

Procedure 25.1 DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT REPORTING PROCEDURE

Revised: 3/25/25

I. Purpose

This policy is adopted by the Atlantic Cape Community College Board of Trustees (herein referred to as Atlantic Cape) specifically to address misconduct, discrimination, and harassment based on sex (hereinafter to include claims based on pregnancy or sexual orientation/gender identity/expression) as well as the following offenses defined herein: dating violence, domestic violence, sexual assault, and stalking; and, to establish procedures for responding to incidents of sexual misconduct, discrimination, and harassment. Sexual misconduct and harassment are forms of sexual discrimination prohibited by Title IX and Atlantic Cape.

Atlantic Cape is committed to eliminating any and all acts of sexual misconduct, discrimination, and harassment on its campus. An environment free from such acts is necessary to a healthy learning and working atmosphere because such misconduct, discrimination, and harassment undermine human dignity and the positive connection among all people at this College. Any allegation of sexual misconduct, discrimination, or harassment, as defined herein, will be investigated and resolved according to this policy. Atlantic Cape will take appropriate steps, as needed, to prevent the recurrence of sexual misconduct, discrimination, or harassment, and to remedy any discriminatory effects.

II. Scope

- A. These procedures shall be utilized by:
 - 1. Any employee or student, including applicants for employment or admission as a student, who has been a victim of sexual misconduct, discrimination, and/or harassment, regardless of sexual orientation or gender identity/expression;
 - 2. Any former employee or student who has been a victim of sexual misconduct, discrimination, and/or harassment, if the conduct took place during the time of employment or enrollment at Atlantic Cape, and the conduct has a reasonable connection to the institution;
 - 3. Any employee or student who has knowledge of an act of sexual misconduct, discrimination, and/or harassment against another employee or student in order to report such conduct; and,
 - 4. All third parties with whom Atlantic Cape has an educational or business relationship who have been a victim of sexual misconduct, discrimination, and/or harassment when the conduct has a reasonable connection to the institution.
- B. This policy is adopted specifically to address the offenses defined herein.
- C. This policy applies to all College programs and activities, including, but not limited to, sexual misconduct, discrimination, and harassment in athletics, instruction, grading, and College employment. This policy applies to alleged violations that occur on

College owned, leased, or otherwise controlled property and off campus, when the conduct impairs, interferes with, or obstructs any College activity or the mission, processes, and functions of the College. This policy also applies to any off-campus behavior that affects a substantial College interest. A substantial College interest is defined to include:

1. Any situation where a student's conduct may present a danger or threat to the health or safety of others;
2. Any situation that significantly impinges upon the rights, property, or achievements of others;
3. Any situation that is detrimental to the educational mission and/or interests of the College.

D. In addition, the law prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of sexual misconduct, discrimination, or harassment, for assisting someone with such a complaint, for attempting to stop such conduct, or for participating in any manner in an investigation or resolution of a complaint of sexual misconduct, discrimination, or harassment. It is central to the values of this College that any individual who believes he/she may have been the target of unlawful sexual misconduct, discrimination, or harassment feel free to report his/her concerns for appropriate investigation and response, without fear of retaliation or retribution.

In complying with Title IX regulations, no actions taken by the College under this policy are intended to restrict those rights protected under the U.S. Constitution including the First Amendment, Fifth Amendment and Fourteenth Amendment. Furthermore, this policy shall not be construed or applied to restrict academic freedom, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.

III. Definitions.

A. Advisor. A person selected by the complainant or respondent to represent them at the live Title IX hearing. This person may be a lawyer but is not required to be. If one party presents with an Advisor and the other party does not have one, an Advisor must be provided by the College, at no charge, to that party. The Advisor provided must be independent of the Title IX Coordinator or Co-coordinator, Investigator or Hearing Officer and cannot be any other person(s) who may have a perceived or real conflict of interest.

B. Complainant/Respondent. An individual who is alleged to be the victim of conduct that could constitute sexual harassment is defined as the “***complainant***” during the process set forth herein. An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment is defined as the “***respondent***” during this process.

C. Consent. An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

D. Domestic Violence/Dating Violence.

1. Violence against a person when the accuser and accused:
 - a. Are current or former spouses;
 - b. Live or have lived together as a spouse or intimate partner;
 - c. Are related by blood or adoption;
 - d. Are related or were formally related by marriage; or,
 - e. Are adult or minor children of a person in a relationship described above.
 - f. Are dating, or who have dated, or who have or had a sexual relationship. "Dating" and "dated" do not include fraternization between two (2) individuals solely in a business or non-romantic social context.
2. Violence includes, but is not necessarily limited to:
 - a. Inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
 - b. Placing the accuser in fear of physical harm;
 - c. Physical restraint;
 - d. Malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
 - e. Placing the accuser in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

E. Education program or activity. Includes locations, events or circumstances over which Atlantic Cape exercised substantial control over both the respondent and the context in which the sexual harassment occurred. This applies to all education programs or activities, whether such programs or activities occur on-campus or off-campus. Atlantic Cape must respond when sexual harassment occurs in the school's education, program or activity against a person in the United States.

