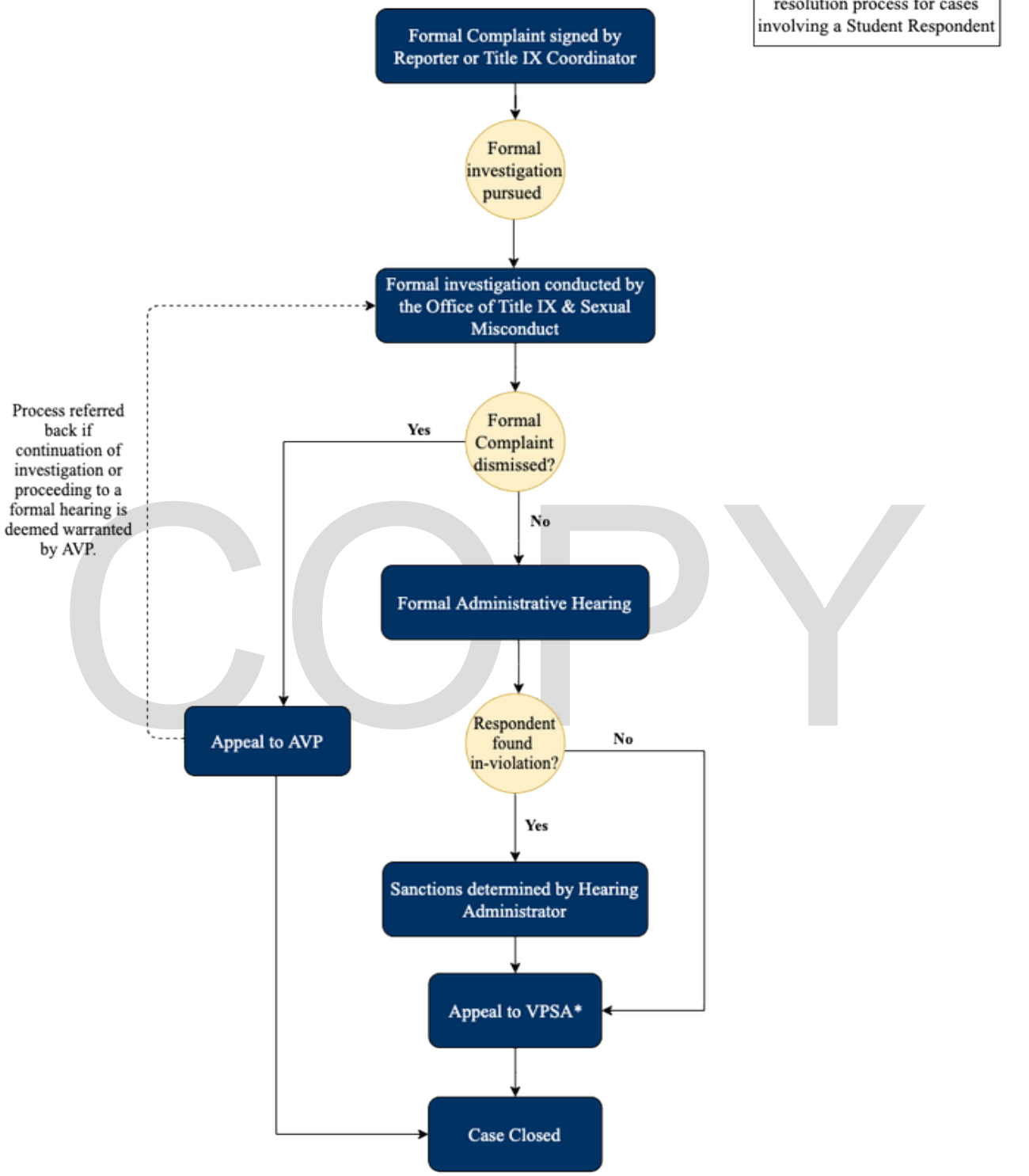
APPENDIX B - RESOLUTION PROCESS FLOWCHARTS



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Formal Grievance Process

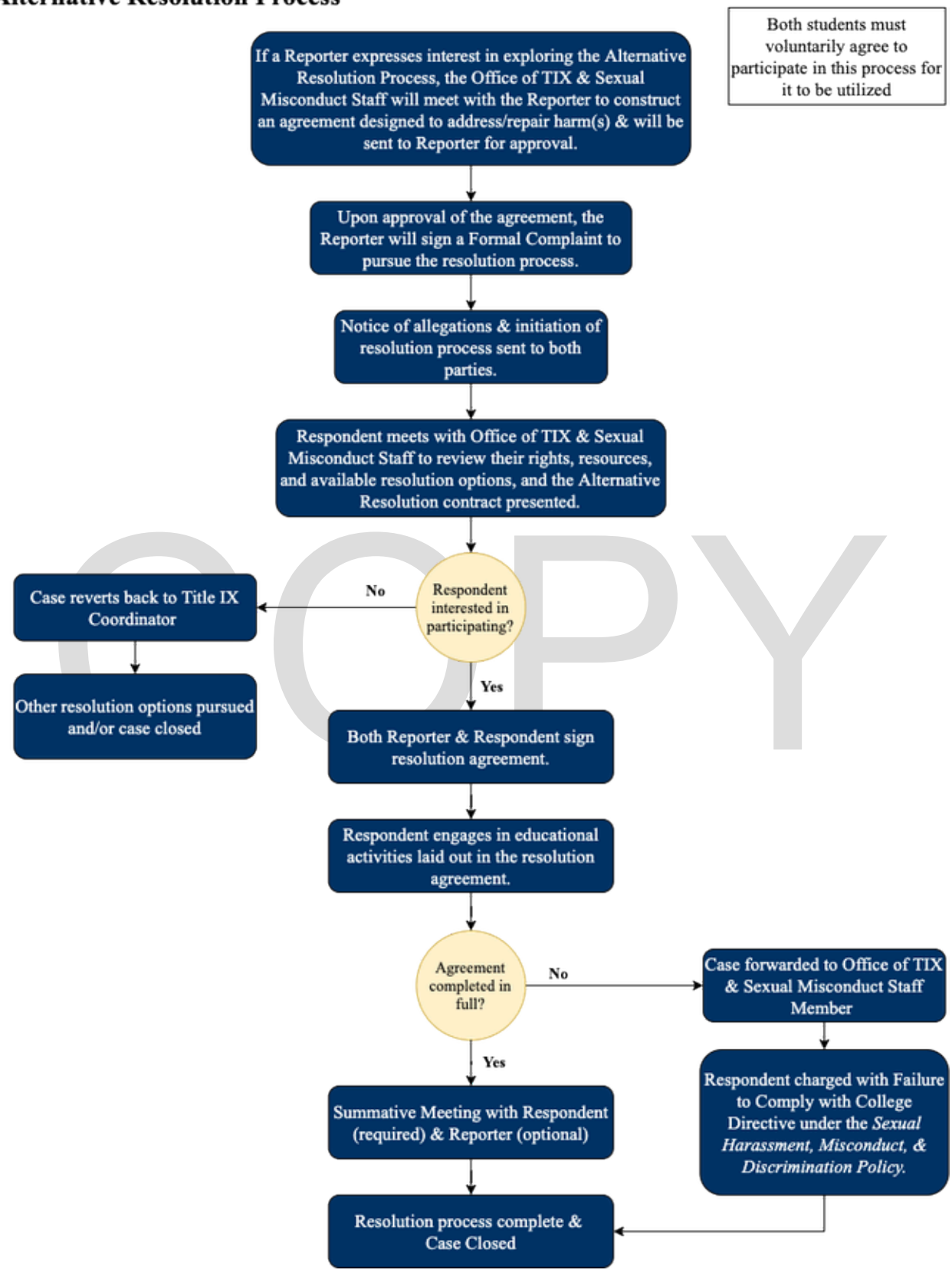
This is the College's default resolution process for cases involving a Student Respondent



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* See *Policy* for details around possible appeal outcomes.

Alternative Resolution Process



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APPENDIX C - FORMAL ADMINISTRATIVE HEARING RULES OF DECORUM

The College's resolution options to resolve forms of Prohibited Conduct, including the Formal Grievance Process, are designed to be an educational and disciplinary experience rather than inherently adversarial. Participants in the hearing are expected to act in accordance with their role as it is described within this *Policy*. The Hearing Administrator is responsible for conducting the hearing and maintaining decorum such that the hearing is executed fairly and effectively. If the Hearing Administrator determines that decorum is violated, and the hearing has become disorderly the Hearing Administrator may recess or pause proceedings to address the behavior. Misconduct during the hearing can take many forms, both minor and egregious. It is within the Hearing Administrator's discretion to discourage or exclude parties, witnesses, and/or Advisors who demonstrate a lack of the decorum.

The following rules and standards apply equally to all parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Reporter or Respondent.

