



Rowan College of South Jersey

Administrative Procedure: 7013

SEXUAL MISCONDUCT AND THE RIGHTS OF VICTIMS

I. Purpose

Students and employees of Rowan College of South Jersey (“College”) have the right to access and benefit from the educational and other programs and services of the College free from any form of sexual violence, harassment, or exploitation. The College prohibits sexual misconduct or harassment of any kind. These procedures have been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated.

II. Accountability

Under the direction of the President, the Special Assistant to the President, Diversity & Equity/Title IX Compliance, located in the College Center, telephone number (856) 415-2154, and on Cumberland campus, to the Special Assistant designee located in the Administrative Offices of the Administration Building, or designee will implement and ensure compliance with these procedures.

III. Applicability

This policy applies to all students and employees. Regardless of where the prohibited conduct occurs, this policy applies if the Respondent (the accused party) is a student or employee of the College. This policy also applies to all prohibited conduct that occurs on College property (i.e., on campus) by visitors.

IV. Title IX

Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in the College’s programs and activities. It reads: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

As a recipient of federal financial assistance, the College has jurisdiction over complaints alleging sex discrimination, including sexual harassment and sexual violence.

V. Standard of Evidence

A finding under this policy will be based on the preponderance of the evidence standard, in other words, a finding will be made if the evidence as a whole shows that it is more likely than not that a violation of the sexual misconduct policy occurred.

VI. Policy Statements

1. When the College is made aware of a report or allegation of sexual misconduct or harassment, the College will endeavor to maintain the confidentiality of the matter and of all individuals involved to the extent permitted by law. The College will balance the needs of the individuals involved (victim “Complainant” and accused “Respondent”) with its obligation to fully investigate allegations and to protect the safety and well-being of the community at large. In all cases, the College and its employees will respect the dignity and rights of all individuals involved. When consulting campus resources, victims should be aware that certain campus authorities are mandated to report and take action after receiving information regarding sexual misconduct and harassment. These include, but not limited to, Safety and Security Officers, managers and supervisors, coaches, club and organization advisors, faculty, and deans. Anyone wishing to speak confidentially to an employee of the College should ask them about their ability to maintain confidentiality. Different people on campus have different reporting responsibilities, and different abilities to maintain confidentiality, depending on their roles at the College.
2. This policy applies equally to all students and employees regardless of their sex, gender identity, gender expression, or affectional or sexual orientation. This policy covers all female, male, gender non-conforming, and transgender students and employees. A violation of this policy may also be a violation of the New Jersey Law Against Discrimination (N.J.S.A. 10:5-12) which makes it unlawful to subject people to differential treatment based on many categories, including: sex, affectional or sexual orientation, and gender identity.
3. When an alleged violation of this policy is brought to the attention of the College, the College will promptly take effective steps to end the misconduct, prevent further violations, and remedy the effects of the violation on the Complainant and others, if appropriate.
4. The College reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students’ and employees’ rights and the personal safety of members of the community. While the College’s investigation is pending, the College will offer interim measures to protect the parties and others. Interim measures may include, but not limited to, safety plan development, no contact directives, interim suspension from campus/employment, academic accommodations, changing transportation and working situations, assistance with the College disciplinary process, referrals to on-campus resources, or

- reporting to police. The College will maintain as confidential any protective measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the protective measures; e.g.; safety escort services. These measures can be offered regardless of whether or not the Complainant chooses to report the crime to the Office of Safety & Security or local law enforcement.
5. Prohibited conduct under this policy may also constitute a violation of federal, state, or local law and a student or employee may be charged in the criminal justice system as well as under this policy. Alternatively, charges can occur for violations of this policy which may not be violations of the law. The criminal justice system is different from this Title IX process. The College reserves the right to reach its own determination on violations of this policy independently of the outcome of any civil or criminal proceeding. The College reserves the right to hear a sexual misconduct case before, after, or during the pendency of the civil or criminal matter. If a case is going through the criminal justice system, and a report has also been made to the College, the Title IX process at the College may proceed normally during the pendency of the criminal proceedings. Since the Title IX process is an educational disciplinary process, the legal rules related to evidence, criminal procedure, civil procedure, and administrative procedure do not apply to this process.
 6. The College, at its sole discretion, may utilize an experienced lawyer (who is not a member of the campus community) to serve as hearing officer in cases of sexual misconduct. While the hearing officer will determine the finding after the case is concluded, the College reserves the right to impose any and all sanctions.

VII. Definitions of Prohibited Conduct

The following behaviors constitute sexual misconduct and are prohibited under this policy. All forms of sexual misconduct are serious offenses and will result in College disciplinary consequences.

