

Centenary University of New Jersey
Title IX
ANTI HARASSMENT, DISCRIMINATION & RETALIATION POLICY
Revised January, 2017

Introduction

Centenary University is committed to maintaining an academic and workplace environment free from all forms of unlawful sexual or other harassment, discrimination and retaliation. Centenary University is an Equal Opportunity and Affirmative Action Employer. No one will be denied employment at or admission to Centenary University on the basis of race, creed, color, religion, handicap/disability or veteran status, gender, age, marital status, sex, sexual orientation, gender identity, or expression, genetic information, citizenship, ethnic or national origin. The University does not discriminate on the basis of any of the aforementioned protected bases in the recruitment and admission of students, the recruitment and employment of faculty and staff, and the operation of any of its programs and activities as specified by Federal law and regulations. The Senior Human Resources Generalist/Compliance Officer/Title IX Coordinator coordinates Centenary's efforts to comply with any and all federal and state laws that prohibit discrimination on the basis of one or more of the protected characteristics listed above. Discrimination complaints are processed in accordance with the procedures set forth in this policy.

Title IX Statement

It is the policy of Centenary University to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the University's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. Centenary University has designated Susan Nesmith, Senior Human Resources Generalist, to serve as the Title IX Officer, and Kerry Mullins, Vice President for Student Life and Dean of Students to serve as the Deputy Title IX Coordinator. Each individual is available to any student/faculty/staff seeking additional information or wishing to file a complaint related to sexual harassment, discriminatory harassment, dating and domestic violence, sexual assault and stalking. The Director of Human Resources serves as the Equal Employment Opportunity Officer for the University, and is the resource available to anyone seeking additional information or wishing to file a complaint.

The Title IX Coordinator is located in the Human Resources Office and can be reached at 908-852-1400 x 2364. The Deputy Title IX Coordinator is located in the Student Life Office and can be reached on x2105.

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [the U.S. Department of Education's website](#) or calling 800-421-3481.

Applicability of Policy

This Policy sets forth the University's zero tolerance for sexual or other unlawful harassment or discrimination or retaliation of any kind whether it be by a faculty member, staff member/employee, student, visitor or third-party transacting business with any member(s) of the University and includes acts of domestic violence, dating violence and stalking. This Policy prohibits sexual or other unlawful harassment, discrimination or retaliation against all members of the University community (including faculty members, staff members/employees and students) as well as non-employees including, but not limited to, employment applicants and applicants for academic enrollment. This Policy further prohibits retaliation against anyone who complains pursuant to this Policy, or participates in an investigation pursuant to this Policy. It is the responsibility of all members of the University community to abide by this Policy. The use of the term "sexual harassment" throughout this policy includes sexual violence unless otherwise noted. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the individual's use of drugs or alcohol. When drugs and/or alcohol are involved, consent rests on the state of incapacitation. Any person initiating sexual activity should clearly communicate such person's intentions to such person's partner and give such partner a chance to clearly relate such partner's intentions. One must not only receive affirmative consent, but must receive explicit *verbal* consent from such partner. One should ask such partner whether such partner wants to be intimate and to wait for a clear response. If there are any questions or ambiguity, then you **DO NOT** have consent.

Faculty, staff or administrators who are found in violation of any sexual or gender-based misconduct policy are subject to disciplinary action, up to and including discharge. Students are subject to disciplinary action, up to and including suspension or expulsion. In any case, educational programming or alcohol/substance assessment may be required. Sanctions may include reassignment of work duties or location; reassignment of class meetings; reassignment of or removal from living accommodations; restrictions on contact with Complainant; access restrictions to University property and/or events, disciplinary probation, suspension or expulsion. Guests and other persons who are alleged to have engaged in sex or gender-based misconduct are subject to corrective action, which may include removal from campus, ban from campus, and/or termination of contractual arrangements. Vendors or other agencies in contract with the University will be promptly notified if any of their employees are alleged to have violated policy, and such employees may be banned from any or all University properties and may also be subject to action deemed appropriate by their respective employer. Restrictions regarding access to

University property or events may also be imposed.