F. Evidentiary Standard. Atlantic Cape Community College elects to use the Preponderance of the Evidence standard as its evidentiary standard.

G. Formal Complaint. Document filed by a complainant and signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment and states:

1. At the time of filing of a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

2. A formal complaint may be filed with the Title IX Coordinator in person, by mail or by electronic mail.

H. Grievance Process. Process by which formal complaints of sexual harassment are resolved. This process must:

1. Include a “Live “Hearing”
2. Treat complainants equitably by providing remedies any time a respondent is found responsible.
3. Treat respondents equitably by not imposing disciplinary sanctions without following the grievance process.
4. Design remedies provided to a complainant, when a respondent is found to be responsible, to maintain the complainant’s equal access to education. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
5. Require objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person’s status as a complainant, respondent or witness.
6. Not use, rely on or seek disclosure of information protected under legally recognized privilege, unless the person holding such privilege has waived the privilege.
7. Apply equally to both parties.

I. Hearing Officer. Person charged with overseeing the live hearing resultant from a Title IX investigation and determination of a cause of action. This person is responsible is the decision maker after review of the evidence including verbal testimony of the complainant and the respondent. This person must be independent of the Title IX Coordinator, Co-coordinator or Investigator and cannot be any other person(s) who may have a real or perceived conflict of interest or bias for or against complainants or respondents.

J. Investigator. This is the person or persons assigned to investigate a Title IX violation at the request of the Title IX Coordinator or Co-coordinator. This person must be independent of the Title IX Coordinator, Co-coordinator or Hearing Officer and cannot be any other person(s) who may have a real or perceived conflict of interest or bias for or against complainants or respondents.

K Responsible Employee. An Atlantic Cape employee who has the authority to institute corrective measures of sexual misconduct, discrimination, and/or harassment; who has the duty to report incidents of sexual misconduct, discrimination, and/or harassment; or, whom a student could reasonably believe has this authority or duty.

L. Retaliation. Action taken against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop, or attempted to stop, actual or perceived sexual misconduct, discrimination, or harassment. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual

because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purposes of interfering with any right or privilege secured by Title IX constitutes retaliation.

M. Sexual Assault. The nonconsensual sexual contact with the accuser by the accused, or the accused by the accuser when force or coercion is used to accomplish the act, the sexual contact is accomplished without consent of the accuser, and the accused knows or has reason to know at the time of the contact that the accuser did not or could not consent. Sexual contact includes, but is not limited to, the intentional touching of the accuser's, the accused's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the accuser's, the accused's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

N. Sexual Discrimination. Treating individuals less favorably because of their sex (including pregnancy or sexual orientation/gender identity/expression) or having a policy or practice that has a disproportionately adverse impact on protected class members.

O. Sexual Harassment (student-on-student): for purposes of allegations of sexual harassment where both the accused and the accuser are students, sexual harassment is defined as unwelcome conduct directed toward a person on the basis of sex that is so severe and pervasive, and objectively offensive that it effectively denies the accuser equal educational access.

P. Sexual Harassment. In all other instances involving allegations of sexual harassment not addressed in Section III. H., above, sexual harassment is defined to include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault, where a tangible employment or educational action is conditioned upon submission to or rejection of unwelcome sexual advances, (*quid pro quo*) or where conduct is so severe and pervasive and objectively offensive that the individual is effectively denied equal access to the College's resources and opportunities. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex.

Harassment does not have to include intent to harm, be directed at a specific person or group of people, or involve repeated incidents. Sex-based harassment includes sexual harassment, which is further defined below, and non-sexual harassment based on stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

1. Consistent with the law, this policy prohibits two (2) types of sexual harassment:
 - a. Tangible Employment or Educational Action. (*Quid pro quo*) This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment,

or participation in a College activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a College program or activity. Generally, perpetrators will be agents or employees with some authority from the College.

b. Hostile Environment. A hostile environment based on sex exists when harassment is sufficiently serious (i.e., severe and pervasive) and objectively offensive so as to effectively deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or harassment that creates a hostile environment (hostile environment harassment) violates this policy. A hostile environment can be created by anyone involved in a College program or activity (i.e., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single serious incident, such as a sexual assault, even if isolated, can be sufficient.

