

**Sussex County Community College**  
**Policy No.: 200.1.1 and 200.5.0**  
**Area: Human Resources**  
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**Updated and Re-adopted: August 2, 2024**

**200.1.1 and 200.5.1 Procedures for Implementation of the Prohibition Against Sexual Harassment (200.1) / Sexual Violence Policy (200.5 Title IX)**

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**PURPOSE OF THE POLICY**

The U.S. Department of Education’s Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance.

**GENERAL STATEMENT FOR IMPLEMENTATION OF THE PROHIBITION AGAINST SEXUAL HARASSMENT (200.1) / SEXUAL VIOLENCE POLICY (200.5 Title IX)**

Title IX states: 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.

**SUSSEX COUNTY COMMUNITY COLLEGE**

**Title IX**

**200.1.1 / 200.5.1**

**Procedure for Implementation of the Prohibition against Sexual Harassment / Sexual Violence Policy**

**Preamble**

The U.S. Department of Education’s Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

**Sussex County Community College**  
**Title IX Policy and Grievance Procedures**

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Updated August 2024

## **1. NOTICE OF NON-DISCRIMINATION & TITLE IX**

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Sussex County Community College (“SCCC” or “College”) prohibits any form of discrimination and harassment on the basis of sex, race, color, age, religion, national or ethnic origin, sex stereotypes, sex characteristics, sexual orientation, gender identity or expression, pregnancy or related conditions, marital or family status, medical condition, genetic information, veteran status, or disability in any decision regarding admissions, employment, or participation in a SCCC program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Age and Discrimination in Employment Act, The Americans with Disabilities Act and ADA Amendments Act, The Equal Pay Act, and state law.

SCCC also complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Security Policy and Campus Crimes Statistics Act, as amended by the Violence Against Women Act (VAWA). Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

SCCC has designated the Title IX Coordinator to coordinate the College’s compliance with Title IX and VAWA and to respond to reports of violations. The College has directed the Campus Safety Manager to coordinate the College’s compliance with the Clery reporting related to VAWA requirements. SCCC will promptly and equitably respond to all reports of sex discrimination and sexual harassment in order to eliminate the prohibited conduct, prevent its recurrence, and redress its effects on any individual or the community.

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### **REASON FOR POLICY**

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The College is required to comply with Title IX of the Education Amendments of 1972 (“Title IX”), which prohibits discrimination based on sex — including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity — in education programs and activities that receive federal financial assistance. The College is committed to the principles of equal opportunity and seeks to establish and maintain an environment which ensures equal access to education for all community members including students, applicants for admission, employees, applicants for employment, guests, and visitors. The College does not discriminate on the basis of sex in any education program or activity operated by the College including, but not limited to, admissions, employment, recruitment, compensation, and athletics as well as access to housing and facilities, classes and schools, counseling, employment assistance to students, health and insurance benefits and services, and fringe benefits. The College is required by Title IX and the Regulations thereunder not to discriminate in such a manner.

For additional information or inquiries about the application of Title IX and the regulations thereunder, contact the College Title IX Coordinator and/or the Assistant Secretary of the United States Department of

Education.

The contact information for the College's Title IX Coordinator can be found in **Section 3** of this Policy.

The United States Department of Education, Office for Civil Rights regional office contact information is as follows:

**New York Office**

Office for Civil Rights  
U.S. Department of Education  
26 Federal Plaza, Suite 31-100  
New York, NY 10278-9991

Telephone: 646-428-3800  
FAX: 646-428-3843; TDD: 800-877-8339  
Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

Complaints with the Office for Civil Rights must be filed within one hundred eighty (180) days of the last act that the Complainant believes was discriminatory. There is no time limit for making a report to the College.

## **2. SCOPE OF POLICY**

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No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to sex discrimination under any College academic, extracurricular, research, occupational training, or other education program or activity. This Policy applies to incidents of sex discrimination, sex-based harassment, and retaliation (collectively "Prohibited Conduct") that occurs in a College education program or activity.

Any person may experience sex discrimination, sex-based harassment, or retaliation, irrespective of the identity of the Complainant or Respondent, and is encouraged to report such incidents to the College. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be victimized by the incident, may report Prohibited Conduct to the Title IX Coordinator, the Title IX Coordinator's designee(s), or the College's Mandated Reporters.

There is no time limit for reporting allegations of sex discrimination, sex-based harassment, and retaliation, however, the College strongly encourages the prompt reporting of such Prohibited Conduct to allow the College to respond promptly and effectively. The applicable grievance procedures will depend upon the form of Prohibited Conduct and status of the Complainant at the College.

This Policy and Procedures applies to incidents that occurred after August 1, 2024. Incidents that occurred prior to August 1, 2024, will be addressed under the Policy in effect at the time of the incident. For information about the applicable Policy to incidents before August 1, 2024, contact the Title IX Coordinator.

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## **JURISDICTION OF POLICY**

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This Policy applies to all sex discrimination, including sex-based harassment, that occurs under the College's education program or activity.

Education programs and activities include all of the operations over which SCCC exercises disciplinary authority or otherwise has substantial control. This includes, but is not limited to:

- Conduct that occurs on campus
- Conduct that occurs in off-campus settings that are operated or overseen by the College such as field trips, online classes, and athletic programs
- Conduct subject to SCCC'S disciplinary authority that occurs off campus
- Conduct that takes place via school-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the College, including AI technologies
- Conduct that occurs during training programs sponsored by the College at another location

The College will also address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside its education program or activity or outside the United States.

This is not an exhaustive list of conduct or scenarios that may fall under this Policy. Additional forms of conduct or scenarios may fall under this Policy, depending on the facts. Therefore, the application of this Policy will rely upon a fact-based analysis to determine if the College has disciplinary authority over the Respondent's conduct in the context in which the alleged conduct occurred.

In the limited circumstances in which Title IX permits different treatment or separation on the basis of sex, the College will not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm.<sup>1</sup>

Reported incidents that do not fall under this Policy may be addressed under other institutional policies, such as the Code of Conduct, etc.

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## **PRIVACY & CONFIDENTIAL EMPLOYEES**

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<sup>1</sup> Except as permitted by 20 U.S.C. 1681(a)(1) through (9) and the corresponding regulations §§ 106.12 through 106.15, 20 U.S.C. 1686 and its corresponding regulation § 106.32(b)(1), or § 106.41(b). Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex. (34 CFR Part 106.31)

SCCC is committed to protecting the privacy of all individuals involved in a report of sex discrimination, sex-based harassment, and/or retaliation. In any report under this Policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the conduct alleged and any necessary steps to end the alleged sex discrimination and prevent its recurrence. Privacy, confidentiality, and privilege have distinct meanings under this policy.

### **Privacy**

Privacy generally means that information related to a report of sex discrimination, sex-based harassment, or retaliation will only be shared with a limited circle of individuals, including individuals who “need to know” in order to assist in the evaluation, investigation, or resolution of the report or to deliver resources or Supportive Measures. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. All participants in an investigation of sex discrimination, sex-based harassment, or retaliation, including Advisors and witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the Parties and will be asked to keep any information learned in an investigation meeting or hearing confidential, to the extent consistent with applicable law.

SCCC will not disclose personally identifiable information obtained while carrying out this Policy and Procedures, except in the following circumstances:

- (1) When school has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of this Policy, including action taken to address conduct that reasonably may constitute sex discrimination, sex-based harassment, and retaliation under Title IX in the institution’s education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX or this Policy, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

### **Unauthorized Disclosure of Information & Evidence**

The College has the right to take reasonable steps to prevent and address the Parties’ unauthorized disclosure of information and evidence obtained solely through the grievance procedures set forth under this Policy. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination, sex-based harassment, or retaliation are authorized.

### **Confidential Employees**

Certain individuals are designated as having confidentiality. For reports made to employees designated as having confidentiality, the College will respect the reporting Party's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations. For example, complaints involving minors are subject to mandatory reporting requirements.

Confidential Employees will notify any person who informs them of conduct that reasonably may constitute sex discrimination, sex-based harassment, or retaliation of their status as confidential, including the circumstances in which the employee is not required to notify the Title IX Coordinator about such conduct. Confidential Employees can also provide information about how to contact the College Title IX Coordinator; how to make a complaint of sex discrimination, sex-based harassment, or retaliation; and that the Title IX Coordinator may be able to offer and coordinate Supportive Measures as well as initiate an informal resolution process or an investigation under this Policy (as applicable).

As noted above, because of the confidential nature of these employees, disclosing information to or seeking advice from a Confidential Employee does not constitute a report or Complaint to the College. A person consulting with a Confidential Employee may later decide to make a report or complaint to the College and/or law enforcement.

Community members wishing to seek completely confidential assistance may also speak with off-campus counselors, health service providers or rape crisis resources, who will maintain confidentiality.

**Release of Information:** Pursuant to the Clery Act, anonymous statistical information must be shared with Campus Safety or the Compliance Office where required by the Clery Act. Annual Clery reporting to the U.S. Department of Education is required by educational institutions for certain offenses that have been reported at campus locations. The information contained in the Clery report tracks the number of Clery reportable offenses occurring at campus locations and does not include the names or any other identifying information about the persons involved in the incident.

The College may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

### **3. TITLE IX COORDINATOR CONTACT INFORMATION**

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All educational institutions receiving federal financial assistance must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX. These designated employees are referred to as Title IX Coordinators.