1. Non-Consensual Sexual Intercourse or Penetration (Rape) means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without consent. Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.
2. Non-Consensual Sexual Contact (Fondling) means any intentional sexual touching, however slight, with any body part or any object, without consent. Examples of non-consensual sexual contact may include, but not limited to, genital-genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.
3. Sexual Exploitation means the behavior that takes, or facilitates the taking of, non-consensual sexual advantage of any person to benefit any other person when the behavior does not otherwise constitute a sexual misconduct violation. Examples of sexual exploitation include, but not limited to:

- trafficking another person;
 - taking a non-consensual video, photograph, or audio recording of sexual activity without the other's permission; taking a photograph or video of someone's private parts (including genitals, groin, buttocks, or breasts) without permission; the transmission or dissemination (including, but not limited to, distribution via social media) of such video, photograph, or audio recording without permission;
 - allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or live-streaming of images);
 - frottage which means the act of obtaining sexual stimulation by rubbing against a person or object;
 - voyeurism or spying on persons where they have a reasonable expectation of privacy;
 - knowingly transmitting a sexually transmitted infection to another person without the other's knowledge; and
 - revenge porn which means the sharing of private, sexual materials, either photos or videos, of another person without their consent and with the purpose of either causing embarrassment or distress.
4. Intimate Partner Violence includes dating and domestic violence.
- a. Domestic violence means a felony or misdemeanor crime of violence committed:
 - By a current or former spouse or intimate partner of the student or employee;
 - By a person with whom the student or employee shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the student or employee as a spouse or intimate partner;
 - By any other person against an adult or youth student and employee who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
 - b. Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the student or employee. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but not limited to, sexual or physical abuse or the threat of such abuse.
5. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
- Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- Reasonable person means a reasonable person under similar circumstances and with similar identities to the reporting student or employee.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
6. Other Sexual Misconduct means inappropriate sexual behaviors not covered previously in this section, for example, sexual activity in public places.
 7. Sexual/Gender-Based Harassment is unwelcome sexual or gender-based verbal or physical conduct that unreasonably interferes with or deprives others of their right to access and benefit from the programs and services of the College. Sexual harassment offenses fall into two general categories;
 - a. Hostile Environment which means harassing conduct that is sufficiently severe, pervasive/persistent, and objectively offensive that it substantially interferes with the conditions of education or employment, from both a subjective (the student's or employee's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" will be based on the circumstances. These circumstances could include, but not limited to:
 - the frequency of the conduct;
 - the nature and severity of the conduct;
 - whether the conduct was physically threatening;
 - whether the conduct was humiliating;
 - whether the conduct was directed at a specific individual or more than one person;
 - whether the conduct arose in the context of other discriminatory conduct;
 - whether the conduct unreasonably interfered with the alleged Complainant's educational or work performance;
 - whether the statement is an utterance of an epithet which offends an employee or student, or offends by discourtesy or rudeness; or
 - whether the speech or conduct is excluded from the protections of free speech or academic freedom.
 - b. Quid Pro Quo ("this for that") means a violation of this type exists when there are:
 - Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and
 - Submission to unwelcome advances, etc., results in preferential treatment, e.g., promotion, higher grade than earned. Rejection of sexual advances, etc. results in adverse educational access or employment action; e.g., failing grade or employment termination.
 8. Retaliation means harassment or adverse action taken against a person because of that person's participation in a complaint or investigation of sexual misconduct. This will be treated as a separate violation of this policy and will result in immediate action by the College to stop the retaliatory behavior, prevent further violations by the perpetrator, and remedy any adverse impact of the violation.

9. False Reports means intentionally making a report of prohibited conduct to a College official knowing, at the time the report was made, that the prohibited conduct did not occur and the report was false.
10. Attempted Violations means a person commits an attempted violation when, with intent to commit a specific violation, he/she does any act which constitutes a substantial step toward the commission of that violation. The College will treat attempts to commit any of the violations described in policy or procedure as if those attempts had been completed.

VIII. Additional Definitions

1. Consent

- a. Consent to sexual activity is informed, knowing, voluntarily, and freely given permission to engage in mutually agreed upon sexual activity. The College will apply a reasonable person standard in determining whether or not consent was given, unless otherwise required by law.
 - i. The person giving consent must be capable of doing so freely, with the ability to understand what they are doing and the specific details (who, what, when, where, and how) of the sexual contact to which they are consenting.
 - ii. Consent may be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity. Consent can be withdrawn at any time.
 - iii. It is the obligation of the person initiating sexual contact to obtain clear consent for the specific type of sexual contact sought.
 - iv. Lack of protest does not constitute consent. Silence or passivity without words or actions that communicate mutually understandable permission cannot be assumed to convey consent.
 - v. Use of violence, threats, coercion, or intimidation invalidates any consent given.
 - vi. Consent for one form of sexual contact does not imply consent to other forms. For example, consent to vaginal sex does not imply consent to oral sex; consent of vaginal sex does not imply consent to anal sex.
 - vii. Past consent does not constitute consent for future sexual activity.
 - viii. Persons who are unable to give valid consent under New Jersey law (i.e., minors, individuals with mental health disabilities) are considered unable to give consent under this policy. See N.J.S.A. 2C: 4-2.
 - ix. Consent cannot be given by a person who is unconscious or sleeping. If consent has been given while a person is conscious or awake, and then that person becomes unconscious or falls asleep, consent terminates at that point.
 - x. Persons who are incapacitated due to the use of drugs or alcohol cannot give consent.
2. Consent to bodily harm constitutes a violation of this policy because it causes or threatens bodily harm. Consent to such conduct or to the infliction of such harm is a defense if: (1) the bodily harm, consented to or threatened by the conduct is not

serious, or (2) the conduct and the harm are reasonably foreseeable hazards of joint participation in a concerted activity of a kind not forbidden by law.