2. In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:
 - i. The degree to which the conduct affected one or more students' education or individual's employment;
 - ii. The nature, scope, frequency, duration, and location of the incident or incidents;
 - iii. The identity, number, and relationships of persons involved; and
 - iv. The nature of higher education.
3. Examples of conduct that might rise to the level of sexual harassment include, but are not limited to, the following:
 - a. Refusing to hire, promote, or grant or deny certain privileges because of acceptance or rejection of sexual advances;
 - b. Promising a work-related benefit or a grade in return for sexual favors;
 - c. Suggestive or inappropriate communications, email, notes, letters, or other written materials displaying objects or pictures, which are sexual in nature, that would create hostile or offensive work, living, or educational environments;
 - d. Sexual innuendoes, comments, and remarks about a person's clothing, body, or activities;
 - e. Suggestive or insulting sounds;
 - f. Whistling in a suggestive manner;
 - g. Humor and jokes about sex that denigrate men or women;
 - h. Sexual propositions, invitations, or pressure for sexual activity;

- i. Use in the classroom of sexual jokes, stories, remarks, or images that are in no way or only marginally relevant to the subject matter of the class;
- j. Implied or overt sexual threats;
- k. Suggestive or obscene gestures;
- l. Patting, pinching, and other inappropriate touching;
- m. Unnecessary touching or brushing against the body;
- n. Attempted or actual kissing or fondling;
- o. Suggestive or inappropriate acts, such as comments, innuendoes, or physical contact based on one's actual or perceived sexual orientation and/or gender identity/expression;
- p. Graphic or written statements (including the use of cell phones and the internet), or other conduct that may be physically threatening, harmful, or humiliating in a manner related to sex.

Q. Sexual Misconduct. For the purposes of this policy, sexual misconduct is defined as dating violence, domestic violence, stalking, and sexual assault.

R. Stalking. A willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the accuser to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Harassment means conduct directed toward the accuser that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and that actually causes the accuser to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

S. Supportive Measures. Individualized services reasonably available that are non-punitive, non-disciplinary and not unreasonably burdensome to the other party whole designed to ensure equal educational access, protect safety or deter sexual harassment.

T. Title IX Coordinator. The Title IX Coordinator is the Atlantic Cape official responsible for overseeing the College's response to sexual misconduct, discrimination, and harassment reports and complaints and for addressing any patterns or systemic problems identified by such reports and complaints. This official oversees and coordinates the College's programs and training efforts with regard to sexual misconduct, discrimination, and harassment. The Title IX Coordinator conducts investigations and has the authority to implement all interim measures deemed appropriate. All requests by complainants for confidentiality should be evaluated by the Title IX Coordinator.

IV. Reporting Sexual Harassment

Reporting Responsibilities

1. College employees who have actual knowledge or witness discrimination, harassment, sexual misconduct, or retaliation are required to promptly report to the Title IX Coordinator or Co-coordinator unless prohibited by confidentiality (see below). Any student who is aware of or who witnesses discrimination, harassment, sexual misconduct, or retaliation is encouraged to promptly report to the Title IX Coordinator or Co-coordinator. All initial contacts will be treated with the maximum possible privacy: specific information on any complaint received by any party will be reported to the Title IX Coordinator, but, subject to the College's obligation to investigate and redress violations, every reasonable effort will be made to maintain the privacy of those initiating a report of a complaint. In all cases, the College will give consideration to the complainant with respect to how the complaint is pursued but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal complaint.
2. Atlantic Cape is required to respond whenever *any* employee has notice of sexual harassment. College employees who experience, are aware of or witness discrimination, harassment, sexual misconduct or retaliation against any employee or employees should report such activity to the Affirmative Action Office, 5100 Black Horse Pike, Mays Landing, NJ 08330. (609)343-6810, room J219.

V. Grievance Process

Atlantic Cape Community College will respond promptly to every alleged violation of this procedure received by the Title IX Coordinator or Title IX Co-coordinator in a manner that is not deliberately indifferent and not unreasonable in light of the circumstances. This section outlines ways in which offenses can be reported by individuals choosing to pursue complaint options.

Title IX Coordinator

Nancy Porfido is the Judicial Officer and Student Advocacy Coordinator and Title IX Coordinator for the College. She is available to anyone seeking additional information or wishing to file a complaint. Her office is located at the Mays Landing Campus, 5100 Black Horse Pike, Mays Landing, NJ 08330, G-Building, room 118; porfido@atlanticcape.edu; (609

A. Role of the Title IX Coordinator

1. The Title IX Coordinator is charged with:
 - a. Coordinating the College response to reports of misconduct under this procedure. The Title IX Coordinator does not serve as investigators, advisors or hearing officers in this process. They do not serve as

advocates for either the complainant or the respondent. The Title IX Coordinator will explain to both parties the informal and formal processes outlined below and the provisions for confidentiality. Where appropriate, the Title IX Coordinator will provide to both parties information on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator will coordinate with other campus officials to take appropriate interim actions such as no contact orders, academic accommodations, and work assignments.