The contact information for the College's Title IX Coordinator is as follows:

Stacie Caputo  
Director of Human Resources and Title IX Coordinator  
Student Center, Room 313  
Phone: 973-300-2772  
Email: [scaputo@sussex.edu](mailto:scaputo@sussex.edu)

The Title IX Coordinator is responsible for coordinating the College’s compliance under Title IX, and, when notified of conduct that reasonably may constitute sex discrimination, sex-based harassment, or retaliation is to take specific actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

When notified of Prohibited Conduct set forth under this Policy, the Title IX Coordinator or designee will evaluate the alleged conduct to determine the applicable grievance procedures and notify the Parties of the grievance procedures and informal resolution options, if available and appropriate. Overall, they will treat Complainants and Respondents equitably and offer and coordinate Supportive Measures. The Title IX Coordinator or designee will also conduct fact-specific determinations when deciding whether to initiate a Complaint.

As appropriate, the College may delegate or permit a Title IX Coordinator to delegate specific duties to one or more designees. These individuals are referred to as “designees” or Deputy Title IX Coordinators.

#### **4. PROHIBITED CONDUCT**

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SCCC prohibits a broad spectrum of behavior, including sex discrimination, sex-based harassment, and retaliation.

Sex-based harassment may also encompass criminal conduct under state and/or federal law. Additionally, sex discrimination or sex-based harassment under this Policy may result in civil and/or administrative legal consequences.

The following conduct is specifically prohibited under this policy:

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##### **SEX DISCRIMINATION**

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Discrimination on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Additional information about the College’s Policy on nondiscrimination on the basis of pregnancy or related conditions can be found in the *Sussex County Community College Title IX Pregnancy or Related Conditions Response and Support Policy*.

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##### **SEX-BASED HARASSMENT**

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Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that satisfies one or more of the following three types of behavior:

## **Quid Pro Quo Harassment**

A College employee, agent, or another person authorized by the school to provide an aid, benefit, or service under the school's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

For example, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes quid pro quo harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of or opportunities in any educational or employment program.

## **Hostile Environment Harassment**

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the institution's education program or activity (i.e., creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (1) The degree to which the conduct affected the complainant's ability to access the institution's education program or activity;
- (2) The type, frequency, and duration of the conduct;
- (3) The Parties' ages, roles within the institution's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
- (4) The location of the conduct and the context in which the conduct occurred; and
- (5) Other sex-based harassment in the institution's education program or activity.

## **Sexual Assault**

Forcible or non-forcible sex offenses under the FBI's Uniform Crime Reporting program (U.C.R.). Various forms of sexual assault include:

*Sex Offenses, Forcible:* Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

- (1) *Forcible Rape:* (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.

- (2) *Forcible Sodomy*: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.
- (3) *Sexual Assault with an Object*: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.
- (4) *Forcible Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.

*Sex Offenses, Nonforcible*: (Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.

- (1) *Incest*: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (2) *Statutory Rape*: Nonforcible sexual intercourse with a person who is under the statutory age of consent. In the state of New Jersey, the age of consent is 16 years old.<sup>2</sup>

In an effort to clarify these definitions, the College also summarizes these forms of sexual assault as **Non-Consensual Sexual Intercourse**: Non-consensual sexual intercourse consists of any sexual intercourse (urethral, anal, oral, or vaginal), however slight, with any body part or any object, by a person upon another person, without consent. Non-consensual sexual activity occurs if a person is forced to have sexual intercourse, or if sexual intercourse occurs under circumstances in which a person is unable to consent to such activities.

Sexual intercourse may involve vaginal, oral, urethral, or anal penetration by any body part or any object. The perpetrator may be known or unknown to the victim. The force necessary can be any amount (or threat) of force which places the victim in fear of injury or in fear of their life. The perpetrator need not use a weapon nor must they physically abuse the victim to make the victim fearful of injury or in fear of their life. The terms "acquaintance rape" and "date rape" refer to the above-described behavior perpetrated by someone known to the reporting party.

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<sup>2</sup> A person cannot give consent to sexual activity with someone who has "the duty to care" for them unless they are over the age of 18. Individuals that fall into "the duty to care" category would include parents or guardians, and those in any type of formal supervisory role. If individuals are between the ages of 13 and 15, they can legally consent to sexual activity with a partner who is not more than 4 years older. See N.J.S.A. [§ 2C:14-2](#) for additional information.

## **Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (1) The length of the relationship
- (2) The type of relationship
- (3) The frequency of interaction between the persons involved in the relationship

## **Domestic Violence**

Felony or misdemeanor crimes of violence committed by a person who:

- (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the institution, or a person similarly situated to a spouse of the victim;
- (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (3) Shares a child in common with the victim; or
- (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

## **Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's safety or the safety of others; or
- (2) Suffer substantial emotional distress.

SCCC is required under Federal Title IX regulations to respond to incidents of sex-based harassment as stated above. Additionally, conduct outlined in the above definitions of sex-based harassment may be considered a violation of state law and subject to mandatory reporting and/or criminal investigation.

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## **TITLE IX RETALIATION**

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The College prohibits retaliation, including peer retaliation, in its education programs and activities.

Retaliation includes intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under its education program or activity, for the purpose of interfering with any right or privilege secured by Title

IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy, including in an informal resolution process, grievance procedures outlined in this policy, and in any other actions taken by the College to implement this policy.

Nothing in this definition precludes the College from requiring an employee or other person authorized by the College to provide aid, benefit, or service under its education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this policy.

Peer retaliation means retaliation by a student against another student and is prohibited under this Policy.

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## **OTHER CONDUCT**

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Other conduct that does not constitute sex discrimination or sex-based harassment as defined under this Policy may be prohibited by SCCC and therefore addressed under other institutional policies.

The Title IX Coordinator or designee has discretion to evaluate reports and determine the applicable policy and procedures, if any.

## **5. TITLE IX REPORTING OPTIONS**

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Individuals may report sex discrimination, sex-based harassment, and retaliation to a variety of individuals at the College. Information about reporting is outlined below.

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### **REPORTING TO THE TITLE IX COORDINATOR**

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Any person may report an incident(s) of sex discrimination, sex-based harassment, or retaliation to the Title IX Coordinator. The reporting party may be the person who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment (referred to as “Complainant”) or a third party. Reports of sex discrimination, sex-based harassment, and retaliation may be written or verbal and may be made at any time (including non-business hours) in person, by using the telephone number or email address, or by mail to the office address, of the Title IX Coordinator.

When the Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination, sex-based harassment, or retaliation, they will take various actions to promptly and effectively end any sex discrimination in SCCC’S education program or activity, prevent its recurrence, and remedy its effects. In response to a report, the Title IX Coordinator will, at a minimum:

- Treat Complainants and Respondents equitably
- Offer and Coordinate Supportive Measures for the Complainant
- Notify the Complainant (if the Complainant is unknown, the reporting party) of the applicable grievance procedures as outlined under this Policy and the informal resolution process, if available and appropriate

- Offer and Coordinate Supportive Measures for the Respondent if grievance procedures have been initiated or an informal resolution process has been offered
- Notify the Respondent of the applicable grievance procedures as outlined under this Policy and the informal resolution process, if available and appropriate, if a Complaint is made

The Title IX Coordinator or designee will conduct an evaluation of the report to assist the reporting individual decide if they wish or are able to make a complaint.

Note: If a report submitted by a third party does not contain the identity of the reporting party but does contain the identity of the Complainant, upon receipt of the report, the Title IX Coordinator will contact the Complainant to offer supportive measures and explain the process for making a formal complaint (if applicable). However, if a report does not contain the identity of the Complainant, SCCC will be unable to contact the Complainant to offer supportive measures. While the Title IX Coordinator will keep confidential the Complainant's identity (unless disclosing the Complainant's identity is necessary to provide Supportive Measures for the Complainant, such as issuing no-contact orders), the Title IX Coordinator must know the identity of the Complainant to offer such Supportive Measures.

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## **REPORTING TO MANDATED REPORTERS**

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Mandated Reporters are non-Confidential Employees who either have authority to institute corrective measures on the College's behalf or have responsibility for administrative leadership, teaching, or advising in the College's education program or activity. Most members of the College community who are considered Mandated Reporters and include (but are not limited to):

- Deans, Directors, and Vice Presidents
- Student Affairs staff
- Faculty Members and Advisors
- Members of SCCC's Administration Staff

Mandated Reporters are required to notify the Title IX Coordinator or designee if they have information about conduct that may reasonably constitute sex discrimination, including sex-based harassment. Such information includes all details of an incident, including the identities of the reporting party, Complainant, and Respondent, if known.

Therefore, talking with any of these individuals constitutes a report to the College and will therefore be shared with the Title IX Coordinator.

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## **REPORTING TO LOCAL LAW ENFORCEMENT**

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The College encourages anyone who has experienced sex discrimination or sex-based harassment to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. Law enforcement officers are trained in handling sexual assault and other cases involving sex-based harassment. Reporting to law enforcement does not require prosecution of the offense and the reporting party's wishes will be taken into account by law enforcement. The police report and any supporting evidence may be turned over to the

appropriate District Attorney’s Office, which decides whether there is sufficient evidence to prosecute. Information about the law enforcement process of reporting, the investigation, arrests, filing of charges, hearings, the trial and sentencing will be explained at the time of the report.

College employees will assist the reporting party in contacting local law enforcement, if explicitly requested by the reporting party. However, reporting an incident of sex discrimination or sex-based harassment to the College does not in any way equate to reporting the incident to local law enforcement. An individual may decide to report an incident exclusively to the College, exclusively to local law enforcement, or to both the College and local law enforcement.

Contact information for local police departments:

**In case of emergency, call 911.**

Sussex County Community College Campus Safety: (973) 300-2222 (on campus ext. 2222)

Newton Police Department: (973) 383-2525

Should an individual report an incident of sex discrimination or sex-based harassment to both the College and local law enforcement, the College will comply with law enforcement requests for cooperation. Such cooperation may require the College to temporarily suspend its own investigation into the alleged incident while local law enforcement gathers evidence. During this time, SCCC will continue to offer Supportive Measures to the Parties. As soon as local law enforcement or the College determines that a delay is no longer necessary, the College will promptly resume its Title IX or other internal investigation.