3. Incapacitation

- a. Incapacitation is the physical and/or mental inability to make informed, rational judgements and decisions. States of incapacitation include, sleep, unconsciousness, and blackouts. Where alcohol or drugs are involved, incapacitation is determined by how the substance impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgements.
- b. In evaluating whether a person was incapacitated for purposes of evaluating effective consent, the College considers two questions: (1) Did the person initiating sexual activity know that their partner was incapacitated? And if not, (2) Should a sober, reasonable person in the same situation have known that their partner was incapacitated?
- c. If the answer to either of these questions is 'yes', effective consent was absent.
- d. For purposes of this policy, incapacitation is a state beyond drunkenness or intoxication. A person is not incapacitated merely because they have been drinking or using drugs. The standard for incapacitation does not rely on technical or medical definitions, but instead focuses on whether a person has the physical and/or mental ability to make informed, rational judgements and decisions.
- e. A person who initiates sexual activity must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions, "Do you know where you are? Do you know how you got here? Do you know what is happening? Do you know whom you are with?"
- f. Because the impact of alcohol and other drugs varies from person to person, one should be cautious before engaging in sexual contact or intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether effective consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sexual activity.

IX. Reporting Options

Students and employees who experience sexual misconduct and those who have knowledge of sexual misconduct or harassment are encouraged to report this information as soon as possible. Prompt reporting of incidents greatly improves the ability of the College and law enforcement to provide support resources and to address the violations

effectively. Although there is no time limit for reporting sexual harassment or misconduct offenses, delays in reporting may reduce the ability of the College and law enforcement to investigate and respond to incidents. After an incident of sexual assault and domestic violence, the individual should consider seeking medical attention as soon as possible. In New Jersey, evidence may be collected, stored and not tested until you authorize testing, even if you choose not to make a report to law enforcement.

IMPORTANT NOTE: Employees of the College, including part-time and volunteers are considered “Responsible Employees” and have a duty to report to the Title IX Officer any and all incidents of:

- Harassment and Discrimination – Policy 7003
 - Harassment, including sexual harassment
 - Discrimination based on any protected class
- Sexual Misconduct and the Rights of Victims – Policy 7007
 - Dating violence
 - Domestic Violence
 - Sexual Assault/Sexual Violence
 - Stalking
 - Sexual misconduct that is not classified as a crime

The United States Department of Education (DOE) Office of Civil Rights (OCR) determines a school to have notice of the federal violation when a Responsible Employee knows or reasonably should know of violations or potential violations of the above policies.

- A. Report to the Title IX Officer any and all complaints of sexual misconduct, harassment, or discrimination regardless of whether a student or employee or third party files a formal complaint:
- On the Gloucester County Campus, Almarie Jones, Special Assistant to the President Diversity & Equity/Title IX Compliance, 1400 Tanyard Road, Sewell, NJ 08080; (856) 415-2154, ajones@rcgc.edu
 - On the Cumberland County Campus, contact the designee in the Administrative Offices located in the Administration Building. Responsibilities are monitoring and oversight of overall implementation of Title IX compliance at the College. The Title IX Officer, should be contacted for all complaints against faculty, staff, and visitors including those complaints filed by students.
 - A student or employee may choose to report to the College before they have made a decision about whether or not to report to law enforcement. An individual has the right to file a criminal complaint and a Title IX complaint simultaneously.
 - Once a report has been received, the College will provide the following written notification to students and employees about current counseling, health, mental health, student advocacy, legal assistance,

visa and immigration assistance, student financial aid, and other services that are available at the College and in the surrounding communities:

B. Confidential Resources

When speaking with these resources, an individual's right to confidentiality is legally protected. However, there are limits to this protection in specific situations. For example, if a student discloses that the incident involved the use of a weapon or other contraband as defined by New Jersey law, or there is an ongoing threat of danger to the safety of another person, these resources may be required to report the incident to police.

LGBTQ students who would like to speak with a confidential resource should know the College is committed to supporting students of all gender identities, gender expressions, and sexual orientation.

PLEASE NOTE: The Center for Counseling and Wellness Services and People In Transition provide counseling services and, therefore, are not required to report to the Title IX Officer any "Clery" statistical information which was reported to them, unless there is a serious or continuing threat to the campus community that would require an alert (i.e., timely warning). However, those responsibilities can usually be met without disclosing personally identifying information.

a. Cumberland Campus

- Heather Bense, Director, (856)691-8600, x 1495, hbense@cc.rcsj.edu
- John Wojtowicz, Mental Health Counselor, (856) 691-8600 x1496, jwojtowicz@cc.rcsj.edu
- The Student Counseling and Wellness Center offers mental health counseling to assist students with a variety of life's stressors. These confidential and professional services are free to all students. The Student Counseling and Wellness Center is located on the first floor of the Academic Building, and is open during regular business hours, Monday-Friday, 8:30 a.m. – 4:30 p.m. Students can stop by, call, or email to make an appointment. Students can also call the Wellness Warm Line at (856) 691-8600 x1258.
- Services Empowering Rights of Victims (SERV), provides a 24/7 toll-free hotline at 1-800-225-0196 crisis intervention, counseling, advocacy and support at hospitals, police stations, and courts for survivors of sexual and domestic violence. SERV provides safe housing for female victims of domestic violence and their children. SERV provides a website: www.centerffs.org

