

Reporting Sexual Harassment and Physical Sexual Misconduct: Title IX Grievance Procedures

The College of New Jersey, as an institution of higher education and a community dedicated to learning and the advancement of knowledge, expects and requires the behavior of student to be compatible with its high standards of scholarship and conduct. Members of the College community are encouraged to participate in all aspects of academic life. For the College, this means a firm institutional commitment to academic freedom as well as a commitment to protect the community and the rights of its members, and to cultivate and sustain a positive living and learning environment. Thus, sexual harassment, including physical sexual misconduct, will not be tolerated.

The U.S. Department of Education and its Office for Civil Rights (OCR) emphasize the importance of providing all students with an educational environment free from discrimination. The sexual harassment of students, including physical sexual misconduct, interferes with students' right to receive an education free from discrimination and, in the case of physical sexual misconduct, may be a crime. Title IX of the Education Amendments of 1972 (Title IX), and its regulations, prohibit discrimination on the basis of sex and/or gender in education programs or activities operated by recipients of Federal financial assistance.

Sexual harassment by employees at The College of New Jersey is prohibited under the *Policy Prohibiting Discrimination in the Workplace/Educational Environment*. Similarly, the *Student Code of Conduct* prohibits sexual harassment by students.

I. Filing a complaint.

Student Conduct – Office of the Dean of Students and Title IX Coordinator

Students who believe they have been the victim of sexual harassment or physical sexual misconduct by another student¹ are encouraged to file a complaint with the Office of the Dean of Students (Student Conduct) as soon as possible after the incident takes place, preferably within 30 days. The Director of Student Conduct has discretion to accept or issue a complaint and issue charges against a student regardless of when the complaint is submitted if the conduct poses a possible threat to the College community or to individual members of the College community. A complaint must be prepared in writing and submitted to the Director of Student Conduct. The Director of Student Conduct and additional staff serve as a Deputy Title IX Coordinators and are responsible for overseeing the complaint and investigation process. Deputy Title IX Coordinators include:

Angela Lauer Chong
Associate Dean of Students
Director of Student Conduct
Office of the Dean of Students, Brower Student Center 230
(609) 771-2201
chonga@tcnj.edu

Elizabeth A. E. Gallus
Assistant Director of Student Conduct
Office of the Dean of Students, Brower Student Center 230
(609) 771-2201
galluse@tcnj.edu

¹ Allegations of sexual harassment or physical sexual misconduct committed by a non-student such as a vendor or contractor or by a College employee (including a student employee) should be reported to the Title IX Coordinator/ EEO Officer.

Ceceilia O'Callaghan
Assistant Vice President for Student Affairs
Office of the Vice President for Student Affairs, Brower Student Center 214
(609) 771-2201
ocallagh@tcnj.edu

Kirsten Clark
Senior Women's Administrator
Athletics Department
(609) 771-2230
clarkk@tcnj.edu

The College Title IX Coordinator will oversee any investigation or process conducted by the Deputy Title IX Coordinator(s) through the student conduct process, therefore it is not necessary to file a separate complaint or participate in a separate process to concurrently file a Title IX grievance. However, a student may contact the primary Title IX Coordinator at any time:

Kerri Thompson Tillett
Title IX Coordinator/ EEO Officer
EEO/AA Office, Administrative Services Building 102
(609) 771-3139
thomsok@tcnj.edu

An individual may choose to meet with a representative from the Office of the Dean of Students before determining whether to file a complaint through the student conduct process. Anonymous complaints (those where the complaining party does not identify him or her-self) will not be accepted for action through the student conduct process, but will be reported to Campus Police for inclusion in the annual campus crime report. The Office of the Dean of Students (Student Conduct) is not a confidential resource, therefore any information provided may require that the College follow up with an investigation. Although complete confidentiality cannot be guaranteed, the Office of the Dean of Students strives to treat all students with equal care, respect, and dignity and will to the best of their ability, preserve the privacy of all students involved. Retaliation for filing a complaint is strictly prohibited by Title IX and the College.

Campus Police

In cases of possible physical sexual misconduct (including sexual assault and/or sexual battery), individuals are also encouraged to promptly file a report by contacting Campus Police at (609) 771-2345 or 911, or by visiting the office located in the Administrative Services Building, room 104. Like the Office of the Dean of Students (Student Conduct), Campus Police is not a confidential resource, therefore any report may require a criminal investigation. Although complete confidentiality cannot be guaranteed, Campus Police strives to treat all persons with equal care, respect, and dignity and will to the best of their ability, preserve the privacy of all persons involved.

Confidential Resources

The College believes it is important that students are aware of opportunities for support and assistance. Available confidential resources are listed below. Reporting any allegations of sexual harassment or sexual misconduct to any of the resources below will not result in an investigation without the consent of the student sharing the information, but will be forwarded to Campus Police anonymously for inclusion in the annual campus crime report.