Rules of Decorum

1. If an Advisor, party, or witness is referencing another person, including the hearing participants, as much as possible the person's name or role (i.e. Reporter, Respondent) should be used.
2. If an Advisor, party, or witness is referencing another person, including the hearing participants, it is the expectation that the person is referenced by their preferred gender. No participant shall intentionally mis-gender another person.
3. During cross-examination, the Hearing Administrator must approve all questions before the party or witness responds. As much as possible, the Hearing Administrator and Advisors are expected to restrict the use of compound, redundant, irrelevant, or otherwise impermissible questions.
4. While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum. The Advisor may not use profanity or make irrelevant fallacious attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
5. Hearing participants are prohibited from:
    a. Interrupting other participants;
    b. Using profanity directed toward another participant;
    c. Making objectively offensive or aggressive gestures;
    d. Harassing another participant;
    e. Yelling, screaming, badgering;
    f. Physically "leaning in" to the personal space of another participant;
    g. Approaching a participant without the express permission of the Hearing Chair;
    h. Take any action that a reasonable person may see as intended to intimidate a participant or meaningfully modify someone's participation in the process.
    i. Engaging in any other behavior to deliberately disrupt the live hearing.

The Hearing Administrator has sole discretion to pause or interject during the process and all hearing participants are expected to comply with any direction provided. If a hearing participant violates the Rules of

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Decorum or proceedings otherwise become disorderly the Hearing Administrator may recess or pause proceedings to address the behavior.

If a hearing participant violates the Rules of Decorum, the Hearing Administrator may give a verbal warning, pause the hearing process, and/or remove a hearing participant. If a party's Advisor is removed for egregious or repeated violations of the Rules of Decorum, the party may have the opportunity to immediately replace the Advisor or the Office of Title IX & Sexual Misconduct will assign an Advisor to the party for the purpose of completing cross-examination. Reasonable delays, including the temporary adjournment of the hearing, may be permitted should an Advisor be removed. A party cannot serve as their own Advisor under any circumstance, including if their Advisor is removed.

If the Hearing Administrator determines that an Advisor violated the Rules of Decorum but in the course of asking a relevant question, the violation will not affect the question's relevancy. The Hearing Administrator will notify the Advisor of the violation and permit the question to be re-asked (or permit a replacement Advisor in cases where the Advisor has been removed for the violation of the Rules of Decorum).

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[1] The term "Policy" used throughout this document refers to this *Sexual Harassment, Misconduct, & Discrimination Policy.* Additionally, throughout this Policy, the pronouns "they", "them", and "their" are used intentionally to be inclusive of those of all genders and gender-identities.

[2] 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Title IX Final Rule and its extensive Preamble are available here: https://www2.ed.gov/about/offices/list/ocr/newsroom.html

[3] Capitalized terms within this *Policy* are defined in Appendix A, *Policy Definitions*.

[4] See the *College Discrimination Policy* for specific details.

[5] As defined in the Violence Against Women Act (VAWA) and the Clery Act.

[6] See Appendix A for definitions of Effective Consent and if applicable, Incapacitation.

[7] As defined in the Violence Against Women Act (VAWA) and the Clery Act.

[8] Stalking includes the concept of cyber-stalking, a particular form of Stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

[9] This may include, but is not limited to, physical, sexual, emotional, economic, and/or psychological actions or threats of actions that a reasonable person in similar circumstances and with similar identities would find intimidating, terrorizing, or threatening.

[10] As defined in the Violence Against Women Act (VAWA) and the Clery Act.

[11] May also referenced as "party" throughout this *Policy.*

[12] See. e.g., N.J.S.A. 2C:25-17 et seq. (Prevention of Domestic Violence Act of 1991)

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[13] As defined in the Violence Against Women Act (VAWA) and the Clery Act.

[14] Making a good faith report of Prohibited Conduct that is not substantiated or proven by a preponderance of the evidence shall not constitute 9./Abuse of College Process.

[15] Retaliation also includes such conduct through associates or agents of a Reporter, Respondent, Third Party, or participant in any investigation, proceeding, or resolution process related to this *Policy*.

[16] This does not include the good faith documentation of a possible *Policy* violation or good faith journalistic reporting in the absence of negligence or recklessness.

[17] Any references to the Title IX Coordinator may also include a designee.

[18] May also referenced as "party" throughout this *Policy.*

[19] For full link to reporting form: https://tcnj-advocate.symplicity.com/titleix_report/index.php/pid210803?.

[20] 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, Accessibility Resource Center (ARC), Student Health Services, Athletics, and Alcohol and other Drug Education Program (ADEP).

[21] Full link to report Prohibited Conduct- https://tcnj-advocate.symplicity.com/titleix_report/index.php/pid680248?

[22] Any references to the Dean of Students may also include a designee.

[23] 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.

[24] Source: 2018 ATIXA Whitepaper: *The ATIXA Guide to Sanctioning Student Sexual Misconduct Violations.*

[25] Any references to the Assistant Vice President (AVP) may also include a designee.

[26] Any references to the Vice President of Student Affairs (VPSA) may also include a designee.

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Approval Signatures

Step Description	Approver	Date
Compliance Office Review	Aminah Massenburg: Dir, Compliance & Priv Officer	10/3/2023
Policy Owner Approval	Sean Stallings: VP for Student Affairs	9/25/2023

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