- b. Coordination and oversight of training for anyone involved in responding to, investigating, or adjudicating sexual misconduct, discrimination, and/or harassment;
- c. Coordination and oversight of training for employees related to their responsibility when they are aware of sexual misconduct, discrimination, and/or harassment;
- d. Coordination and oversight of annual training for investigators, decision makers, hearing officers and hearing committee members on the issues related to sexual misconduct, discrimination, and/or harassment and on how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability; and
- e. Attending appropriate training annually on topics related to responding to or investigating allegations of sexual misconduct, discrimination, and harassment.

B. Steps to be taken by Title IX Coordinator.

Upon receiving information alleging sexual harassment, the Title IX Coordinator must do the following:

1. Promptly contact the complainant confidentially to discuss the availability of supportive measures.
2. Consider the complainant's wishes with respect to supportive measures.
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint.
4. Explain the process for filing a formal complaint.
5. Explain the Grievance Process including:
 - a. What constitutes a Title IX violation.
 - b. Expectations regarding Confidentiality
 - c. The investigatory process including notice to the respondent.
 - d. The live hearing process, including the availability of advisors and cross examination.

C. Confidentiality and Reporting of Offenses

1. Atlantic Cape Community College will make every effort to safeguard the identities of individuals who seek help and/or report discrimination, harassment, and/or retaliation. While steps are taken to protect the privacy of victims, the College may need to investigate an incident and take action once an allegation is known, whether or not the reporting

individual chooses to pursue a complaint. Remember full confidentiality can only be offered by counseling services.

2. When a report is made, personally identifiable information (name of victim, name of respondent, etc.) may be initially withheld in cases where the victim is hesitant to come forward. Subsequently, campus officials may need additional information. The College Title IX Coordinator will conduct an initial inquiry, looking for any sign of pattern, predation, violence, or threat. When such exists, institutional action may be required in an effort to ensure campus safety. No employee should ever promise absolute confidentiality except those as described in the section on Confidential Reporting. Reports may be private, but not confidential, as described below in the section on Confidential Reporting. Reports to police and/or Title IX officials do not obligate the complainant to file any criminal or College conduct charges.

3. Deliberately false and/or malicious accusations of discrimination, harassment, or retaliation, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as discrimination, harassment, or retaliation and will be subject to appropriate disciplinary action.

D. Options Available to Victim/Survivor

1. If a victim/survivor chooses to share information regarding a suspected sexual misconduct incident with Counseling Services, the counselor involved is a confidential resource, unless there is a duty to warn, such as when they believe there is a threat of intent to harm self or others, child abuse or elder abuse. **Please be aware that these staff members are termed confidential resources.** The following protocol will be followed:

- Counselors have the privilege of confidentiality. This means that the information regarding sexual misconduct that is shared with a counselor cannot be shared with others without written permission unless the victim/survivor is under 18 years of age.
- Sexual assault is a physical and psychological trauma, which necessitates the medical and emotional evaluation of the victim/survivor.
- Any victim/survivor of sexual misconduct will be triaged into an immediate appointment with an available counselor.
- If the sexual misconduct occurred in the remote past, the victim/survivor may be seen at a scheduled appointment, unless there is a request for an immediate appointment.
- If an incident occurs after hours on campus, it would be reported to security. Security will then inform the victim/survivor of options available to them.
- The victim/survivor will be treated with respect, support and consideration for the emotional stress that she/he may be experiencing.
- The mental health professional will work together with the victim/survivor throughout the journey toward healing and regaining the power that may feel lost as a result of the assault.
- If the victim/survivor goes to Counseling Services and has not already been evaluated by a medical professional, the victim/survivor will be strongly

encouraged and educated about the medical assessment and treatment options available at Health Services and/or Atlanticare Regional Medical Center, Cooper University Hospital Cape Regional or Shore Medical Center.