All information regarding prevention awareness programs and bystander intervention for all incoming and returning students as well as new employees can be found on the University's website at <http://www.centenaryUniversity.edu>

B. Limited Amnesty (Students)

While the University does not condone underage drinking or violation of other University policies, it considers reporting sexual misconduct, domestic violence, dating violence, or stalking to be of paramount importance. To encourage reporting and adjudication of sexual misconduct, domestic violence, dating violence, or stalking, Centenary University extends limited amnesty to students who have been survivors/cooperating witnesses of a Title IX offense. The University will generally not seek to hold the student responsible for a violation of the law (e.g., underage drinking) or the Code of Student Conduct during the period immediately surrounding the incident/report of sexual harassment, discrimination or retaliation.

Laws Regarding Discrimination & Sexual Harassment

The University abides by all applicable federal, state and local laws that prohibit unlawful discrimination or harassment on the basis of race, color, national origin, ancestry, creed, age, religion, sex, gender, affection or sexual orientation, marital or family status, military or veteran status, disability or any other protected trait or class, in any educational or employment program, policy or practice of the University. By way of example, Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex and national origin in employment practices. Title IX of the 1972 Education Amendments prohibits discrimination on the basis of sex in education programs receiving federal funds. Sexual harassment is a form of sex discrimination and is therefore prohibited under Title IX. The Federal courts, and the Equal Employment Opportunity Commission (EEOC) in its April 1980 Sexual Harassment Guidelines, have ruled that the sexual harassment of employees constitutes unlawful sex discrimination and is a violation of Title VII. Discrimination and sexual harassment are violations of federal and state law as well as serious violations of Centenary University policy and will not be tolerated.

The University will respond promptly and effectively to reports of any discrimination and sexual harassment and will take appropriate action to prevent, correct and if necessary discipline individuals who violate this policy.

Rights of Individuals throughout A Sexual Misconduct Proceeding

- The right to have an advisor of your choosing (who can be an attorney) to accompany the accuser or the accused individual or group during a complaint investigation.

- The right to a prompt and fair investigation and adjudication/disciplinary process that adheres to legal and policy requirements of due process in which officials are appropriately trained and do not have conflicts of interest or bias.
- The right to be informed in writing of the outcome of any institutional adjudication/disciplinary proceeding arising from an allegation of sexual misconduct and notice of available appeal procedures.
- The right to be informed of any sanctions imposed as a result of any institutional adjudication/disciplinary proceeding.
- The right to participate or decline to participate in any adjudication process.
- The right to review all the available evidence on file in the case.
- The right to be given timely notice of meetings at which the accused or the accuser are present.

Policy Against Retaliation

The University prohibits unlawful retaliation against anyone who has complained about unlawful sexual or other harassment, discrimination or retaliation, as well as those who support any individual making such complaint or who provide information or participate in an investigation into any such good faith complaint or report. Fear of retaliation should not be a barrier to reporting incidents of harassment or discrimination, or to the making of any good faith complaints whatsoever. Retaliation is a serious violation of Centenary University policy and will not be tolerated. Retaliation is, in addition to the underlying conduct about which a Complainant has complained, grounds for disciplinary action. Anyone who experiences conduct that believes to be retaliation, should immediately report it to the Title IX Coordinator at x2364.

It shall not be retaliation for a Claimed Respondent to defend him/herself against a complaint of sexual or other harassment, discrimination or retaliation under this Policy.

Definitions

Primary Prevention: Refers to programming, initiatives and strategies intended to stop domestic violence, dating violence, sexual assault, or stalking before it occurs to prevent initial perpetration or victimization through the promotion of positive and healthy respectful behaviors and beliefs.

Awareness Programs: Refers to programs, campaigns, or initiatives that increase audience knowledge of the issues of sexual assault, domestic violence, dating violence and stalking and share information and resources to prevent interpersonal violence, promote safety, and reduce perpetration. These efforts can include campus community-wide mobilizations as well as targeted audience-specific programming (including both students and employees).