b. Gloucester Campus

- Dr. Lois Lawson-Briddell, Center for Counseling and Wellness Services (CWS), (856) 415-2243, College Center building, Room 206. Professional counselors will provide confidential counseling and assistance. They are available during regular business hours, Monday-Friday, 9 a.m.- 4 p.m., or a Complainant can call for an appointment.
- Crystal Noboa, Director, Center for People in Transition, (856) 415-2264, located in the College Center (just off the mezzanine), Monday-Friday, 8:30 a.m. to 4:30 p.m. Confidential assistance is provided to displaced homemakers whose major source of income and financial support is lost through spousal separation, divorce, death, or disability and who are emotionally and/or vocationally unprepared to enter the job market. The Center works directly with SERV for victims of domestic and sexual abuse and can provide expedient referrals, if deemed necessary.
- Services Empowering Rights of Victims (SERV), provides a 24/7 toll-free hotline at 1-866-295-SERV (7378), crisis intervention, counseling, advocacy and support at hospitals, police stations, and courts for survivors of sexual and domestic violence. SERV provides safe housing for female victims of domestic violence and their children. SERV provides a website: www.centerffs.org

C. Reporting to Law Enforcement

Where criminal behavior is involved, the College encourages, and will assist students and employees with reporting to law enforcement. However, individuals have the right to decline notifying law enforcement. For criminal offenses that occur on the College while in session, students and employees should immediately contact the Office of Safety & Security, (856) 681-6287, Monday-Friday, 7 a.m. to 11 p.m. and Saturday, 7 a.m. to 5 p.m. For any emergency after these hours, contact the Deptford Police or 911. The Office of Safety and Security can assist students in contacting and filing a complaint with any other agency when the incident did not occur on campus.

1. Cumberland Campus

- Cumberland County Sheriff's Office (856) 451-0033
- Vineland Police Department (856) 691-4111
- Millville Police Department (856) 825-7010
- Cumberland County Emergency Services 9-1-1

2. Gloucester Campus

- Gloucester County Sheriff's Satellite Office located on campus in the Security building, telephone (856) 681-2200.
- Deptford Police Department, 1011 Cooper Street, Woodbury, NJ 08096; telephone: (856) 845-5300; website: <http://deptford-nj.org>
- Gloucester County Sheriff's Department, 2 South Broad Street, Woodbury, NJ 08096; telephone: (856) 384-4600; website: <http://www.gloucestercountynj.gov/depts/s/sheriff/default.asp>

D. Other Reporting Options:

Students and employees may file a complaint with the:

Office of Civil Rights,

New York Office

U.S. Department of Education

32 Old Slip, 26th Floor

New York, NY 10005-2500

phone: (646) 428-3800

fax: (646) 428-3843

email: OCR.NewYork@ed.gov.

Reporting Allegations of Sexual Assault Resource Referrals (9/2019)

Cumberland Campus

There are multiple safe places for students to report allegations of sexual assault, both on and off campus. Reports of sexual assault can be made to any of the following offices listed in the chart below.

Service	Resource	Phone Number/Location/Website
Non-Confidential Reporting Law Enforcement	Vineland Police Dept.	856-691-4111
	Millville Police Department	856-825-7010
	Cumberland Co. Sheriff's Office	856-451-4449
	Cumberland County Emergency Services	9-1-1
	Cumberland Campus Security 856-200-4706 (Direct)	Andres Lopez, Director Safety and Security 856-691-8600, ext. 1777
Non-Confidential On-Campus Reporting Support Services	Almarie J. Jones Special Assistant to the President Diversity and Equity/Title IX and Compliance	<i>856-415-2154</i> <i>College Center, room 116</i> <i>ajones@rcsj.edu</i>
	Nathaniel Alridge, Jr., JD, Director Diversity and Equity/Title IX and Judicial Affairs	856-691-8600, ext. 1414 <i>nalridge@cc.rcsj.edu</i> Academic Building, 2 nd floor
	Kellie W. Slade Executive Director Student Services, Student Life	856-691-8600, ext. 1289 <i>kslade@cc.rcsj.edu</i> Student Life Building (near gym)
	All students are encouraged to report alleged crimes on campus. Employees <u>must</u> report crimes that pose an immediate threat to the campus to the Security Office, the local Police Department or the Sheriff's Office.	
Confidential On-Campus Counseling and Support Services	Heather Bense, LCSW, ACS Director ----- John Wojtowicz, LSW, VACW Mental Health Counselor Student Counseling and Wellness Center	856-691-8600, ext. 1495 <i>hbense@cc.rcsj.edu</i> ----- 856-691-8600 ext. 1496 <i>jwojtowicz@cc.rcsj.edu</i> Academic Building – 1st floor
Confidential Off-Campus Full-Service Support	Center for Family Services – Services Empowering Rights of Victims (SERV)	24/7 Hotlines Cumberland Co. – 1-800-225-0196 Camden & Glo. Co. 1-866-295-7378 https://centerffs.org/serv

Reporting Allegations of Sexual Assault and Resource Referrals (9/2019) Gloucester Campus

There are multiple safe places for students to report allegations of sexual assault, both on and off campus. Reports of sexual assault can be made to any of the following offices listed in the chart below.