College policy, definitions, and standard of proof differ from state criminal law. Neither law enforcement’s determination whether to prosecute a Respondent nor the outcome of any criminal prosecution will determine whether sex discrimination or sex-based harassment has occurred under this Policy. Proceedings under this policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

In addition to the foregoing, all faculty and staff who become aware of or suspect sexual abuse of a minor (under the age of 16)<sup>3</sup> must report that information to local law enforcement and/or the Title IX Coordinator who shall then inform local, state and/or federal law enforcement officials of such incident as required by law.

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## **REPORTING TO CONFIDENTIAL EMPLOYEES**

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If you wish to report a violation of this policy but would like your information to remain confidential (and therefore not reported to the Title IX Coordinator), you may choose to report to a Confidential Employee.

Confidential Employees are College employees with whom an individual can have a privileged communication. Privileged communications cannot legally be disclosed to another person without the consent of the individual who originally provided the information, except under very limited circumstances such as allegations involving the physical or sexual abuse of a child or vulnerable adult or an imminent threat to the

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<sup>3</sup> In New Jersey, a person must be 16 years of age to legally consent to sexual activity. A person cannot give consent to sexual activity with someone who has “the duty to care” for them unless they are over the age of 18. Individuals that fall into “the duty to care” category would include parents or guardians, and those in any type of formal supervisory role. If individuals are between the ages of 13 and 15, they can legally consent to sexual activity with a partner who is not more than 4 years older. See N.J.S.A. [§ 2C:14-2](#) for additional information.

life of any person.

The College's Confidential Employee is the Professional Counselor.

The College's off-campus confidential resources include, but are not limited to:

- Licensed Professional Counselors
- Medical Providers
- Local Rape Crisis Counselors
- Domestic Violence Resources
- Clergy/Chaplains

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## **PUBLIC AWARENESS EVENTS**

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If the Title IX Coordinator is notified of information about conduct that reasonably may constitute sex-based harassment under this Policy that was provided by a person during a public event to raise awareness about sex-based harassment that was held on SCCC's campus or through an online platform sponsored by the institution, the College does not consider such information a report or Complaint. Therefore, the institution is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other persons.

### **Amnesty Provision**

In accordance with New Jersey law, any individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary actions for a violation of the College's student conduct policy at or near the time of the incident, unless the College determines that the violation was egregious including, but not limited to, an action that places the health or safety of any person at risk or involves plagiarism, cheating, or academic dishonesty.

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## **6. EVALUATION OF REPORTED INCIDENTS**

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Upon receiving a report or Complaint of an alleged incident of sex discrimination, sex-based harassment, or retaliation, the Title IX Coordinator or their designee will evaluate the report or complaint to determine the College's response. "Reported incidents" refers to alleged conduct shared with the Title IX Coordinator in a report or complaint.

Generally, reports and complaints will be evaluated within five (5) business days of Title IX Coordinator's receipt.

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## **APPLICATION OF POLICY**

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The Title IX Coordinator or designee will conduct a fact-based analysis to determine whether the reported conduct occurred in a SCCC education program or activity (e.g., if the College had disciplinary authority over the Respondent's conduct in the context in which the alleged conduct occurred). The College's education

program or activity is explained in **Section 2.** of this Policy.

Reported incidents that did not occur in a College education program or activity are not covered under this Policy. Complainants may still request Supportive Measures.

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## **PROHIBITED CONDUCT UNDER POLICY**

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The Title IX Coordinator or designee will also assess if the reported conduct reasonably may constitute sex discrimination, sex-based harassment, or retaliation as set forth in this Policy.

If the alleged conduct could constitute sex discrimination, sex-based harassment, and/or retaliation, the Title IX Coordinator or designee will then determine which Grievance Process may be initiated.

If the alleged conduct would not constitute Prohibited Conduct as set forth in this Policy, the Title IX Coordinator or their designee will assess further to determine if it should be addressed under any other College policy or conduct provision(s).

1. Non-sex-based discrimination and other misconduct not specifically implicated under this Policy may be addressed using other applicable institutional policies such as the Student Code of Conduct (for incidents involving students) or the Employee Policy and Procedures (for incidents involving employees).
2. Non-actionable Reports are deemed not actionable under any existing policy, though the Complainant may request, and the College may provide, Supportive Measures as appropriate.

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## **APPLICABLE GRIEVANCE PROCEDURES**

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Reported incidents of sex discrimination, sex-based harassment, and retaliation that occur in a College education program or activity will be addressed under the **Section 9. Grievance Procedures** set forth in this policy. After evaluating the reported incident, Title IX Coordinator will notify the Complainant of the of the applicable Grievance Procedures and Informal Resolution Process, if available and appropriate. If a Complaint is made, the Title IX Coordinator will also notify the Respondent of the applicable Grievance Procedures and Informal Resolution Process, if available and appropriate.

The Grievance Procedures apply to complaints as follows:

- ◇ All complaints of sex discrimination (involving students and/or employees) will be addressed under **Section 9.1. Process A**, or, as appropriate, an Informal Resolution Process as outlined in **Section 10**.
- ◇ All complaints of sex-based harassment involving employees will be addressed under **Section 9.1. Process A**, or, as appropriate, an Informal Resolution Process as outlined in **Section 10**.
- ◇ All complaints of sex-based harassment involving a student Complainant or student Respondent will be addressed under **Section 9.2. Process B**, or, as appropriate, an Informal Resolution Process as outlined in **Section 10**.

- ◇ All complaints of retaliation involving students and employees will be addressed under **Process A** or, as appropriate, an Informal Resolution Process. If a Complaint alleging retaliation is consolidated with a Complaint of sex-based harassment involving a student Complainant or Student Respondent, **Process B** will be used to address the Complaints.

**Student Employees:** When a Complainant or Respondent is both a student and an employee of the College, SCCC must make a fact-specific inquiry to determine which grievance process applies. In making this determination, the institution will, at a minimum, consider whether the Party's primary relationship with the institution is to receive an education and whether the alleged sex-based harassment occurred while the Party was performing employment-related work.

Reported incidents that are not Complaints may or may not be addressed under other institutional policies. Regardless of whether or not a Complaint is filed, Supportive Measures will be offered to a Complainant, as available and appropriate.

## **7. SUPPORTIVE MEASURES**

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Supportive Measures are individualized measures offered as appropriate and reasonably available without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that Party's access to the institution's education program or activity, including measures that are designed to protect the safety of the Parties or the institution's educational environment; or
- (2) Provide support during the applicable grievance procedures or the informal resolution process outlined in this Policy.

Supportive Measures may vary depending on what the College deems to be reasonably available. These measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Extensions of deadlines and other course-related adjustments
- Campus escort services
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more Parties
- Leaves of absence
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Training and education programs related to sex-based harassment
- Other measures as appropriate

Supportive Measures must not unreasonably burden either Party.

The College may, as appropriate, modify or terminate Supportive Measures at the conclusion of the grievance procedures or an informal resolution process as set forth in this Policy, or the institution may continue them beyond that point.

**Implementation:** The College will offer and coordinate Supportive Measures for the Complainant regardless of whether or not a Complaint is made. The College will offer and coordinate Supportive Measures for Respondent when a Complaint is made. The Parties will have the opportunity to consider Supportive Measures, and the Title IX Coordinator will take into account these wishes in determining which Supportive Measures to offer. Although Supportive Measures may require collaboration with various Departments on campus, the Title IX Coordinator will serve as the point of contact for Complainants and Respondents.<sup>4</sup>

**Confidentiality:** The College will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the Supportive Measure or restore or preserve a Party's access to the education program or activity, or when one of the exceptions set forth in **Section 2.** applies.

**Opportunity to Challenge Supportive Measures:** Complainants and Respondents have the right to a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of any decision to provide, deny, modify, or terminate Supportive Measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision if the impartial employee determines that the decision to provide, deny, modify, or terminate the Supportive Measure was inconsistent with the definition of Supportive Measures set forth in this Policy. Parties also have the opportunity to seek additional modification or termination of a Supportive Measure applicable to them if circumstances change materially.

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## **EMERGENCY REMOVAL**

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The College may remove a Respondent from its education program or activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

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## **ADMINISTRATIVE LEAVE**

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The College may place an employee Respondent on administrative leave from employment responsibilities during the pendency of the grievance procedures.

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## **8. COMPLAINTS**

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<sup>4</sup> For allegations of sex discrimination other than sex-based harassment or retaliation, the provision of Supportive Measures does not require the institution, its employee, or any other person authorized to provide aid, benefit, or service on the institution's behalf to alter the alleged discriminatory conduct for the purpose of providing a Supportive Measure.

A Complaint is a written or verbal request for the College to investigate and make a determination about alleged sex discrimination or sex-based harassment. Therefore, submitting a complaint indicates an intentional decision to initiate a Title IX grievance process.

Complaints may be submitted in person, by email, by telephone, or by mail to the Title IX Coordinator or designee, whose contact information is listed in **Section 3.** of this policy.