Bystander Intervention: Refers to safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene in situations of potential harm when

there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than the individual.

Risk Reduction: Refers to approaches that seek to mitigate risk factors that may increase the likelihood of perpetration, victimization, or bystander inaction. Risk reduction focuses on helping individuals and communities address the institutional structures or cultural risk reduction approaches which may include but are not limited to general crime prevention education, campus escort programs, programs that educate on how to create individual and community safety plans and strategies.

On-going Awareness & Prevention Campaigns: Refers to campaigns that are sustained over time focusing on increasing awareness or understanding of topics relevant to Sexual Assault, Domestic Violence and stalking prevention. These programs will occur at difference levels, different times throughout the academic year(s) and be directed to different areas of the University (*i.e.*, faculty, athletics, staff, students).

Sexual Harassment: Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent, or pervasive that it has the effect of unreasonably interfering with, limiting or denying someone the ability to participate in or benefit from the University's educational program and University activities. The unwelcome behavior may be based on power differentials (*quid pro quo*), the creation of a hostile environment or retaliation. Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwanted sexual attention; to punish a refusal to comply; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence; stalking; gender-based bullying; and gender-based cyber-bullying.

Sexual Assault: Unwelcome, gender-based conduct, which includes on-line language, when such act(s) is intentional and committed by physical force, violence, threat, or intimidation; ignoring the objections of another person; causing another's intoxication or impairment through the use of drugs or alcohol; taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to provide consent.

Incapacitation: The physical and/or mental inability to make informed, rational judgments such as: 1. due to the use of drugs and/or alcohol; 2. when a person is sleeping or unconscious and; 3. due to an intellectual or other disability that prevents the person from having the capacity to give consent. Because Incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution; *i.e.*, when in doubt, assume that another person is Incapacitated and therefore unable to give Affirmative Consent. Being intoxicated or drunk is never a defense to a complaint of Sexual Misconduct under this Policy.

Sexual Misconduct: Unwelcome, gender-based conduct when such act(s) is committed without intent to harm another and where, by failing to correctly assess the circumstances, a person believes unreasonably that consent was given without having met his/her responsibility to gain consent. Situations involving physical force, violence, threat or

intimidation fall under the definition of Sexual Assault, not Sexual Misconduct, and will be treated as such under these procedures.

Discrimination: Any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived gender, race, color, status, creed, national or ethnic origin, citizenship, physical or mental disability, veteran status, pregnancy status, religion, or sexual orientation that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a person's ability to participate in or benefit from the University's educational program or activities.

Discriminatory Harassment: Detrimental action based on an individual's actual or perceived gender, race, color, age, creed, national or ethnic origin, citizenship, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation, or other protected status that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a person's ability to participate in or benefit from the University's educational program or activities.

Retaliatory Harassment: Intentional action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing or participating in a civil rights grievance proceeding.

Dating violence

The term "dating violence" means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence

The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Result: Refers to any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The definition provides that the "result" must include any sanctions imposed by the institution and, notwithstanding FERPA, the rationale for the result and the sanctions.

Proceeding: Refers to all activities related to a non-criminal resolution of an institutional

disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings.

Stalking: The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or (B) the campus community.

Duty to Report Complaints

Members of the University who are aware of or witness prohibited conduct as define above must report these matters to the appropriate Responsible Official (see below for contact information).

A. Confidential Reporting

Support, Medical and Counseling Resources for Students. Students are encouraged to utilize the following resources for **confidential discussion** and support related to sexual harassment or other illegal discrimination and its effect. Because of the confidentiality afforded to these relationships, however, students should know that these confidential resource persons are not in a position to report the harassment to University officials or to intervene to end the discrimination. **Confidential resources include:**

Counseling Center: x 2125
Clergy: x 2234

B. To ensure University involvement, students must report the unlawful discrimination to a Responsible Employee.

Responsible University Employees: Centenary considers *all employees (including student employees), as well as nonemployees with teaching or supervisory authority, other than those employees designated as confidential resources, as responsible officials, and they are obligated to report to the Title IX Coordinator any information they become aware of during the scope of their work. Contact information for reporting is as follows:*