- If the victim/survivor chooses to have forensic evidence collected (“Rape Kit”), such evidence must be collected by a legally sanctioned and specially trained Sexual Assault Nurse Examiner (SANE). This evidence is vitally important should the victim/survivor ever decide to take legal action against the perpetrator; however, the collection of evidence does not require the victim/survivor to submit a formal report.
 - The victim/survivor will decide what other resources of support she/he wishes to accept but will be educated by the counselor of Atlantic Cape’s Sexual Misconduct Policy and the options and support available. The importance of health services and counseling services in the healing process of this trauma will be emphasized. The victim/survivor will be reminded of the confidential nature/privilege of these individuals.
 - The victim/survivor will decide on a reporting course of action. The victim/survivor will hear the Counseling professional describe all reporting options, **including the option not to report.**
 - The victim/survivor can discuss the situation with any confidential resource before making a decision about reporting.
 - Decisions surrounding reporting are controlled by the victim/survivor when she/he is seeking help and services from confidential resources. If the victim/survivor shares information with reporting resources, these individuals are legally obligated to report the event to the Office of Security and Public Safety.
2. If a victim/survivor chooses to share information regarding a suspected sexual misconduct incident with the Title IX Coordinator, an Administrative Staff Member, Faculty Member, Support Staff Member, Physical Plant Staff Member or Security and Public Safety, he or she will be considered a Reporting Resource. The following protocol will be followed:
- Reporting resources are legally required to report allegations of sexual misconduct to the Title IX Coordinator or Office of Security and Public Safety.
 - Sexual assault is a physical and psychological trauma, which necessitates the medical and emotional evaluation of the victim/survivor. Atlantic Cape staff should always encourage the victim/survivor to seek the services of Health and Counseling.
 - The victim/survivor will be treated with respect, support and consideration for the emotional stress that she/he may be experiencing.
 - The supportive response a victim/survivor receives from any reporting member of listed departments can be of great value in the healing process. How a victim/survivor is first received can deeply influence the healing process.

- Staff members are required by law to report an allegation of sexual misconduct to the Office of Security and Public Safety, the victim/survivor can decline to discuss or disclose any information that she or he is uncomfortable sharing. What this means is that when contacted by the Office of Security and Public Safety (or legal authorities) the victim/survivor may refuse to respond to questions or provide information. The victim/survivor always controls the amount of information she or he will share
- The victim/survivor will be provided confidential support options (Counseling Services)

3. Complaints and reports should be made as soon as possible after an incident.

- a. If the incident is an assault seek immediate medical attention. Do not change clothing, shower, bath, brush teeth or douche. Delay the above and going to the bathroom (if possible) until you are examined as this preserves evidence of the assault. Medical attention should be accessed at a local hospital.

Atlanticare Regional Medical Center: 609-652-1000 Pomona

Atlanticare Regional Medical Center: 609-345-4000 Atlantic City

Cooper University Hospital Cape Regional: 609-463-2273 Cape May Court

House Shore Medical Center: 609-653-3500 Somers Point

- b. If someone is in immediate danger or is a victim of a crime, call 9-1-1. Some acts of discrimination and harassment may also be crimes, such as sexual assault or stalking. Besides reporting to campus security, allegations of criminal conduct is recommended to be reported to law enforcement even when it is not clear whether the conduct rises to the level of a crime. Regardless, law enforcement can assist with obtaining medical care, getting immediate law enforcement response and protection, connecting with victim advocate services and counseling support, initiating a criminal investigation as appropriate and answering questions about the criminal process.
- c. We encourage you to seek emotional support when you are ready to talk about this issue and that you tell someone you trust. If you would like to bring a friend or family member to speak to someone on campus, we fully support that.
- d. Security and Public Safety will report to police, only if requested by the complainant and any such report will be forwarded to the Title IX Coordinator.
- e. On campus you may contact:
- Counseling Office: ML: (609) 343-5621, Monday to Friday 9:00 a.m. to 6:00 p.m.; AC: (609)343-4895, Monday to Thursday 9:00 a.m. to 5:00 p.m., CM: (609) 463-3960, Monday to Thursday 9:00 a.m. to 5:00 p.m. Summer Hours: Monday to Thursday, 8:00am to 5:30 p.m., Friday (closed),

- Security, after hours and weekends: ML, (609) 343-5125, AC, (609) 343-4841, CM, (609) 463-6390 daytime
- f. The rape treatment and crisis center can be contacted via a 24 hour, 7 days a week hotline. They can provide accompaniment to the hospital, police department and/or court, individual and group counseling for victims of sexual assault and advocacy.
- AVANZAR, (Formally the Atlantic County Women’s Center)
1201 New Road
#240
Linwood, NJ 08221
609—569-5437
24 Crisis Hotline 1-800-286-4184; Message: 609-569-5437
 - Coalition Against Rape and Abuse, Inc. P.O. Box 774
Cape May Court House, NJ 08210
(609) 522-6489 /Toll Free 1-877-294-2272

4. Campus and Police Reporting

- a. In addition to campus reporting, reports may also be made to the police, especially if a crime is or may be involved, by calling the following numbers:
- Emergency 9-1-1
 - Atlantic City Police (Non-Emergency Number 609-347-5779)
 - Township of Hamilton Police (Non-Emergency Number 609-625-2700)
 - Middle Township Police (Non-Emergency Number 609-465-8700)
 - **Campus Security**
- | | | |
|------------------------------|--------------------------|-----------------|
| Mays Landing Campus Security | (609) 343-5125 | U Building |
| Cape May Campus Security | (609) 463-6390 (day) | |
| | (609) 463 3967 (evening) | 1st floor lobby |
| Atlantic City Campus | (609) 343-4841 | 1st floor lobby |

5. Options for filing a report include:

a. Anonymous and Third Party Reporting

The Title IX Officer may accept anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Officer to investigate and respond as appropriate. The College may be limited in its ability to investigate an anonymous or third party report unless sufficient information is provided.

b. Confidential Reporting

1. If a complainant is making a report and would like the details of an incident to be kept confidential, the complainant will be referred to counselors, health service providers, victim services advocates, community resources, local or state assistance agencies, or members of the clergy who are permitted by law to

maintain confidentiality (except in extreme cases of immediacy of threat or danger or abuse of a minor).