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### **MAKING A COMPLAINT OF SEX DISCRIMINATION**

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The following individuals have the right to make a complaint of sex discrimination other than sex-based harassment:

- Any student or employee
- Any person (other than a student or employee) who was participating or attempting to participate in the institution's education program or activity at the time of the alleged sex discrimination
- A Complainant
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant
- The Title IX Coordinator, after making a determination as specified below

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### **MAKING A COMPLAINT OF SEX-BASED HARASSMENT**

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The following individuals have a right to make a complaint of sex-based harassment as a form of sex discrimination:

- A Complainant
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant
- The Title IX Coordinator, after making a determination as specified below

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### **COMPLAINT WITHDRAWALS**

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Complainants may voluntarily withdraw any or all allegations in the Complaint. Such withdrawals must be submitted to the Title IX Coordinator in writing.

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### **COMPLAINTS MADE BY THE TITLE IX COORDINATOR**

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In the absence of a Complaint or the withdrawal of any or all allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will determine whether to initiate a Complaint of sex discrimination or sex-based harassment. To make this fact-specific determination, the Title IX Coordinator will consider, at a minimum, the following factors:

- (1) The Complainant's request not to proceed with initiation of a Complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- (3) The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
- (4) The severity of the alleged sex discrimination or sex-based harassment, including whether the discrimination or harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the Parties, including whether the Respondent is an employee of the institution;
- (6) The scope of the alleged sex discrimination or sex-based harassment, including information suggesting a pattern, ongoing sex discrimination or harassment, or sex discrimination or harassment alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a Decision-Maker in determining whether sex discrimination or sex-based harassment occurred; and
- (8) Whether the institution could end the alleged sex discrimination or sex-based harassment and prevent its recurrence without initiating grievance procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the institution from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint.

If initiating a Complaint as outlined in this section, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

The Title IX Coordinator may not complete the fact-specific determination and therefore file a Complaint upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the alleged conduct could not constitute sex discrimination or sex-based harassment.

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## **DISMISSAL OF COMPLAINTS**

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### **Reasons for Dismissal**

The College reserves the right to dismiss a complaint of sex discrimination, including sex-based harassment, for any of the following reasons:

- (1) The College is unable to identify the Respondent after taking reasonable steps to do so;

- (2) The Respondent is not participating in the institution's education program or activity and is not employed by the institution;
- (3) The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the institution determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this Policy or Title IX; or
- (4) The College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination. Prior to dismissing the complaint under this paragraph, the institution must make reasonable efforts to clarify the allegations with the Complainant.

Such dismissal does not indicate that a policy violation did not occur. Therefore, the college may choose to address such incidents under other applicable institutional policies.

Upon dismissal, the College will promptly notify the Complainant in writing of the dismissal and the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the College must also simultaneously notify the Respondent in writing of the dismissal and the basis for the dismissal.

#### **Right to Appeal Complaint Dismissal**

The College will also notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a Complaint on the following bases:

- (1) Procedural irregularity that would change the outcome
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made
- (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome

If the dismissal occurs after the Respondent has been notified of the allegations, then the institution must also notify the Respondent that the dismissal may be appealed on the aforementioned bases.

If the dismissal is appealed, the College will:

- Notify the Parties of any appeal, including notice of the allegations as outlined in Grievance Process A or B (as applicable) if notice was not previously provided to the Respondent
- Implement appeal procedures equally for the Parties
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
- Ensure that the Decision-Maker for the appeal has been trained as required under Title IX
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the appeal and the rationale for the result

Complete appeal procedures can be found in **Section 9.2.** of the Policy.

### **Upon Dismissal**

If a complaint is dismissed, the College will, at a minimum:

- Offer supportive measures to the Complainant as appropriate
- Offer supportive measures to the Respondent as appropriate for dismissals in which the Respondent has been notified and 1.) the Complainant voluntarily withdraws any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the institution determines that without the withdrawn allegations the conduct would not constitute sex discrimination, or 2.) the institution determines that the conducted alleged in the complaint, even if proven would not constitute sex discrimination, the institution
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the institution’s education program or activity

The College reserves the right to determine whether Complaints dismissed under this Policy may be addressed under other applicable institutional policies. In that instance, the Parties will receive notice in accordance with the applicable Policy and procedures.

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### **CONSOLIDATION OF COMPLAINTS**

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The College may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances.

If one of the Complaints to be consolidated is a Complaint of sex-based harassment involving a student Complainant or student Respondent at the College, the complaint will be addressed under the grievance procedures outlined in **Section 9.2. Process B.**

When more than one Complainant or more than one Respondent is involved, references in this Policy to a Party, Complainant, or Respondent include the plural, as applicable.

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## **9. GRIEVANCE PROCEDURES: GENERAL INFORMATION AND REQUIREMENTS**

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The following grievance processes comply with 34 CFR § 106.45 and § 106.46 of Title IX as required. All processes, provisions, and rules stated in this Policy apply equally to both Parties—Complainants and Respondents.

The College will treat Complainants and Respondents equitably throughout the grievance process.

Determination of a Party’s credibility will not be based on a person’s status as a Complainant, Respondent, or witness. The College presumes that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the appropriate grievance process.

The College will take reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the grievance procedures without restricting the ability of the Parties to obtain and present evidence (including by speaking to witnesses, except to prohibit retaliation); consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

Individuals may decline to participate in any proceedings.

The role of the Title IX Investigator, Decision-Maker, Appeal Decision-Makers, and/or Informal Resolution Facilitator may be filled by appropriate College personnel and/or external parties.

When a sex discrimination complaint alleges that an institution's policy or practice discriminates on the basis of sex, the College is not considered a Respondent. The grievance procedure requirements related to a Respondent apply only to sex discrimination complaints alleging that a person violated the institution's prohibition on sex discrimination.

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## **CONFLICTS OF INTEREST**

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College employees participating in the Title IX grievance process including the Title IX Coordinator, Investigators, Decision-Makers, Appeals Officers, and Informal Resolution Facilitators as well as external parties employed by the College to complete Title IX investigation and adjudication functions (hearings, appeals, and informal resolution options) are prohibited from having a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

In an effort to avoid potential conflicts of interest, the College may provide the names and titles of internal and external Title IX investigators and adjudicators to the Parties at the initiation of the investigation, informal resolution process, or hearing. Such information will be provided no less than five (5) business days before any meeting or hearing between the Party and the Investigator or Adjudicator. The Complainant or Respondent may request the removal of an Investigator or Adjudicator on the grounds of personal bias or other conflicts of interest by submitting a written statement to the Title IX Coordinator setting forth the basis for the request no more than three (3) business days after receiving notice of the identity of the individual involved in the Title IX grievance process. The Title IX Coordinator will review the written statement and make a determination if there is a conflict of interest. Appropriate steps will be taken to ensure that no conflict of interest exists on the part of anyone involved in the Title IX investigation, hearing, appeals, or informal resolution processes. If a conflict of interest exists, another individual will be assigned to the appropriate role. If a conflict of interest exists between the Complainant or Respondent and the Title IX Coordinator, reports should be directed to the Vice President of Student Success and Institutional Effectiveness.

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## **RELEVANT & IMPERMISSIBLE EVIDENCE**

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The College's grievance processes rely upon an objective evaluation of all relevant and not otherwise impermissible evidence—including both inculpatory and exculpatory evidence.

Relevant evidence is evidence related to the allegations of sex discrimination under investigation as part of the grievance procedures under this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decision-

Maker in determining whether the alleged sex discrimination occurred.

Impermissible Evidence is evidence, and questions seeking such evidence, that are excluded and must not be accessed or considered, disclosed or otherwise be used, regardless of whether they are relevant. Such evidence may only be accessed or considered to determine whether one of the below exceptions applies. Types of Impermissible Evidence are as follows:

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the institution obtains that Party's or witness's voluntary, written consent for use in the applicable grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment.

The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

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## **STANDARD OF PROOF**

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The College uses the preponderance of the evidence standard of proof to determine whether sex discrimination, sex-based harassment, or retaliation occurred. The Decision-Maker will evaluate relevant and not otherwise impermissible evidence to its persuasiveness. If the Decision-Maker is not persuaded by the preponderance of the evidence standard that Prohibited Conduct occurred, whatever the quantity of the evidence is, the Decision-Maker is unable to determine that a Policy violation occurred.

## **9.1 PROCESS A**

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The grievance procedures outlined in this section apply to all complaints of sex discrimination and retaliation as well as complaints of sex-based harassment involving employees.

SCCC aims to complete the Title IX grievance processes in a reasonably prompt time frame. Generally, the College will conclude the grievance process under this section within ninety (90) business days.

The College reserves the right to allow for the reasonable extension of timeframes set forth in this Policy on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay. Good cause may include considerations such as the absence of the Party, a Party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

### **Union Representation and Support Persons**

The College fully respects and accords the Weingarten rights of employees. For Parties who are entitled to union representation, the unionized employee may have their union representative (if requested by the Party) present for all meetings and interviews. Where a Party has a union representative participating, to uphold the principles of equity, the other Party (regardless of union membership) will also be permitted to have a support person present for all meetings and interviews. Witnesses are not permitted to have union representation.

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### **NOTICE OF ALLEGATIONS**

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After receipt of a complaint, the College will provide a Notice of the Allegations to the Parties whose identities are known, typically within ten (10) business days of receiving a Complaint. The Notice will include the following information:

- Sufficient information available at the time to allow the Parties to respond to the allegations. Sufficient information includes the following:
  - The identities of the Parties involved in the incident(s)
  - The conduct alleged to constitute sex discrimination
  - The date(s) and location(s) of the alleged incident(s), to the extent that information is available to the institution
- A statement that retaliation is prohibited
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence, as outlined in the Complaint Investigations section of these grievance procedures.
  - A statement that if description of the evidence is provided, the Parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any Party
- A copy of the Sussex County Community College Title IX Policy and Procedures, which includes the applicable grievance procedures and informal resolution options, if any

### **Ongoing Notice**

If, during the course of an investigation, the institution decides to investigate additional allegations of sex discrimination, sex-based harassment, or retaliation by the Respondent toward the Complainant that are not included in the Notice of Allegations or that are included in a consolidated complaint, the College will provide notice of the additional allegations to the Parties whose identities are known.