Title IX Coordinator-Susan Nesmith	x 2364
Deputy Title IX Coordinator-Kerry Mullins	x 2105
Student Life – General Number	x 2291
Security Office	x 2720 or “0”

**After 4:30 p.m. students should report directly to your Complex Director, Graduate Resident Director or Resident Assistant; employees should contact Security at “0.”*

STUDENT SECTION

This section outlines the process that a student can take when there has been an incident of Sexual Harassment, Sexual Assault, Sexual Misconduct, Discrimination, and/or Retaliation as related to Title IX.

If you have experienced sexual violence/assault, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence/assault, domestic violence, or

dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital.

It is also important to take steps to preserve evidence in cases of stalking; to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence.

Contact anyone of the individuals listed above in Section A or B. You also have the option to report the incident to the local police. University personnel are available to assist the student in notifying these authorities, if the student requests this assistance.

The Title IX Coordinator or a Title IX Deputy Coordinator shall, as soon as practicable and in any event no later than 60 business days after receipt of the complaint, make reasonable effort to ensure that a fact-finding investigation of the complaint is completed and that the final report, inclusive of recommendation(s) regarding resolution of the complaint, is presented to the appropriate administrator or designee.

The precise features and steps of the investigation process may vary depending on the nature of the allegations, but the following categories of evidence will be reviewed, if relevant: documents, physical and electronic evidence, witness interviews and interviews with the Complainant and the Respondent. There will be a thorough review of all ascertained facts in connection with the alleged incident. Expert witnesses may be interviewed when deemed necessary for the determination of the facts of the case. All persons interviewed will be reminded of the need for confidentiality and non-retaliation, consistent with the requirements of Title IX when allegations under Title IX are an issue.

All other grievances not involving sexual harassment, sexual misconduct or sexual violence by students against students or employees against students will be addressed through the student conduct procedures found in the Student Handbook.

Complaint Process for Students

The procedures described below are provided for the prompt and equitable resolution of complaints by students who believe they might have experienced a specific act or pattern of conduct falling within the above definitions of harassment or discrimination and/or complaints which involve retaliation or are aware of or have witnessed such conduct. The University will handle complaints discreetly, with facts made available to those who need to know to investigate and resolve the matter. Any individual having such a belief, or making such a claim (referred to as the "Complainant"), may do either or both of the following:

1. **Engage in Self-Help**

Any student who believes he/she has experienced sexual assault or sexual misconduct should feel free to avail himself/herself of all remedies, including confidential discussion with the University Counseling Center, the University

Chaplain, or the University Wellness Center. If the complainant is in no jeopardy to his/her personal safety, they may solely at his/her option, verbally or in writing, communicate to the claimed Respondent that the behavior is unwelcome and/or offensive and request that the conduct cease immediately. The complainant should keep a record of what happened, the date it happened, the names, addresses and telephone numbers of any witnesses to the conduct, and a record of his/her communication with the claimed Respondent.

Informal complaint process

When appropriate and when both parties desire to resolve the situation cooperatively, Centenary will attempt to facilitate an informal resolution under Title IX to the extent practicable and in accordance with federal government regulations;

- The informal process is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved.
- Informal resolution may include inquiries into the facts, but does not typically rise to the level of a formal investigation unless required by applicable law.
- Informal resolution may include, but is not limited to, options such as meeting informally with the complainant and the respondent with the intent of bringing about resolution, meeting privately with the respondent and acting as intercessor, separation of the parties, referral of the parties to counseling programs, conducting educational and/or training programs, or other remedial measures.
- Both the complainant and the respondent have the right to bypass or end the informal complaint process at any time in order to begin the formal complaint process.