Service	Resource	Phone Number/Location/Website
Non-Confidential Reporting Local Law Enforcement	Gloucester County Sheriff's Office	856-681-2200
	Deptford Township Police Dept.	856-845-2220
	Gloucester County Prosecutor's Office	856-384-5500
Non-Confidential Reporting 9-1-1 and Campus Security	9-1-1 Gloucester County Emergency Management Dispatch	9-1-1 or push RED button on Campus Blue Light Emergency Phones
	Campus Security Blue Light Emergency Phones <u>or</u> ext. 4444 from any campus desk phone	856-681-6287
Non-Confidential On-Campus Reporting Support Services	Almarie J. Jones Special Assistant to the President Diversity and Equity/Title IX and Compliance	856-415-2154 College Center, Room 116 ajones@rcsj.edu
	John F. Ryder Director Student and Veteran Affairs	856-468-5000, ext. 6456 College Center, room 202 jryder@rcsj.edu
Non-Confidential Reporting	All students are encouraged to report alleged crimes on campus. Crimes that pose a threat to the campus community <u>must</u> be reported to 9-1-1 , Security, the Sheriff's Office or the Deptford Township Police Department. All employees, including Security staff, must report incidents of discrimination, harassment or sexual misconduct to the Title IX Officer.	
Confidential On-Campus Counseling and Support Services	Lois Y. Lawson-Briddell, Ph.D. MSW, LSW, Director William Leonard, Ph.D. Intervention Teams Consultant Counseling & Wellness Services Center	856-464-5236 lbriddell@rcsj.edu College Center, Room 206 856-415-2119 wleonard@rcsj.edu <u>College Center, STEM Office C-168</u>
	Crystal Noboa, LSW, MSW Director, The Center for People in Transition (PIT)	856-415-2264 cnoboa@rcsj.edu College Center (lower mezzanine)
	Diane Mussoline, EdS, LMFT Director of Behavioral Services	856-494-5665 dmussoli@rcsj.edu College Center, Room 200A
Confidential Off-Campus Full-Service Support	Center for Family Services Services Empowering Rights of Victims (SERV)	1-866-295-SERV (7378) Camden and Gloucester counties https://www.centerffs.org/serv

X. Preserving Evidence, Protection Orders, and Reasonable Accommodations

A. Preserving Evidence

1. It is recommended that the victim preserve evidence as proof of criminal activity. After an incident of sexual assault and domestic violence, it is recommended to seek medical attention as soon as possible at the nearest medical facility including Jefferson Hospital, Washington Township, or Inspira Hospital, Woodbury. In New Jersey, evidence may be collected even if you choose not to make a report to law enforcement. Each county will have a policy and procedure allowing the evidence to be preserved for at least 90 days and up to five years, affording the Complainant the opportunity to determine if evidence will be turned over to the police. The Complainant will be informed of the county procedure for evidence storage and correct steps if they want to proceed with prosecution.
2. It is important that the victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence may be preserved and may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order.
3. In circumstances of sexual assault, if Complainants do not opt for forensic evidence collection, healthcare providers can still treat injuries and take steps to address concerns of pregnancy, and/or sexually transmitted disease. As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible criminal prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If the Complainant chooses not to make a complaint regarding an incident, he or she, nevertheless, should consider speaking with law enforcement to preserve evidence in the event that the Complainant changes her/his mind at a later date.
4. Victims of sexual assault, domestic violence, staking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other copies of documents, if they have any, that would be useful to College hearing boards/investigators or police. Complainants are encouraged to preserve evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.
5. Although the College encourages all members of its community to report violations of this policy to law enforcement, it is the Complainant's choice whether or not to make such a report and Complainants have the right to decline to notify the police.
6. A Sexual Assault Nurse Examiner (S.A.N.E.) can be requested by a Complainant at the hospital or by calling SERV.

B. Protection Orders

1. Under the Domestic Violence Act, a restraining order may be obtained by a victim of domestic violence committed by a spouse, former spouse, a present

or former household member, someone with whom they have had or are expecting a child, or someone with whom they have had a dating relationship. Only an adult or an emancipated minor may obtain a restraining order.

2. A Complainant who wants to obtain a restraining order should contact the family division of the Superior Court in their county on Monday through Friday from 8:30 a.m. to 3:30 p.m. On weekends, holidays, and weekdays after 3:30 p.m., when the Superior Court is closed, the Complainant may file a complaint at their local police department.
3. Additionally, New Jersey residents may call the Statewide Domestic Violence Hotline at 1-800-572-SAFE (1-800-572-7233) with questions about the restraining order process and other resources for domestic violence victims.
4. On campus, if a Complainant wants to obtain a protection order he/she may speak to a Security Supervisor. He or she will direct you to the Sheriff's Officer or the Deptford Police Department.
5. A Complainant will be assisted by Campus Security Authorities in notifying law enforcement authorities, if the Complainant chooses. A Complainant may also decline to notify and/or seek assistance from campus authorities and law enforcement.