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## COMPLAINT INVESTIGATIONS

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After the Notice of Allegations is issued, the College will conduct an adequate, reliable, and impartial investigation into the complaint within a reasonably prompt timeframe. Generally, the investigation will take no longer than sixty (60) business days after the Notice of Allegations is sent to the Parties.

### **Role of the Title IX Investigator**

A trained Title IX investigator (or team of investigators) will be assigned to investigate the conduct alleged in the complaint. The investigation will include interviewing the Complainant, Respondent, and witnesses as well as gathering relevant evidence. The Title IX Coordinator or Investigator(s) will communicate with the Parties throughout the investigation process to provide notice of meetings and updates.

The College will inform the Parties of the name of the assigned investigator in the Notice of Interview.

### **Burden of Proof and Evidence Collection**

The burden to conduct an investigation that gathers evidence sufficient to determine whether sex discrimination, sex-based harassment, or retaliation occurred is on the College, not on the Parties. However, the Parties have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible to the Investigator during the applicable grievance process. The Investigator will review all evidence gathered during the course of the investigation and determine what evidence is relevant and what evidence is impermissible, regardless of relevance, as outlined in **Section 9** of this policy.

The Investigator may communicate with other campus offices to gather relevant evidence, if appropriate.

Any Party may decide to participate or not participate in the investigation.

### **Notice of Interviews and Meetings**

The College will provide written notice to a Party whose participation is invited or expected in any investigative meeting or proceeding. The written notice will include the date, time, location, names of participants, and purpose of the meetings or proceedings. It will be provided not less than five (5) business days prior to the meeting, providing the Party has sufficient time to prepare to participate.

### **Investigation Report & Evidence Review**

Each Party will have an equal opportunity to access, review, and respond to the evidence that is relevant to the allegations and not otherwise impermissible.

Therefore, the College will provide each Party an equal opportunity to access the Investigative Report, which is an accurate description of the relevant and not otherwise impermissible evidence, in electronic or hard copy.

The Parties will have an equal opportunity to access evidence (that is relevant and not otherwise impermissible) referenced in the Investigative Report upon request. The Parties may request access to such evidence by emailing the Investigator within five (5) business days of receiving the Investigative Report. If one Party requests to access such evidence, the Title IX Coordinator will notify and allow access to the other Party within forty-eight (48) hours of the other Party's request.

The Title IX Investigator will provide the Parties instructions for accessing the evidence. Typically, evidence will be shared via a secure digital platform, or the Parties will have an opportunity to schedule a virtual or in-person meeting(s) with the Investigator to review the evidence. The Investigator may share additional security measures with the Parties prior to evidence review.

Each Party will have ten (10) business days after receipt of the Investigative Report to review the evidence and submit a written response by email to the Investigator. If a Party does not provide a written response within ten (10) business days, it will be assumed that the Party reviewed the information and chose not to respond.

If a Party requests access to evidence, the Parties will have an additional five (5) business days from the date of receiving instructions for accessing evidence to complete the evidence review.

The Investigator will consider the Parties' written responses before completing the investigation file. The Party's responses to the evidence, if any, will be included in the investigation file.

### **Unauthorized Disclosure of Information & Evidence**

As the College has the right to take reasonable steps to prevent and address the Parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures, it may redact confidential portions of the Investigation File or require the Parties and their Advisors to execute nondisclosure agreements to preserve the confidentiality of confidential information prior to release of the Investigation File to the Parties and their Advisors. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment are authorized.

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## **EVALUATION OF ALLEGATIONS AND CREDIBILITY ASSESSMENTS**

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In that the Investigator is the Decision-Maker in this process, the Investigator may pose questions to the Parties and witnesses to evaluate credibility to the extent credibility is both in dispute and relevant to evaluating the allegations during the grievance process.

The Investigator will consider the submitted responses before making a determination of responsibility.

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## **DETERMINATION OF RESPONSIBILITY**

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Following the investigation and evaluation of all relevant (and not otherwise impermissible) evidence, the Investigator or Decision-Maker (if applicable) will make a determination whether sex discrimination, sex-based harassment, or retaliation occurred.

## **Issuing the Determination**

The Decision-Maker will notify the Parties in writing of their determination whether sex discrimination, sex-based harassment, or retaliation occurred under this Policy. The determination will include the rationale for their determination as well as the procedures and permissible bases for the Complainant and Respondent to appeal.

The Decision-Maker may also include or reference disciplinary sanctions and whether remedies will be offered to the Complainant in the determination regarding responsibility.

Generally, the determination will be issued to the Parties no more than ten (10) business days after the conclusion of the process for questioning Parties to aid in evaluating the allegations and assessing credibility.

## **Disciplinary Sanctions**

Discipline may not be imposed upon a Respondent for sex discrimination, sex-based harassment, or retaliation prohibited by this Policy unless there is a determination at the conclusion of the applicable grievance procedures that the Respondent engaged in Prohibited Conduct and therefore violated this Policy.

The range of possible disciplinary sanctions is as follows:

- Warning (Verbal or Written)
- Probation
- Organizational Sanctions
- Required Training or Education
- Required Counseling
- Performance Improvement/Management Process
- Suspension (with or without pay for employees)
- Expulsion
- Termination

A Party, witness, or others participating in either grievance process will not be disciplined for making a false statement or for engaging in consensual sexual conduct based solely on the Decision-Maker's determination whether sex discrimination, sex-based harassment, or retaliation occurred.

## **Remedies**

The Title IX Coordinator will coordinate the provision and implementation of remedies to a Complainant and other persons the institution identifies as having had equal access to its education program or activity limited or denied by sex discrimination, sex-based harassment, or retaliation.

The range of possible remedies that may be provided is as follows:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts

- Educational or working environment surveys
- Policy modification and/or training
- Provision of accommodations
- Implementation of no contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

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## **APPEALS**

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Complainants and Respondents have the right to appeal the dismissal of a complaint and the Determination of Responsibility and make a statement in support of, or challenging, the outcome.

### **Role of the Appeal Decision-Maker**

The Appeal Decision-Maker will be free of bias as well as conflict of interest and will not be the Title IX Coordinator, Investigator involved in the investigation, or Decision-Maker who reached the Determination of Responsibility. The Appeal Decision-Maker will have received required training under Title IX.

### **Procedures for Filing an Appeal**

The following appeal procedures apply equally to the Parties.

#### **1. Request for Appeal**

Any Party may file a written Request for Appeal to the Title IX Coordinator within ten (10) business days of delivery of the Determination of Responsibility.

The Request for Appeal will be forwarded to the Appeal Decision-Maker for consideration to determine if the Request meets the grounds for appeal (Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

### **Grounds for Appeal**

The Parties may appeal the determination on the following grounds:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- (3) The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If any of the grounds in the Request for Appeal do not meet the grounds set forth in this Policy, that Request will be denied by the Appeal Decision-Maker. The Parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-Maker will notify the other Party(ies) and their Advisor(s), Title IX Coordinator, and, if appropriate, the Investigator and/or the Decision-Maker.

## **2. Response to Appeal**

The other Party(ies) and their Advisors (if any), Title IX Coordinator, and, if appropriate, the Investigator and/or the Decision-Maker will be provided the Request for Appeal with the approved grounds and will be given seven (7) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-Maker to all Parties for review and comment.

The non-appealing Party (if any) may also choose to raise a new ground for appeal at this time. If so, that request will be reviewed for standing by the Appeal Decision-Maker and either denied or approved. If approved, it will be forwarded to the Party who initially requested an appeal, Title IX Coordinator, and the Investigator and/or Decision-Maker (as necessary), who will submit their responses within seven (7) business days, which will be circulated for review and comment by all Parties.

Parties cannot submit any new Requests for Appeal after this time period.

## **3. Notice of Appeal Outcome**

The Appeal Decision-Maker will collect any additional information needed and all documentation regarding the approved grounds and subsequent responses. The Appeal Decision-Maker will apply the preponderance of the evidence standard.

The Notice of Appeal Outcome will be sent to all Parties and their Advisors (if any) simultaneously and will include the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome may contain specific instructions for remand or reconsideration and any sanctions or measures that may result that the institution is permitted to share in accordance with state and federal law.

Generally, the Appeal Decision-Maker will then draft and issue a Notice of Appeal Outcome in no more than ten (10) business days after receiving all timely responses.

## **9.2 PROCESS B**

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The grievance procedures outlined in this section apply to complaints of sex-based harassment involving a student Complainant and/or student Respondent.

SCCC aims to complete the Title IX grievance processes in a reasonably prompt time frame. Generally, the College will conclude the grievance process under this section within one hundred twenty (120) business days.

The College reserves the right to allow for the reasonable extension of timeframes set forth in this Policy on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay. Good cause may include considerations such as the absence of the Party, a Party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

### **Right to an Advisor**

All Parties are entitled to an Advisor of their choosing to assist them throughout **Process B**. The Advisor may be a friend, counselor, faculty member, family member, attorney or any other individual a Party chooses to advise them who is eligible and available to serve during the grievance process. Any person who may be called as a witness may not serve as an advisor.

Parties are entitled to be accompanied by their Advisor in all meetings, interviews, hearings, and appeals at which the Party is entitled to be present during the grievance process. Parties are required to have an Advisor present at the live hearing. If a Party does not have an Advisor available to be present at the live hearing, the College will provide the Party with an Advisor of the College's choice in the Institution's sole discretion, who may or may not be an attorney.