2. Making a Formal Complaint

Any student who is aware of or has experienced an incident of sexual harassment, sexual misconduct or sexual assault should promptly report the matter to one of the following individuals:

Title IX Coordinator-Susan Nesmith	x 2364
Deputy Title IX Coordinator-Kerry Mullins	x 2105
Student Life – General Number	x 2291
Security Office	x 2720 or “0”

**After 4:30 p.m. please report directly to your Complex Director, Graduate Resident Director or Resident Assistant.*

Complainants are encouraged to provide the following information, preferably in writing:

- The Complainant's name, academic program, and student status (1st or 2nd year, etc.);
- The basis for the complaint: unlawful sexual or other harassment, gender-based discrimination and/or retaliation;
- The name and position/status of the University community member, visitor, or third-party who engaged in the claimed unlawful conduct;
- A brief description of what occurred including, but not limited to, dates and times of all claimed unlawful conduct, names and any available contact information of witnesses or individuals who have any knowledge of the claimed unlawful conduct;
- The date on which the complainant first knew of the claimed unlawful conduct and any step(s) the complainant has taken, to date, if any, to resolve the complaint;
- A statement of the remedy sought by the complainant;
- The complainant's signature and date of signature;
- Copies of material(s), if any, which the complainant believes may be relevant to the University's investigation, should be attached and/or provided.

Formal Process

The Title IX Coordinator or deputy will review with the complainant the claim of unlawful sexual or other harassment, discrimination or retaliation. The Title IX Coordinator or deputy may then do any of the following things, or any combination thereof, in his or her discretion.

- Discuss (separately) with the Complainant and the claimed Respondent the claimed unlawful conduct;
- Gather any other information or conduct any investigation or interviews that the Title IX Coordinator, in his or her discretion, deems appropriate;
- Remind the claimed Respondent, in writing, of the University's policy against such claimed unlawful conduct and this policy's provisions against retaliation;
- Provide written documentation to both parties;
- Take other steps deemed appropriate by the Title IX Coordinator which may include (a) instructing the complainant and the claimed Respondent to refrain from engaging in any communication except that which is required for business and/or academic purposes pending resolution of the matter and/or (b) taking appropriate steps so that the complainant and the claimed

Respondent will have minimal or no business or academic contact with one another, to the extent practicable, pending resolution of the matter, including changing an individual's academic and living situations after an alleged sex offense and other options that are reasonable.

While the Title IX Coordinator will be sensitive to a complainant's wishes not to proceed, if any, in certain circumstances, the University may need to take action including, but not limited to, the referral of a complaint to further review and/or investigation and action consistent with the University's legal obligations and/or this policy.

The Complainant and the Respondent are entitled to the same opportunities to have others present during any proceedings or discussions. Each party is entitled to have an advocate of choice. Both will be informed of the outcome of any University disciplinary proceeding that is brought alleging a sexual offense regarding the final determination with respect to the alleged sex offense and any sanction that is imposed.

Standard of Proof/Outcome

A violation of this Policy must be established by a preponderance of the evidence. The Complainant carries the burden of proof. Neither party can be compelled to make statements during the investigative process.

The Investigation Report shall be based upon statements and evidence gathered formally during the course of the investigation. If the Respondent is found to have violated this policy, the Title IX Coordinator, in making their decision(s), should take into account prior disciplinary action(s), if any, against the Respondent.

The Title IX Coordinator will write an Investigative Summary Report outlining the investigative findings and an organizational action plan. This report will recommend sanction(s)/discipline if it is found that a violation has occurred. The recommendation may include, but is not limited to, (1) a letter of disposition which includes a statement of the University's policy against unlawful sexual or other harassment, gender-based discrimination and/or retaliation; (2) a letter of disposition stating the discipline or recommended discipline for the Respondent; a statement recommending the organizational action plan going forward; and (3) the guidelines to submit an appeal.

Appeal

The Respondent or Complainant may request an appeal of the recommendation and/or sanctions rendered by the Title IX Coordinator on one or more of the following three grounds:

1. The party believes a procedural error occurred, which the party feels may change or affect the outcome of the decision;

2. The party has substantive new evidence that was not available to the investigator at the time of the hearing and that may change the outcome of the decision;
3. The party feels that the severity of the sanction is substantially disproportionate given the details of the case.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The request for an appeal, including the grounds upon which the request is based, should be submitted in writing, via Registered Mail to the Title IX Coordinator within five (5) business days following the date on the transmittal email attaching the Investigative Summary Report. The other party will be notified if an appeal request is submitted and be provided the opportunity to submit a written statement to the Appeals Panel within five (5) business days of notification.