C. Reasonable Accommodation

Employees and/or students who report or are the victim of sexual misconduct will be afforded reasonable accommodations, if requested, to avoid hostile environments or working conditions, regardless of whether the Complainant chooses to report the crime to campus security or local law enforcement.

Students can contact the Office of Special Services and employees can contact Human Resources to navigate through the appropriate departments for assistance with:

- Counseling
- Mental health
- Victim Advocacy
- Legal Assistance
- Campus safety escort and protective measures
- Transportation
- Change of class schedule (students)
- Change of work location or assignment (employees)
- Leave as provided or allowed under law or policy
- Adjustment in hours worked

In addition to the administrative procedure, College catalog, student handbook, and Annual Security Report, a pamphlet is provided to each student and employee that addresses whom the student or employee should call and how to request changes, as well as, visa and immigration assistance, student financial aid, and other appropriate College policies and administrative procedures.

XI. Confidentiality

When the College is made aware of a report or allegation of sexual misconduct or harassment, the College will endeavor to maintain the confidentiality of the matter and of all individuals involved to the extent permitted by law. The College will balance the needs of the individuals involved with its obligation to fully investigate allegations and to protect the safety and well-being of the community at large. In all cases, the College and its employees will respect the dignity and rights of all individuals involved.

Campus Security Authorities (CSA's)

When consulting campus resources, students and employees should be aware that certain campus authorities are mandated to report and take action after receiving information regarding sexual misconduct and harassment. These include, but not limited to, managers and supervisors, coaches, club and organization advisors, faculty and deans. If a student or employee has reported information to a campus security authority, but the student or employee would like the report to remain confidential, the individual should contact the Title IX Officer, who will evaluate the request for confidentiality. A CSA report does not need to automatically result in the initiation of a police or disciplinary investigation, if the victim does not want to pursue this action. The Complainant's identity is not required to be revealed.

XII. Federal Crime Statistics Reporting

Certain campus officials have a duty to report sexual misconduct for federal statistical reporting purposes. All personally identifiable information, as previously described, is kept confidential, but statistical information must be passed along to campus security regarding the type of incident and its general location (on or off-campus, in the surrounding area, etc. – with addresses withheld) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. Mandated federal reporters include, campus security, local police, coaches, athletic directors, student activities staff, human resources staff, advisors to student organizations, and any other staff members with significant responsibility for student and campus activities.

XIII. Federal Timely Warnings

Students and employees who report sexual misconduct and other crimes should be aware that College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the community to aid in the prevention of similar occurrences. The College will withhold the names and other personally identifiable information of students or employees as confidential, while still providing enough information

for community members to make decisions related to their safety in light of the danger. The individuals required to report for timely warning purposes are exactly the same as detailed at the end of the previous paragraph.

XIV. Training for Students and Employees

Training will be provided to all staff and students. The training will consist in part with the mandatory online trainings titled, “*Preventing Discrimination and Sexual Violence: Title IX, VAWA, and Clery Act*” for faculty and staff, and “*Student Empower*” for students.

A brochure titled, “*TITLE IX is not just a number . . . it’s the Law!*” is provided to each new student and employee.

Title IX reporting resources information will be listed in all course syllabi. In addition to this educational awareness experience, other related resources and training will be provided.

Compliance with the required training will be monitored by the Title IX Officer as well as tracked by an electronic learning management system.

XV. Resolution Procedures

1. Voluntary Resolution Procedures
 - a. Upon request by the parties, some complaints of sexual misconduct can be resolved through voluntary processes that are facilitated by the Title IX Officer. The Title IX Officer or other designated administrator will determine whether a voluntary solution is appropriate depending upon the complaint allegations. Voluntary procedures are never applied in cases involving violence or sexual assault.
 - b. If appropriate, the Title IX Officer or designee may arrange for/or facilitate mediation between the involved parties or coordinate other voluntary resolution. Voluntary resolution procedures will be initiated within ten (10) calendar days of the receipt of the Complainant’s request for voluntary resolution. The voluntary resolution procedure will be completed within sixty (60) days. All timeframes set forth in the policy may be extended by the Title IX Officer or designee for good cause, with written notice to the Complainant and the Respondent of the delay and the reason for the delay.
 - c. Voluntary resolution procedures are optional and may be terminated at any time by the parties. A voluntary resolution agreement, which outlines the terms agreed upon by the parties, will be provided to both parties simultaneously by the Title IX Officer or appropriate administrator. If either party is unsatisfied with the outcome of the voluntary resolution procedures, the formal resolution procedures may be pursued. If either party alleges that the terms of the voluntary resolution agreement have been breached, the formal resolution procedures will be initiated.

2. Formal Resolution Procedures

The formal resolution procedure will be initiated upon request by either party or when the College determines it is necessary.