The College cannot guarantee equal advisory rights. Consequently, if one Party selects an Advisor who is an attorney, but the other Party does not or cannot afford an attorney, the College is not obligated to provide an attorney or other Advisor, except at the hearing. The College is not required to provide an attorney as an Advisor at the hearing.

All Advisors are subject to the same rules whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting or interview. Additionally, Advisors may not actively participate in the investigation or informal process. Advisors must conduct all questioning of the other Party and all witnesses in a live hearing even in the event that their Party is not present at the live hearing.

Advisors should request or wait for a break in the interview, hearing, or meeting if they wish to interact with Title IX personnel. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the Parties and their Advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors may be given an opportunity to meet in advance of any interview or hearing with the Title IX personnel during the grievance process.

Any Advisor who fails to follow the guidelines established by the College in the grievance process will be provided an oral warning. If the Advisor continues to disrupt or otherwise fails to follow those guidelines, the Advisor will be asked to leave the proceeding. If an Advisor is asked to leave, the meeting, interview, hearing or other proceeding will be suspended until the Party's Advisor is reinstated; the Party secures another Advisor to accompany them at that meeting, interview, hearing or proceeding; or the College provides the Party with another Advisor for the hearing.

If an Advisor is asked to leave a proceeding, the Title IX Coordinator will determine whether the Advisor may be reinstated or must be replaced by a different Advisor for the remainder of the grievance process. The Parties must advise the Title IX Coordinator of the identity of their Advisor at least five (5) business days before the scheduled hearing. The Parties must provide subsequent timely notice to the Title IX Coordinator if they change Advisors at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with College officials.

All Parties are entitled to one (1) Advisor. For Parties who are entitled to union representation, the unionized employee may have their union representative (if requested by the Party) or their Advisor present for all meetings and interviews. Their union representative may be their Advisor.

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## NOTICE OF ALLEGATIONS

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After receipt of a complaint, the College will provide a written Notice of the Allegations to the Parties, typically within ten (10) business days of receiving a Complaint. The Notice will be sent to the Parties whose identities are known at least five (5) business days before any interview.

The Notice will include the following information:

- Sufficient information available at the time to allow the Parties to respond to the allegations. Sufficient information includes the following:
  - The identities of the Parties involved in the incident(s)
  - The conduct alleged to constitute sex discrimination
  - The date(s) and location(s) of the alleged incident(s), to the extent that information is available to the institution
- Statement that retaliation is prohibited
- Statement that the Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the **Section 9.2. Process B.** grievance procedures
- Statement that prior to the determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision-Maker
- Parties' right to have an Advisor of their choice to serve in the role set out **Section 9.2 Process B.** of this Policy. The Advisor may be, but is not required to be, an attorney
- Parties' right to an equal opportunity to access the Investigative Report that accurately summarizes the relevant and not otherwise impermissible evidence. The Parties also have an equal opportunity to access to the relevant and not otherwise impermissible evidence upon request.
- Statement that knowingly making false statements or knowingly submitting false information during the grievance process is prohibited.

Deliberately false and/or malicious statements made in bad faith under this Policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action. Additionally, witnesses and Parties knowingly providing false

evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation may be subject to discipline.

- A copy of the Sussex County Community College Title IX Policy and Procedures, which includes the applicable grievance procedures and informal resolution options, if any

### **Ongoing Notice**

If, in the course of an investigation, the institution decides to investigate additional allegations of sex-based harassment by the Respondent toward the Complainant that are not included in the initial written notice provided to the Parties or that are included in a consolidated complaint, the College will provide written notice of the additional allegations to the Parties whose identities are known.

### **Reasonable Delays**

To the extent the institution has reasonable concerns for the safety of any person as a result of providing this Notice, the College may reasonably delay providing written Notice of the Allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

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## **COMPLAINT INVESTIGATIONS**

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After the Notice of Allegations is issued, the College will conduct an adequate, reliable, and impartial investigation into the complaint within a reasonably prompt timeframe. Generally, the investigation will take no longer than sixty (60) business days after the Notice of Allegations is sent to the Parties. The College reserves the right to allow for reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the delay.

### **Role of the Title IX Investigator**

A trained Title IX investigator (or team of investigators) will be assigned to investigate the conduct alleged in the complaint. The investigation will include interviewing the Complainant, Respondent, and witnesses as well as gathering relevant evidence. The Title IX Coordinator or Investigator(s) will communicate with the Parties throughout the investigation process to provide notice of meetings and updates.

The College will inform the Parties of the name of the assigned investigator in the Notice of Interview.

### **Burden of Proof and Evidence Collection**

The burden to conduct an investigation that gathers evidence sufficient to determine whether sex-based harassment occurred is on the College, not on the Parties. However, the Parties have an equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible to the Investigator during the applicable grievance process. The Investigator will review all evidence gathered during the course of the investigation and determine what evidence is relevant and what evidence is impermissible, regardless of relevance, as outlined in **Section 9.** of this Policy.

The Investigator may communicate with other campus offices to gather relevant evidence, if appropriate.

Any Party may decide to participate or not participate in the investigation.

### **Notice of Interview**

The College will provide written notice to a Party whose participation is invited or expected in any investigative meeting or proceeding. The written notice will include the date, time, location, names of participants, and purpose of the meetings or proceedings. It will be provided not less than five (5) business days prior to the meeting, providing the Party has sufficient time to prepare to participate.

### **Participating in Interviews or Meetings**

Parties have an equal opportunity to be accompanied to any meeting or proceeding by an Advisor of their choice, who may be, but is not required to be, an attorney. The institution cannot limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding. However, the institution has established restrictions regarding the extent to which the Advisor may participate in the grievance procedures. Such restrictions apply equally to the Parties.

Investigative interviews may be recorded by the Investigator with the consent of the Parties or witnesses. Other recordings are not permitted without explicit permission from the Investigator and/or Title IX Coordinator.

Parties may not attend interviews of any other Party or witness or any meeting or hearing related to the investigation, unless invited and expected to participate by the College.

### **Investigative Report and Evidence Review**

Each Party and their Advisor, if any, will have an equal opportunity to access, review, and respond to the preliminary Investigative Report and relevant (and not otherwise impermissible) evidence (collectively referred to as the “Investigation File”).

The College will provide each Party an equal opportunity to access the preliminary Investigative Report, which accurately summarizes the relevant and not otherwise impermissible evidence, in electronic or hard copy. The Parties will have an equal opportunity to access evidence (that is relevant and not otherwise impermissible) referenced in the Investigative Report upon request. The Parties may request access to such evidence by emailing the Investigator within five (5) business days of receiving the Investigative Report. If one Party requests to access such evidence, the Title IX Coordinator will notify and allow access to the other Party within forty-eight (48) hours of the other Party’s request.

The Title IX Investigator will provide the Parties instructions for accessing the evidence. Typically, evidence will be shared via a secure digital platform, or the Parties will have an opportunity to schedule a virtual or in-person meeting(s) with the Investigator to review the evidence. The Investigator may share additional security measures with the Parties prior to evidence review.

Each Party will have ten (10) business days from receipt of the preliminary Investigative Report to review the evidence and submit a written response by email to the Investigator. If a Party does not provide a written response within ten (10) business days, it will be assumed that the Party reviewed the information and chose not to respond.

If a Party requests access to evidence, the Parties will have an additional five (5) business days from the date of access to review that evidence.

The Investigator will consider the Parties' written responses before completing the final Investigation Report and evidence. The Party's responses to the evidence, if any, will be included in the investigation file.

The final Investigative File will be shared with the Parties, their Advisors (if any), and the Decision-Maker no less than seven (7) business days before the live hearing. The Parties will have an opportunity to respond to the final Investigation File during the live hearing.

### **Unauthorized Disclosure of Information & Evidence**

As the College has the right to take reasonable steps to prevent and address the Parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures, it may redact confidential portions of the Investigation File or require the Parties and their Advisors to execute nondisclosure agreements to preserve the confidentiality of confidential information prior to release of the Investigation File to the Parties and their Advisors. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment are authorized.

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## **HEARING PROCESS**

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After the investigation, the Decision-Maker will conduct a live hearing. During the live hearing, the Decision-Maker may question Parties and witnesses to adequately assess credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

### **Role of the Decision-Maker**

A trained Title IX Decision-Maker will be assigned to facilitate the live hearing, question Parties and witnesses, assess credibility, and determine whether sex-based harassment occurred.

### **Notice of Hearing**

No less than ten (10) business days before the hearing, the Title IX Coordinator will issue a Notice of Hearing to the Parties and their Advisors.

The Notice of Hearing will contain the following:

- Summary of the Alleged Conduct and Potential Policy Violations
- Identification of Applicable Policies
- Access to the Final Investigation File (which may have been previously provided by the Investigator)
- Date, Time and Location of the Pre-Hearing Meeting
- Date, Time, and Location of the Hearing

- Name of the Assigned Decision-Maker
- Names of the Pre-Hearing Meeting and Hearing Participants
- Information on Requesting Accommodations for a Documented Disability or a Translator
- Additional Information about Pre-Hearing Meeting and Hearing Procedures, as necessary

### **Pre-Hearing Meetings**

After the final Investigation File is shared with the Parties and their Advisors, if any, and before the live hearing, the Decision-Maker may invite the Parties and their Advisors to participate in a pre-hearing meeting.

The purpose of the Pre-Hearing Meeting is to discuss the hearing procedures, rules of decorum, and technology that will be used during the hearing; identify witnesses that will be asked to appear at the hearing; to determine how to address any new evidence the Parties seek to offer at the hearing that was not previously available during the investigation, if any (see below); and to resolve any other matters that the Decision-Maker determines should be resolved before the hearing (at their discretion).