2. For the timely warning and Clery Act reporting each year (these are secured data shared that are total number of incidents not identifying information), these sources may submit anonymous statistical information. If a reporting party is unsure of a resource's ability to maintain confidentiality, the reporting party is advised to ask them before talking to them.
3. When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the increased risk that the alleged perpetrator will commit additional acts of sexual or other misconduct, such as:
 4. Whether there have been other sexual misconduct, discrimination, and/or harassment complaints about the same alleged perpetrator;
 5. Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct, discrimination, or harassment;
 6. Whether the alleged perpetrator threatened further sexual misconduct, discrimination, and/or harassment or other misconduct against the complainant or others;
 7. Whether the sexual misconduct, discrimination, and/or harassment was committed by multiple perpetrators;
 8. Whether the sexual misconduct, discrimination, and/or harassment was perpetrated with a weapon;
 9. Whether the victim is a minor;
 10. Whether Atlantic Cape possesses other means to obtain relevant evidence of the sexual misconduct, discrimination, and/or harassment; or
 11. Whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group.
12. The presence of one or more of these factors could lead Atlantic Cape to investigate and, if appropriate, pursue disciplinary actions.
13. If none of these factors are present, Atlantic Cape will likely respect the complainant's request for confidentiality.
14. If Atlantic Cape determines that it cannot maintain a complainant's confidentiality, the Title IX Coordinator will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response.
15. Atlantic Cape will not require a complainant to participate in any investigation or disciplinary proceeding.

c. Formal Reporting

Complainants are encouraged to speak directly with the Title IX Officer to make a formal complaint. Complainants have the right, and can expect, to have complaints taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter and only a small group of officials who need to know will be told. Information will be shared as necessary with investigator(s), witnesses, the respondent, and a hearing board if deemed appropriate. While this is not

confidential, the number of people with this knowledge will be kept to as few as reasonably possible to preserve a complainant's rights and privacy.

VI. Formal Grievance Process- for Students

A. Filing a Complaint. Any individual who believes that an action has occurred in violation of Title IX as outlined in this procedure, should contact the Title IX Coordinator.

B. Complaint Intake

1. Following the receipt of a verbal or written notice or complaint, the Title IX Coordinator will, within five (5) college days, schedule separate confidential meetings with the complainant, respondent and any witnesses to so that an initial determination can be made as to whether the information has merit to reasonably indicate there may have been a Title IX violation and/or a violation of College policy

2. If it appears a violation may have occurred, an investigation will begin once a formal complaint has been received.

3. If the alleged behavior does not rise to the level expressly stated in Title IX regulations, or if conflict resolution is desired by the complainant and appears appropriate given the nature of the alleged behavior, then the formal complaint does not proceed to investigation.

4. An investigation will also be pursued if there is sufficient information to suggest that the alleged behavior constitutes a perceived threat or further harm to the community or any of its members may exist.

C. Supportive Measures

The College will implement supportive measures, as defined in these procedures, and/or protective actions upon notice of alleged discrimination, harassment, and/or retaliation and will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor who has violated this policy.

1. Interim actions include but are not limited to: no contact orders, no trespass notices, providing counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, leaves of absence, safety planning, and referral to campus and community resources.
2. The College may suspend, on an interim basis, a student or student organization or place an employee on administrative leave pending the completion of the investigation and procedures. In cases in which an interim suspension or administrative leave is imposed, the student, employee, or student organization will be given the opportunity to meet with an appropriate administrator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented. Violation of interim provisions will be grounds for disciplinary action

3. During an interim suspension or administrative leave, a student or employee may be denied access to the College campus, facilities, or events, either entirely or with specific application. As determined by the appropriate administrative officer, this restriction includes classes and/or all other College activities or privileges for which the individual might otherwise be eligible. At the discretion of the appropriate administrative officer, alternative coursework options may be pursued to ensure as minimal an impact as possible on the respondent student. At the discretion of the appropriate administrative officer, alternative employment/work options may be pursued to ensure as minimal an impact as possible on the respondent employee

D. Investigation

Atlantic Cape is required to investigate or have investigated sexual harassment allegations in any formal complaint filed by the complainant and signed by the Title IX Coordinator.