- Office of Anti-Violence Initiatives (OAVI)
(609) 771-2272
<http://oavi.pages.tcnj.edu/>
Holman Hall 307
- Counseling and Psychological Services (CAPS)
(609) 771-2247
<http://www.tcnj.edu/~sa/counseling/>
Eickhoff Hall 107
- Student Health Services (SHS)
(609) 771-2483
<http://health.pages.tcnj.edu/>
Eickhoff Hall 107

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

II. Student Conduct /Title IX Investigation.

The College shall conduct a prompt, thorough, and impartial inquiry into any reports of sexual harassment and/or physical sexual misconduct and determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.² An investigation and/or disposition should generally be completed within 60 days of the date the complaint is filed. The College will attempt to obtain consent from the individual filing the complaint before beginning an investigation. However, there may be some instances when the College may pursue an investigation regardless of the requests of the complaining party if necessary to provide a safe and nondiscriminatory environment for all students. If the complaining party chooses not to participate in the investigation process, the College's ability to respond to the complaint may be limited. The student bringing the complaint and the accused student may each be assisted by an advisor of his or her choice during any investigative meeting, pre-hearing conference or informal or formal hearing. The role of an advisor is to accompany the student during conferences or hearing proceedings and/or assist him or her with any hearing or conference preparations. The advisor may not participate directly in any proceedings or represent any student involved. Any cost associated with the participation of an advisor is the responsibility of the student.

The Director of Student Conduct or designee will conduct an investigation to determine if the information in the complaint merits charges against a student or students. The College may determine that interim action(s) may be necessary to stop or prevent any further harassment from occurring. Should the Director of Student Conduct, in consultation with the Dean of Students, determine that a threat to the health and/or safety of the campus community exists, an interim suspension may be applied for the accused student pending the outcome of a conduct proceeding. No permanent changes will be made to the accused student's campus housing assignment or student status pending the outcome of the conduct proceeding, however the accused student may be relocated or removed from housing on a temporary basis. If the accused individual is an employee, the matter may be referred to the Title IX Coordinator/EEO Officer. If the accused individual is neither an employee nor a student, the Director of Student Conduct and Campus Police may request that the accused individual be banned from the TCNJ campus community.

² Information shared with the listed confidential resources (OAVI, CAPS and SHS) will not be considered a report of sexual harassment and/or physical sexual misconduct for these purposes and may not give rise to an inquiry (or the responsibility for an inquiry) by the College.

III. Proceedings.

If the investigation results in any charge(s) of violation of *Expectations for Student Conduct* outlined in the *Student Conduct Code*, an accused student may elect to have his or her case heard in an informal or formal hearing. If the accused student elects an informal hearing, both the complaining student and the accused student will have equal opportunity to share any information with the informal hearing administrator in separate meetings before a final determination on responsibility is made. If the accused student elects a formal hearing, the complaining student will be invited to attend the formal hearing, provide information, and pose questions of any presenting parties to the same extent as the accused student. A complaining party is not mandated to participate in any student conduct proceeding(s), however his or her absence may limit the hearing administrator or board's ability to evaluate all relevant information to the fullest extent possible.

The student bringing the complaint and the accused student may each be assisted by an advisor of his or her choice. In a formal hearing, the hearing administrator or board may accommodate any student(s) with concerns for the personal safety, well-being, and/or fears of confrontation during the hearing by providing separate facilities or physical dividers, and/or by permitting participation by other means as determined by the Director of Student Conduct to be appropriate.

The student bringing a complaint of sexual harassment and/or physical sexual misconduct, and the accused student shall each be afforded one single opportunity to appeal decisions and/or any sanction(s) issued by a hearing administrator or board.

The Federal Education Rights and Privacy Act (FERPA) permits the College to disclose the outcome of any student conduct proceedings to a complaining party without prior written consent when the disclosure is to a victim of an alleged perpetrator of a crime of violence including physical sexual misconduct. Furthermore, FERPA permits the College to notify the student filing the complaint of any sanctions assigned to another student that may affect him or her.

In situations where an arrest is made, the Director of Student Conduct will work in conjunction with Campus Police and the Mercer County Prosecutor's Office to support any relevant court mandates which affect the campus or accused's student status. However, student conduct proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Director of Student Conduct. Prior determinations made or sanctions imposed under these procedural standards are final. Determinations or sanctions will not be subject to change because criminal charges arising out of the same facts giving rise to violation of College rules are later dismissed, reduced, or resolved in favor of or against the criminal law defendant.

The information provided in this document is intended to provide a summary of relevant procedural standards from the Student Conduct Code to aid students who are considering filing a complaint with the Office of the Dean of Students (Student Conduct) regarding sexual harassment or physical sexual misconduct. Please refer to the Student Conduct Code in its entirety for the official College expectations for student behavior and student conduct process.