### **New evidence**

Parties are encouraged to provide all relevant witnesses and evidence during the investigation. Parties asking that additional relevant and not otherwise impermissible evidence (including witness testimony) that was not previously provided to the investigators be considered may be asked to demonstrate why such evidence was not reasonably available to them at the time of the investigation. If any Party seeks to introduce such new evidence, the Decision-Maker may, at their discretion: 1.) accept the new evidence as admissible, share it with all Parties and their Advisors (if any) prior to the hearing, and proceed with the scheduled hearing; 2.) postpone the hearing to allow sufficient time for all Parties and their Advisors (if any) to review and respond to such evidence; or 3.) take other measures as they deem appropriate.

### **Submission of Questions to the Decision-Maker Prior to the Hearing**

No less than five (5) days before the hearing, each Party or their Advisor must submit to the Decision-Maker written proposed questions that they want asked of any Party or witness at the hearing. The Decision-Maker will determine whether a proposed question is relevant and not otherwise impermissible and notify the Parties of their determination on each question in writing no less than three (3) business days prior to the hearing.

If the Decision-Maker decides that a question is not relevant or otherwise impermissible, they will explain that decision to the Party or Advisor in writing no less than three (3) business days before the hearing.

Questions that are unclear, harassing, or repetitive of the Party or witness being questioned are not permitted. If such questions are proposed to the Decision-Maker, the Decision-Maker will notify the proposing Party or Advisor in writing (no less than three (3) business days before the hearing) and give the Party an opportunity to clarify or revise the question(s) that the Decision-Maker has determined to be unclear, harassing, or repetitive. The Party or Advisor will have twenty-four (24) hours to submit revised questions to the Decision-Maker. If the Party sufficiently clarifies or revises a question, that question is eligible to be asked at the hearing.

### **Live Hearing Procedures**

The hearing will take place no less than ten (10) business days after the final Investigative Report and evidence

is shared with each Party and their Advisor.

The Decision-Maker, Complainant, Respondent, their Advisors, and relevant witnesses will be invited to participate in the live hearing. Participating in the hearing is not mandatory. The College will proceed with the live hearing in the absence of any Party or witness, and the Decision-Maker may reach a determination of responsibility in their absence.

The hearing attendees may be physically present in the same geographic location, or the hearing may be conducted with the Parties in physically separate locations with technology enabling the Decision-Maker, Parties, and Advisors to simultaneously see and hear the Party or witness while that person is speaking. The College will create an audio or audiovisual recording or transcript of the live hearing, which will be made available to the Parties for inspection and review. Cell phones may not be used during the hearing unless approved by the Decision-Maker in advance.

The Decision-Maker will start the hearing by stating the allegations, reviewing rules of decorum for the hearing, outlining the hearing procedures, and explaining other necessary information.

The Decision-Maker may invite the Complainant and then the Respondent to present an opening statement. The opening statement is to be made by the Party, not the Advisor, and is not to exceed five (5) minutes.

The Decision-Maker will ask their own relevant and not otherwise impermissible questions to the Complainant, Respondent, and witnesses to aid in evaluating the allegations and assessing credibility.

Advisors will have the opportunity to ask the Parties and witnesses the questions submitted to and approved by the Decision-Maker prior to the hearing. Prior to the conclusion of each Party's or witnesses' testimony, Advisors will have an opportunity to propose follow up questions. These questions will be proposed orally to the Decision-Maker during the live hearing, who will first determine whether the question is relevant (and not otherwise impermissible). If determined to be relevant and not otherwise impermissible, the Advisor will ask such questions to the Parties or witnesses. The Decision-Maker will explain any decision to exclude a question that is not relevant or otherwise impermissible.

Unclear, harassing, and repetitive follow up questions will not be permitted. The Decision-Maker will give Advisors the opportunity to clarify or revise questions that the Decision-Maker has determined to be unclear, harassing, or repetitive. If the Party sufficiently clarifies or revises a question, as determined by the Decision-Maker, the question will be asked.

At the conclusion of the hearing, the Decision-Maker may invite the Parties to give closing statements, first by the Complainant then the Respondent. Closing statements shall not exceed five (5) minutes.

As an alternative or in addition to closing statements, the Decision-Maker may invite the Complainant to submit an Impact Statement and the Respondent to submit a Statement of Mitigating Factors to the Decision-Maker at the conclusion of the hearing.

The Impact Statement and Statement of Mitigating Factors will only be considered by the Decision-Maker after a finding of responsibility has been made by the Decision-Maker.

A Decision-Maker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible. The Decision-Maker must not draw an inference about whether sex discrimination or sex-based harassment occurred based solely on a Party's or

witness's refusal to respond to such questions.

Additional rules of decorum and hearing procedures that apply equally to the Parties and their Advisors may be shared prior to the hearing.

### **Advisors at the Hearing**

Only Advisors are permitted to question the Parties and witnesses – questioning will never be conducted by a Party personally. Therefore, Parties are required to have an Advisor present at the live hearing to ask questions. If a Party does not have an Advisor present at the live hearing, the College will provide the Party with an Advisor of the College's choice, without charge to the Party, for the purpose of Advisor-conducted questioning. The Advisor will not be a Confidential Employee and may or may not be an attorney. The College cannot guarantee equal advisory rights. Consequently, if one Party selects an Advisor who is an attorney, but the other Party does not or cannot afford an attorney, the College is not obligated to provide an attorney or other Advisor, except at the hearing. The College is not required to provide an attorney as an Advisor at the hearing.

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## **NOTICE OF OUTCOME**

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Following the investigation and live hearing, the Decision-Maker will make a determination whether sex-based harassment occurred. The Decision-Maker will draft and issue a written determination regarding responsibility called the Notice of Outcome, which will be shared with the Parties simultaneously.

### **Elements of the Notice of Outcome**

The Notice of Outcome will include the following elements:

- (1) A description of the alleged sex-based harassment
- (2) Information about the policies and procedures that the institution used to evaluate the allegations
- (3) The Decision-Maker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred
- (4) When the Decision-Maker finds that sex-based harassment occurred, any disciplinary sanctions the institution will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the institution to the Complainant, and, to the extent appropriate, other students identified by the institution to be experiencing the effects of the sex-based harassment; and
- (5) The institution's procedures for the Complainant and Respondent to appeal

Generally, the Notice of Outcome will be issued no more than ten (10) business days after the live hearing.

The Notice of Outcome becomes final either on the date that the institution provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

## **Disciplinary Sanctions**

Discipline may not be imposed upon a Respondent for sex-based harassment prohibited by this Policy unless there is a determination at the conclusion of the applicable grievance procedures that the Respondent engaged in Prohibited Conduct and therefore violated the Policy.

The range of possible disciplinary sanctions is as follows:

- Warning (Verbal or Written)
- Probation
- Organizational Sanctions
- Required Training or Education
- Required Counseling
- Performance Improvement/Management Process
- Suspension (with or without pay for employees)
- Expulsion
- Termination

A Party, witness, or others participating in either grievance process will not be disciplined for making a false statement or for engaging in consensual sexual conduct based solely on the Decision-Maker's determination whether sex-based harassment occurred.

## **Remedies**

The Title IX Coordinator will coordinate the provision and implementation of remedies to a Complainant and other persons the institution identifies as having had equal access to its education program or activity limited or denied by sex discrimination, sex-based harassment, or retaliation.

The range of possible remedies that may be provided is as follows:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Educational or working environment surveys
- Policy modification and/or training
- Provision of accommodations
- Implementation of no contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

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## **APPEALS**

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Complainants and Respondents have the right to appeal the dismissal of a complaint and the Notice of Outcome and make a statement in support of, or challenging, the outcome.

## **Role of the Appeal Decision-Maker**

The Appeal Decision-Maker will be free of bias as well as conflict of interest and will not be the Title IX Coordinator, Investigator involved in the investigation, or Decision-Maker who reached the determination regarding responsibility or dismissal. The Appeal Decision-Maker will have received required training under Title IX.

## **Procedures for Filing an Appeal**

The following appeal procedures apply equally to the Parties.

### **1. Request for Appeal**

Any Party may file a written Request for Appeal to the Title IX Coordinator within ten (10) business days of delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-Maker for consideration to determine if the Request meets the grounds for appeal (Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

### **Grounds for Appeal**

The Parties may appeal the determination on the following grounds:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- (3) The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If any of the grounds in the Request for Appeal do not meet the grounds set forth in this Policy, that Request will be denied by the Appeal Decision-Maker. The Parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-Maker will notify the other Party(ies) and their Advisor(s), Title IX Coordinator, and, if appropriate, the Investigator and/or the Decision-Maker.

### **2. Response to Appeal**

The other Party(ies) and their Advisors (if any), Title IX Coordinator, and, if appropriate, the Investigator and/or the Decision-Maker will be provided the Request for Appeal with the approved grounds and will be given seven (7) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-Maker to all Parties for review and comment.

The non-appealing Party (if any) may also choose to raise a new ground for appeal at this time. If so, that request will be reviewed for standing by the Appeal Decision-Maker and either denied or approved. If approved, it will be forwarded to the Party who initially requested an appeal, Title IX Coordinator, and the Investigator and/or Decision-Maker (as necessary), who will submit their responses within seven (7) business days, which will be circulated for review and comment by all Parties.

Parties cannot submit any new Requests for Appeal after this time period.

### **3. Notice of Appeal Outcome**

The Appeal Decision-Maker will collect any additional information needed and all documentation regarding the approved grounds and subsequent responses. The Appeal Decision-Maker will apply the preponderance of the evidence standard.