1. Upon receipt of a formal complaint, a written notice will be sent to both parties of the allegations. If the respondent is an employee, the written notice will be copied to the employee's department Dean, Vice President, and College President.
2. Atlantic Cape will conduct an adequate, reliable and impartial investigation in a timely manner, providing the respondent and complainant equitable rights during the investigative process.
3. Both parties will be provided equal opportunity to present facts and expert witnesses and other inculpatory and exculpatory evidence.
4. Parties must not be restricted from discussing the allegations or gathering evidence.
5. Parties must have the same opportunity to select an Advisor of their choice who may or may not be an attorney.
6. The College must send written notice of any investigative interviews, meetings or hearings
7. The Parties and their attorneys or Advisors must be sent evidence directly related to the allegations in electronic format or hard copy with at least ten (10) days for the parties to inspect, review and respond to the evidence.
8. The College must send the parties, and their Advisors an investigative report that fairly summarizes relevant evidence, in electronic or hard copy format, with at least ten (10) days to respond.
9. The College, may, in its discretion, dismiss a formal complaint or allegation if:
 - a. The Complainant informs the Title IX Coordinator, in writing, that the complainant desires to withdraw the formal complaint or allegations
 - b. If the respondent is no longer enrolled at or employed by the College, or
 - c. If specific circumstances prevent the College from gathering sufficient evidence to reach a determination.
10. The College must provide written notice of the dismissal to the parties and the reasons for the dismissal.
11. All complaints of sexual misconduct, discrimination, and/or harassment shall be presented to the Title IX Coordinator for investigation and

appropriate disposition.

12. Complaints involving sexual misconduct, discrimination, and/or harassment will be investigated by a qualified, sufficiently trained person appointed by the Title IX Coordinator (Investigator). The Investigator shall receive training that either (1) satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1981), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended, or (2) training developed and conducted by an approved training provider.

13. The investigator shall also notify the President and the Affirmative Action Officer that an investigation is being initiated.

14. With the voluntary written consent of both parties, informal resolution may be attempted in cases alleging violations of this policy. Prior to any attempted informal resolution, both parties shall receive full disclosure of the allegations and their options for a formal resolution.

15. Title IX protects the privacy of a party's medical, psychological, and similar treatment records by stating that the College cannot access or use such records unless the College has obtained the written, voluntary consent to do so.

16. The complainant's wishes with respect to whether the College investigates should be respected unless the Title IX Coordinator determined that signing a formal complaint to initiate an investigation, over the wishes of the complainant, is not clearly unreasonable in light of the known circumstances.

17. During the course of the investigation, Atlantic Cape will endeavor to have sufficient evidence gathered so that a fair and impartial determination can be reached, as to whether sexual discrimination, harassment, or misconduct occurred and, if so, whether a hostile environment has been created that must be redressed.

18. If the allegations in a formal complaint do not meet the definition of sexual harassment as defined in this procedure, or did not occur in the College's education program or activity against a person in the United States, the College must dismiss the allegation for purposes of Title IX but may still address the allegations in any manner deemed appropriate under the Code of Conduct Policy of the College.

E. Hearing

1. Upon receipt of the investigative report from the Investigator, the Title IX Coordinator will schedule an in-person /live hearing or one conducted virtually (e.g. ZOOM).

2. During a hearing:

- a. The hearing will be presided over by an appointed Hearing Officer.
- b. Both the complainant and the respondent will receive equal notice of the process.
- c. The complainant and respondent will have the opportunity to be present throughout the entire Hearing.
- d. The complainant and the respondent will have the opportunity to have an Advisor with them throughout the hearing.

- e. Both the complainant and the respondent, through their Advisor or independently, will have the opportunity to present witnesses with information relevant to the alleged sexual harassment, sexual misconduct or sexual assault, and any relevant information to the Hearing Officer in this hearing.
- f. Only the Advisor for the complainant as well as for the respondent will be permitted to cross examine the complainant and/or the respondent during this hearing.
- g. Questions challenging credibility are allowed.
- h. If an individual refuses to be cross-examined, the Hearing Officer may not rely on any statement of that individual to determine responsibility.
- i. Testimony regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent. If the respondent is found responsible for the conduct alleged in the complaint, his or her past sexual misconduct, if any, may be considered in determining the appropriate outcome.
- j. The Hearing Officer will be responsible for determining what evidence or testimony is relevant.
- k. The Hearing Officer will apply the Preponderance of the Evidence evidentiary standard in determining the outcome of the hearing.
- l. The College is required to record or transcribe the proceedings with the recording or transcription available to both parties for inspection and review. The Title IX Coordinator is responsible for maintaining these records.