- a. Written Notice: Once a formal resolution procedure has been initiated, all parties will receive written notice.
 - i. This notice will include the following: a brief summary of the allegations; the relevant policy provisions defining the elements of the charges (prohibited conduct) at issue, and information related to available resources and services.
 - ii. Once the Respondent has received written notice of the formal procedure, the Complainant and the Respondent will be kept informed of all developments and will be advised of the procedures that will guide the resolution of the complaint.
 - iii. Details of the allegations will be given to the Respondent during the first investigatory interview.
- b. Investigation: Once a report of sexual misconduct has been made, an investigation into the report will be initiated by the Title IX Officer or designee. Once a formal resolution procedure has been initiated, the Title IX Officer or designee will initiate an impartial, reliable, and thorough investigation.
 - i. The investigation may be conducted by the Title IX Officer alone or by designees of the Title IX Officer. The investigation may also be conducted by an outside investigator retained by the College.
 - ii. The Title IX Officer or designee will determine the manner in which the investigation is conducted.
 - iii. The investigation may include any of the following: interviews of the parties involved, including witnesses; review of written statements; and the gathering of other relevant information.
 - iv. Both parties will have the opportunity to present witnesses and other evidence.
- c. Investigation Report: The investigator will review all of the information gathered during the investigation and will prepare an initial investigation report which contains a summary of the information gathered during the investigation and preliminary findings of fact.
 - i. This initial report will be shared with the parties simultaneously. After the parties have been provided the initial report, the parties will have the opportunity to provide additional or rebuttal information within seven (7) calendar days to the investigators.
 - ii. The investigator will review additional or rebuttal information provided, if any, and will generate a final investigative report.
 - iii. The final investigation report will include a comprehensive description of the evidence gathered during the investigation, the investigators' findings of fact, and credibility assessments of any relevant witness or parties.

- iv. While the investigator will make initial findings of facts and credibility determinations, the investigator will not adjudicate the matter and will not reach a determination as to whether a violation of this policy occurred.
 - v. The parties will be provided with the final investigation report simultaneously and will be advised that the parties may be subject to a hearing.
- d. Advisors: The Complainant and Respondent have the right to an advisor of their choice during this process. An advisor may be a family member, an attorney, or any third party. Advisors are present to support the parties and to provide advice on procedural matters; advisors may not speak on behalf of the party.
- i. The Title IX Officer or designee will exercise control over the investigatory process. Anyone who disrupts an investigatory interview or who fails to adhere to College policies may be asked to leave an investigatory interview.
 - ii. Regardless of whether a party has an advisor, the Title IX Officer or designee will correspond and communicate directly with the Complainant and Respondent.
3. The Adjudicatory Hearing
- a. For complaints brought against students, the hearing officer will be the Executive Director of the Office of Student Engagement (“Executive Director) on the Gloucester Campus and the Director, Judicial Affairs on the Cumberland Campus unless the College, at its sole discretion, utilizes outside counsel.
 - b. For complaints brought against employees, the hearing officer will be the Executive Director of Human Resources (“HR Director”) unless the College, at its sole discretion, utilizes outside counsel.
 - c. Timeframe: The College will attempt to schedule a hearing within 20 business days after receipt of the final investigative report.
 - i. The Respondent and the Complainant will receive timely notice, in writing, of the date and time of the hearing.
 - d. Witnesses: The Respondent and the Complainant will have the opportunity to make a request to the hearing officer for witnesses to participate in the hearing on their behalf. The parties will have an opportunity to present witnesses and other evidence.
 - i. The Respondent and the Complainant must notify the hearing officer of any advisors and witnesses attending the hearing two (2) business days prior to the hearing.
 - ii. If the Respondent, the Complainant, or any witness fails to appear at the hearing, the matter will be resolved in their absence.
 - iii. Witnesses may be present at the hearing only at the time they are called to participate. A hearing will not be cancelled or postponed if a scheduled witness does not attend.

- e. Advisor: Each party may have one advisor with them during the hearing. The advisor does not have speaking privileges during the hearing, but the parties may communicate with their advisors during the hearing, if they choose.
 - i. A hearing will not be cancelled or postponed in the event an advisor does not attend.
 - ii. If the advisor is not able to attend, the Respondent or the Complainant should arrange for a substitute advisor.
- f. The hearing officer will exercise control over the manner in which the hearing is conducted to avoid unnecessarily lengthy hearings and to prevent the harassment or intimidation of witnesses.
 - i. This includes, but not limited to, imposing reasonable limits on the number of factual witnesses that may participate.
 - ii. Questions by the parties should be directed to the hearing officer. The hearing officer has the authority to limit, restrict, or redirect the parties' questions to prevent harassment, intimidation, or irrelevance.
 - iii. Anyone who disrupts a hearing or who fails to adhere to hearing procedures may be excluded from the proceeding.
- g. Hearing officers will be assisted by a confidential administrative assistant.
- h. All hearings will be closed to the public.
- i. Alternative Testimony: For all participating parties, alternative testimony options will be provided. Options include, placing a privacy screen in the hearing room, providing testimony from another room via conference phone, or other options that provide a safe space for participation while not depriving any party of their rights in the process. While alternative testimony options are intended to help make participating parties more comfortable, they are not intended to work to the disadvantage of the other participating party.
- j. All hearings will be audio recorded. A digital file will be made available to the Complainant and/or Respondent student in the event a request for an appeal is filed.
- k. Evidence Presented at the Hearing
 - i. Written statements of witnesses not in attendance may be considered by the hearing officer.
 - ii. Only the information and evidence related to the alleged violations set forth in the formal complaint will be considered.
 - iii. The Title IX Officer or designated investigator may be called as witness.
- l. Past Sexual History/Character: The past sexual history or sexual character of a student or employee will not be admissible by the other party in investigatory interviews or hearings unless such information is determined to be highly relevant by the Title IX Officer or hearing officer.
- m. Hearing Procedure: At the start of the hearing, the hearing officer will ask if the Respondent has received the original notice letter and understands the nature of the charges.
- n. The hearing officer will present the notice letter along with the information obtained through the investigation. The remainder of the hearing will customarily proceed in the following order:

1. Opening statement from the Complainant.
 2. Opening statement from the Respondent.
 3. Complainant and Respondent questioning of witnesses and parties (each witness will be questioned separately).
 4. Hearing officer questioning of witnesses (each witness will be questioned separately then excused).
 5. Hearing officer questioning of the Complainant and the Respondent.
 6. Respondent's responding statement.
 7. Complainant's responding statement.
 8. Final questions from the hearing officer.
 9. Respondent's closing statement.
 10. Complainant's closing statement.
- o. Deliberation: The hearing officer will review the information and make an appropriate independent determination based on the information presented during the hearing.
- i. The hearing officer will render a decision as expeditiously as possible.
 - ii. The hearing officer will determine whether or not the Respondent violated policy.
 - iii. If a determination of "In violation" is rendered, the hearing officer will determine an appropriate sanction(s) consistent with those specified in the College's administrative procedures *8007 Student Code of Conduct* or *7009 Employee Conduct and Work Rules*.
- p. Notification: The hearing officer will notify the Respondent and the Complainant simultaneously, in writing, of the decision. The hearing officer will notify the Respondent and the Complainant simultaneously, in writing, of any change to the results prior to final imposition and the date of final imposition.

XVI. Appeal Procedures

1. Upon receiving notification of the outcome of a hearing conducted by the hearing officer, the Respondent or the Complainant may file an appeal under the following circumstances.
 - a. A procedural or substantive error occurred in the process that significantly impacted the outcome of the hearing (e.g., material deviation from College policy; substantial bias; the findings and decision are contrary to the great weight of the evidence);
 - b. New and significant information has become available which could not have been discovered by a properly diligent person before or during the hearing; or
 - c. The sanction is inappropriate in light of the violation.
2. **Students:**
 - a. A written appeal within five (5) business days is made to the Executive Director of the Office of Student Engagement ("Executive Director") on the Gloucester Campus or the Director, Judicial Affairs on the

Cumberland Campus who will prepare the case file for forwarding to the Vice President and Provost (“Provost”). Sanctions remain in place during the appeal.

- b. The Provost reviews the appeal file and notifies the student of the results of the appeal within fifteen (15) business days of receipt of the appeal.
- c. The final appeal to the President may be requested in writing within five (5) business days of receipt of the Provost’s decision.
 - 1) The written appeal and case information must be submitted to the Executive Director where it will be recorded and forwarded to the President for review.
 - 2) The President’s decision is final.

3. **Employees:**

- a. A written request for appeal of the HR Director’s decision may be made to the President in accordance with administrative procedure, *7203 Grievances*.
- b. A final appeal may be considered by the Board of Trustees in accordance with administrative procedure, *7203 Grievances*.

XVII. Sanctions For Violations

1. Following an investigation, College employees found in violation of this policy are subject to prosecution and disciplinary action under applicable policies, procedures and/or collective bargaining provisions. Sanctions that the College may impose on an employee following a final determination of responsibility include, counseling, written warning, suspension and final warning, and/or termination of employment.
2. Students found in violation of this policy are subject to prosecution and are also subject to disciplinary action under the College’s policy, *8007 Student Code of Conduct*. Sanctions that the College may impose on a student following a final determination of responsibility include, but not limited to, warning the student, loss of privileges, restitution, disciplinary probation, suspension, or expulsion. (For a list of sanctions, see administrative procedure *8007 Student Code of Conduct*).

XVIII. Special Provisions

1. Notification of Outcomes
 - a. The outcome of a campus disciplinary hearing is part of the education record of the Respondent student and is protected from release under FERPA. However, the College observes the exceptions as follows: Complainants of incidents charged under policy *7013 Sexual Misconduct and the Rights of Victims* have a right to be informed simultaneously of the outcome and sanctions of the hearing in writing. Complainants are also permitted to submit an appeal.

- b. The College will release the report directly to the alleged victim or next of kin, if deceased.
- 2. College as Complainant
 - a. As necessary, the College reserves the right to initiate a complaint, to serve as Complainant, and to initiate institutional disciplinary proceedings without a formal complaint by the student of sexual misconduct or harassment.
 - 3. Timeline
 - a. All timeframes set forth herein may be extended by the Title IX Officer or other administrator for good cause, with written notice to the Complainant and the Respondent of the delay and the reason for the delay.

Area: Human Resources
Approved: 07/01/19

President's Authorization: _____

References:

Rowan College of South Jersey Board of Trustees Policy Manual *7011 Harassment and Discrimination, 7013 Sexual Misconduct and the Rights of Victims, and 8007 Student Code of Conduct*

Rowan College of South Jersey Administrative Procedure *7009 Employee Conduct and Work Rules, 7203 Grievances, 8007 Student Code of Conduct, and 8007.1 Interim Safety Suspension*

Administrative Procedure: 7013 Sexual Misconduct and The Rights of Victims