The Notice of Appeal Outcome will be sent to all Parties and their Advisors (if any) simultaneously and will include the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome may contain specific instructions for remand or reconsideration and any sanctions or measures that may result that the institution is permitted to share in accordance with state and federal law.

Generally, the Appeal Decision-Maker will then draft and issue a Notice of Appeal Outcome in no more than ten (10) business days after receiving all timely responses.

## **10. INFORMAL RESOLUTION OPTIONS**

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At any time prior to determining whether sex discrimination, sex-based harassment, or retaliation occurred under Grievance Processes A and B, the College may offer to a Complainant and Respondent an informal resolution process. Informal Resolution will not be offered if such a process would conflict with Federal, State or local law.

### **Discretion to Offer Informal Resolution**

The College has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination, sex-based harassment, or retaliation under this Policy or when a complaint of such Prohibited Conduct is made, and may decline to offer informal resolution despite one or more of the Parties' wishes.

Circumstances when the institution may decline to allow informal resolution include, but are not limited to, when the institution determines that the alleged conduct would present a future risk of harm to others.

The College will not require or pressure the Parties to participate in an informal resolution process. The Title IX Coordinator or their designee will obtain the Parties' voluntary consent to the informal resolution process and will not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

### **Notice of Informal Resolution**

Before initiation of an informal resolution process, the College will provide to the Parties written notice that explains:

- (1) The allegations
- (2) The requirements of the informal resolution process
- (3) That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume the appropriate grievance procedures
- (4) That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming grievance procedures arising from the same allegations
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties
- (6) What information SCCC will maintain and whether and how the institution could disclose such information for use in Grievance Process A or B (as applicable), if grievance procedures are initiated or resumed

### **Informal Resolution Facilitator**

The Facilitator for the informal resolution process must not be the same person as the Investigator or the Decision-Maker in the grievance procedures. Any person designated by the College to facilitate an informal resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Any person facilitating informal resolution must receive the required training under Title IX.

### **Potential Terms**

Potential terms that may be included in an informal resolution agreement include, but are not limited to:

- (1) Restrictions on contact
- (2) Restrictions on the Respondent's participation in one or more of the institution's programs or activities or attendance at specific events, including restrictions the institution could have imposed as remedies or disciplinary sanctions had SCCC determined at the conclusion of the applicable grievance procedures that sex discrimination, sex-based harassment, or retaliation occurred
- (3) Additional terms as mutually agreed upon by the Parties

Each Party must sign the informal resolution prior to its finalization.

## **DEFINITIONS**

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The following terms are related to the Sussex County Community College Title IX Policy and Procedures:

**Admission:** Selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by the institution.

**Advisor:** An individual who provides support, guidance, and/or assistance to the Complainant or Respondent throughout the complaint investigation, hearing, appeals processes under Grievance Process B. Complainants and Respondents have the right to select an Advisor of their choice, and Parties have an equal opportunity to be accompanied to any meeting or proceeding by an Advisor. Advisors may be a friend, mentor, family member, attorney, or any other supporter a Party chooses to advise them who is both eligible and available. Advisors may not have personal involvement regarding any facts or circumstances of the alleged misconduct and cannot be a witness in the matter.

Advisors are required during the Grievance Process B hearing process. If a Party does not have an Advisor present to ask questions on their behalf at the hearing, the College will provide the Party with an Advisor of the institution's choice, without charge to the Party, for the purpose of Advisor-conducted questioning. In those instances, the institution must not appoint a Confidential Employee and may appoint, but is not required to appoint, an attorney to serve as an Advisor.

**Complainant:**

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under the Policy and who was participating or attempting to participate in a Sussex County Community College education program or activity at the time of the alleged sex discrimination.

**Complaint:** A verbal or written request to the College that objectively can be understood as a request for the institution to investigate and make a determination about alleged sex discrimination, sex-based harassment, or retaliation as set forth in this Policy.

**Confidential Employee:**

- (1) An employee of the College whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
- (2) An employee of the College whom the institution has designated as confidential for the purpose of providing services to persons related to sex discrimination (including sex-based harassment). If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or
- (3) An employee of the College who is conducting an Institutional Review Board-approved human-

subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information received while conducting the study.

**Consent:** The College utilizes an affirmative consent standard in the determination of whether consent was given by both Parties.

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

In the evaluation of complaints, it is not a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- (1) The Respondent’s belief in affirmative consent arose from the intoxication or recklessness of the Respondent; or
- (2) The Respondent did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the Complainant affirmatively consented.

In evaluation of Complaints, it is not a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- (1) The complainant was asleep or unconscious;
- (2) The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity; or
- (3) The Complainant was unable to communicate due to a mental or physical condition.

**Disciplinary sanctions:** Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the College’s prohibition on sex discrimination, sex-based harassment, or retaliation. The Title IX Coordinator will coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions.

**Education Program or Activity:** All of the institution’s operations over which the College exercises disciplinary authority or otherwise has substantial control. Additional information about Education Programs or Activities is set forth in **Section 2. Scope of Policy.**

**Mandated Reporters:** Mandated Reporters are non-Confidential Employees who either have authority to institute corrective measures on behalf of the College or have responsibility for administrative leadership, teaching, or advising in the College’s education program or activity. Mandated Reporters are required to notify the Title IX Coordinator or designee if they have information about conduct that may reasonably constitute sex discrimination, including sex-based harassment.

**Parental Status:** The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (1) A biological parent
- (2) An adoptive parent;
- (3) A foster parent;
- (4) A stepparent;
- (5) A legal custodian or guardian;
- (6) In loco parentis with respect to such a person; or
- (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

**Party:** A Complainant or Respondent

**Peer retaliation:** Retaliation by a student against another student.

**Postsecondary Institution:** an Institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education that serves postsecondary school students.

**Pregnancy or Related Conditions:**

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Relevant:** Related to the allegations of sex discrimination, sex-based harassment, or retaliation under investigation as part of the Grievance Process A or B. Questions are relevant when they seek evidence that may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is relevant when it may aid a Decision-Maker in determining whether the alleged sex discrimination, sex-based harassment, or retaliation occurred.

**Remedies:** Measures provided, as appropriate, to a Complainant or any other person the institution identifies as having had their equal access to its education program or activity limited or denied by sex discrimination, sex-based harassment, or retaliation. These measures are provided to restore or preserve that person's access to the institution's education program or activity after the institution determines that Prohibited Conduct as set forth in this Policy occurred.

**Report:** Notice, either written or verbal, provided to the Title IX Coordinator of an alleged incident of sex discrimination, sex-based harassment, or retaliation. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim in the incident, may make a report. Reports

may be made at any time, including during non-business hours, in person, by mail to the office address listed for the Title IX Coordinator, by telephone, by email, or any other means that result in the Title IX Coordinator receiving a person's written or verbal report. Individuals may also download and submit an Incident Report by email, mail, or in person directly to the Title IX Coordinator. A report is distinguished from a Complaint as defined above.

**Respondent:** A person who is alleged to have violated the College's prohibition on sex discrimination, sex-based harassment, and retaliation.

**Standard of Evidence (Preponderance of Evidence):** The standard used to determine if a Title IX Policy violation occurred. The College uses a "preponderance of evidence" standard, which means that the evidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

**Student:** A person who has gained admission

**Student with a Disability:** A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

**Supportive Measures:** Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that Party's access to the institution's education program or activity, including measures that are designed to protect the safety of the Parties or the institution's educational environment; or
- (2) Provide support during the institution's grievance procedures (Grievance Process A and B) or during the informal resolution process

**Title IX:** Title IX of the Education Amendments of 1972 (Pub. L. 92-318; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688, 1689), as amended. It is a law that protects against sex-based discrimination and provides for equal opportunity for students to pursue education and have equal and safe access to all of a school's programs and facilities and protects these environments from becoming hostile environments. It is mandated through the Office of Civil Rights in the U.S. Department of Education that institutions receiving federal funds or providing federal financial aid to students must adhere to Title IX's rules and provisions.

## **ADDITIONAL INFORMATION**

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The obligation to comply with Title IX and this part is not obviated or alleviated by any State or local law or other requirement that conflicts with Title IX.

The obligation to comply with Title IX is not obviated or alleviated by FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

Provisions in this Policy must not be construed to modify any rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

Measures or outcomes described under this Policy must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

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#### REQUEST FOR TRAINING MATERIALS

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All SCCC employees and external parties employed by SCCC involved in the Title IX complaint evaluation, grievance procedures, and informal resolution processes have received the appropriate training under Title IX. Training materials can be accessed by members of the general public upon request.

## RESOURCES

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### **Local Resources**

NJ Sexual Assault Hotline  
1-800-601-7200

NJ Coalition Against Sexual Assault  
1-609-631-4450  
[www.NJCASA.org](http://www.NJCASA.org)

NJ Domestic Violence Hotline  
1-800-572-7233

Newton Medical Center (local hospital)  
175 High Street  
Newton, NJ  
973-383-2121

### **National Resources**

National Sexual Assault Hotline  
Phone: 1 (800) 656-HOPE (4673)

Rape & Sexual Assault Crisis Line  
Phone: 1-888-421-1100

Rape Abuse and Incest National Network (RAINN)  
Phone: 1-800-656-HOPE  
Website: [www.rainn.org](http://www.rainn.org)

The RAINN hotline offers free, confidential counseling and support 24 hours a day, from anywhere in the country.

National Resource Center on Domestic Violence Hotline (24 hours)  
Phone: 800-799-SAFE

National Domestic Violence Hotline  
Phone: 1-800-799-SAFE

National Domestic Violence Hotline Spanish  
Phone: 1-800-942-6908