F. Following the hearing, the decision maker must issue a written determination that:

- 1. Identifies allegations
- 2. Describes procedural steps
- 3. Includes finding of facts
- 4. Includes conclusions applying facts to the Code of Conduct
- 5. Includes rationale for conclusion regarding each allegation
- 6. Describes the Appeals procedures.
- 7. If, following the hearing, the decision is that no policy violation has occurred the process will end.
- 8. If, following a hearing, the student is found to have violated College policy, appropriate disciplinary sanctions will be determined.

G. Potential Employee Sanctions. Employee sanctions can include, but not limited to:

- 1. The nature of, severity of, and circumstances surrounding the violation
- 2. The respondent's disciplinary history
- 3. Previously founded complaints or allegations against the respondent involving similar conduct
- 4. Any other information deemed relevant by the Title IX Coordinator
- 5. The need to bring an end to the discrimination, harassment, and/or retaliation

6. The need to prevent the future recurrence of discrimination, harassment, and/or retaliation
7. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the victim and the community

H. Student Sanctions

For examples of the range of potential disciplinary sanctions against students, see the section of the Student Handbook titled Policies and Procedures.

VII. Informal Resolution

Informal resolution is an alternative to the formal grievance process. The Title IX Coordinator will determine if informal resolution is a possible option, based on the willingness of the parties and the nature of the alleged conduct.

- A. Consent Required by both parties. Either party can withdraw that consent and resume or initiate the formal grievance process.
- B. Sanctions are generally not pursued as the result of an informal resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached. The College reserves the right to cancel informal resolution if sufficient evidence suggests a formal investigation or other sanctions or remedies may be necessary and appropriate.
- C. It is not necessary to pursue informal resolution first in order to make a formal complaint, and anyone participating in informal resolution can stop that process at any time and request to continue through the formal process.
- D. In the event that an informal resolution is not reached, is not appropriate, or is not pursued, the student or employee who is alleging the discrimination, harassment, or retaliation may initiate a formal investigation.
- E. The Title IX Coordinator may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

VIII. Appeal Process

- A. Both the complainant and the respondent must have equal access to an Appeal, however, an Appeal from the decision of the Hearing officer may only be allowed for any material:
 - Procedural irregularity
 - New Evidence
 - Conflict of Interest
 - The sanctions imposed are substantially disproportionate to the severity of the violation.

B. All requests for appeal considerations must be submitted in writing to the Title IX Coordinator if a student or if an employee to the Office of Human Resources within five college days of the date of the final written notice.

C. The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a finding and sanction/responsive action(s) are final. When a party requests an appeal, the other party (parties) will be notified and given an opportunity to respond.

D. For students: In cases involving where the student is the respondent, Judicial Officer and Student Advocacy Coordinator or designee will review the request.

E. For employees: In cases involving employee conduct, the office of Human Resources will review the request.

1. Where the designee finds that at least one of the grounds is met, and proceeds with the appeal, additional principles governing the hearing of appeals include the following:
2. The original decision will only be changed when there is a compelling justification to do so.
3. Appeals are not intended to be full re-hearings of the complaint. Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.
4. Sanctions will not be imposed pending the outcome of the appeal. Interim and/or protective actions may be imposed and/or continued as appropriate.
5. The Human Resources Office normally will render a decision within ten college days to the Title IX Coordinator who will normally provide written notice of the appeal to all parties within three college days from the date of the appeal review.
6. All parties will be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
7. Once an appeal is decided, the outcome is final: further appeals are not permitted under this policy.

F. Failure to Complete Sanctions

All respondents are expected to comply with conduct sanctions within the time frame specified in their written notice. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension, expulsion, and/or termination from the College. For students, failure to comply may result in a hold to prevent future registration.

G. Remedial Actions: Employee

1. In addition to the interim actions outlined, the Office of Human Resources (or designee) may provide remedial actions intended to address the short or long-term effects of harassment, discrimination, and/or retaliation. That is, remedial actions may be taken at the conclusion of the process in addition to any actions that may have been taken on an interim basis, in order to redress harm to the complainant and the community and to prevent further harassment or violations. Remedial actions may also be used when, in the judgment of the Title IX Coordinator (or designee), the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on campus of

the respondent or the ongoing activity of a student organization whose behavior is in question.

2. These remedies may include referral to counseling and health services or to the Employee Assistance Program, altering work arrangements, providing campus escorts, implementing contact limitations between the parties, or offering adjustments to academic deadlines and/or course schedules.

IX. Retaliation

Atlantic Cape Community College faculty, employees, and students are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for exercising their rights or responsibilities under any provision of this policy. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

X. Education and Training

XI. Resources

XI. Appendix

Federal Enforcer

The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Individuals with complaints of this nature always have the right to file a formal complaint with the United States Department Education:

Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: 800.421.3481
Facsimile: 202.453.6012
TDD#: 877.521.2172
Email: OCR@ed.gov
Web: www.ed.gov/ocr

Explaining the Preponderance Standard

The Preponderance Standard