If no appeal is requested within the time limit set forth, the Investigative Summary Report shall become final and binding.

Appeals will be conducted in an impartial manner by University officials without conflict of interest or bias for or against either party. A party with a concern about a conflict of interest or bias should contact the Title IX Coordinator. The Appeals Panel can determine whether a change in the Title IX Coordinator's decision is warranted. If a change in this decision is necessary, the Appeals Panel will review the appeal and Title IX Coordinator's rationale and make a final decision. The appeals decision is final.

Appeals will not be reviewed or considered beyond the Appeals Panel. Appeals decisions will be rendered within thirty (30) business days after the receipt of the formal request for appeal. Both parties will be notified in writing of appeals outcome.

Appeals Panel

A panel of three administrators will serve as the Appeals Panel. Typically, the Appeals Panel will comprise three individuals selected by the President of the University.

This appeal procedure applies to all violations of this Policy with the exception of those cases wherein an appeals procedure contained in the Faculty Constitution is applicable, in which case the appeals procedure contained in the Constitution shall apply.

Complaint - Title IX Coordinator

If any complaint under this policy is made against the Title IX Coordinator, the functions assigned to that person under this policy will be transferred to an individual designated by the President of the University.

External Reporting

In addition to utilizing the internal procedures set forth in this Policy, any student who believes that she/he has been the subject of unlawful sexual or other harassment, discrimination and/or retaliation may file a complaint through the college's anonymous hotline number at (800) 401-8004 (English speaking) (800) 216-1288 (Spanish speaking); website: <https://www.lighthouse-services.com/CentenaryUniversity>; email: reports@lighthouse-services.com or fax: (215) 689-3885.

In addition, the individual may formally file a complaint directly with the United States Department of Education:

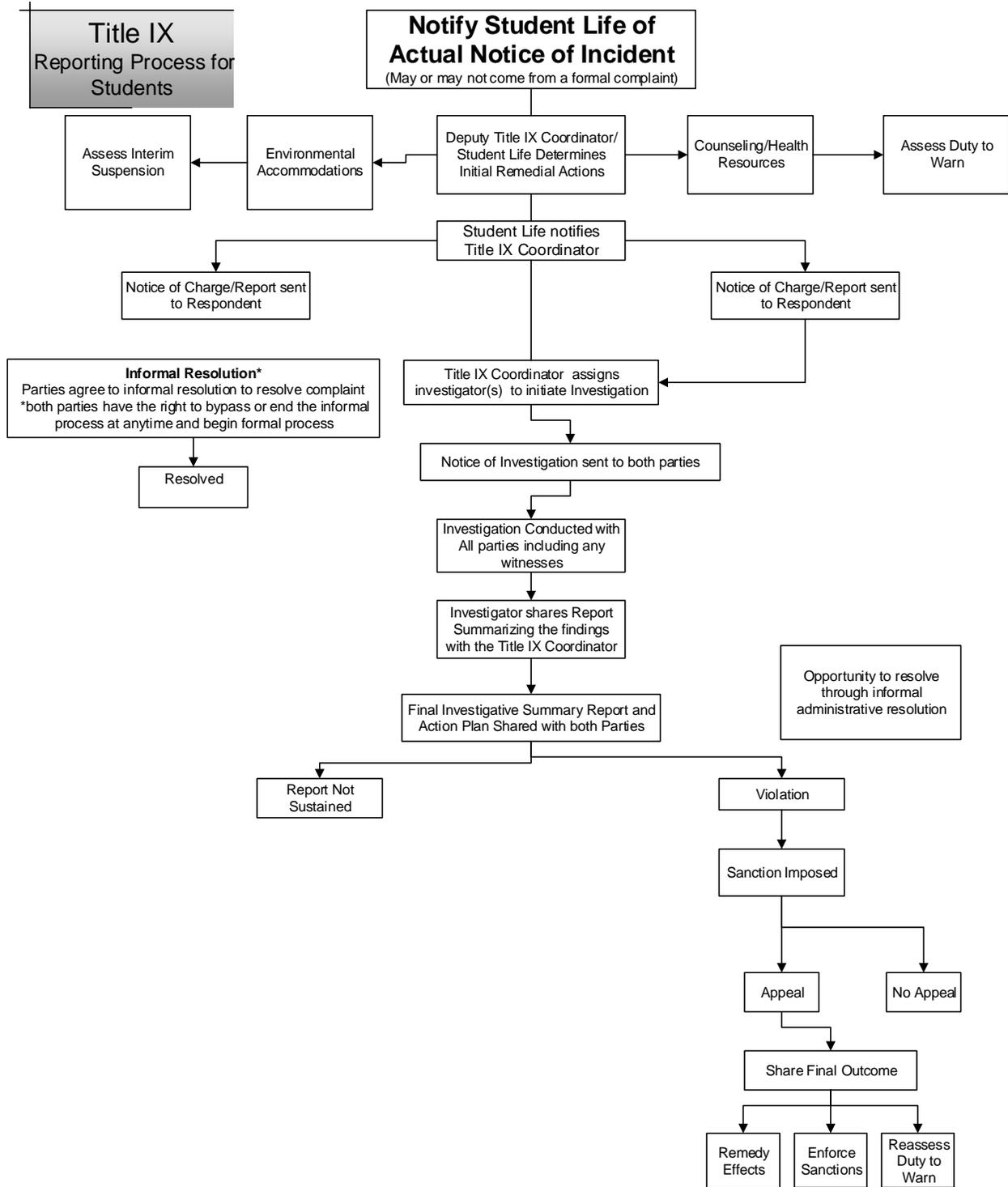
Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: 800-421-3481
Fax: 202-453-6012
TDD#: 877-521-2172 Email: OCR@ed.gov Web: <http://www.ed.gov/ocr>

[Or with the State of New Jersey Division of Civil Rights](#)

Central Regional Office

140 East Front Street
6th Floor
Trenton, NJ 08625

609-292-4605
TTY: 609-292-1785



Staff and Faculty Section

This section outlines the process that an employee can take when there has been an incident of Sexual Harassment, Sexual Assault, Sexual Misconduct, Discrimination, and/or Retaliation as related to Title IX.

If you have experienced sexual violence/assault, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence/assault, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital.

It is also important to take steps to preserve evidence in cases of stalking; to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence. **This section outlines the formal and informal grievance processes that a staff or faculty member can take when there has been an incident of Sexual Harassment, Discrimination, and/or Retaliation.**

Formal and Informal Reporting Process for Complaints not involving Students

This procedure is intended to apply to employee grievances against another employee or employee grievances against third party persons. Individuals who are aware of or have experienced an incident of sexual harassment or sexual assault should promptly report the matter to the following individual:

**Susan Nesmith, Senior Human Resources Generalist x 2364
& Title IX Coordinator**

Informal Dispute Resolution Efforts not involving Students

Before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues with faculty, staff, or administrators. Whenever possible and safe, the problem or complaint should first be discussed with the individual involved in the complaint. If satisfactory resolution is not reached after discussion with the individual, the complainant should contact the individual's direct supervisor to attempt to resolve the complaint. If these efforts are unsuccessful, the formal complaint process may be initiated. The University does not require an employee to contact the person involved or that person's supervisor if doing so is impracticable, or if the employee believes that the conduct cannot be effectively addressed through informal means.

[Should a resolution of the matter be deemed appropriate to the Director of Human Resources, they will file all documentation concerning the complaint against any faculty member, staff member/employee or student in the Human Resources Department separate from faculty or staff member/employee personnel files or student files, as the case may be.

These records will be maintained in order to document that a complaint was made and that a resolution was reached. However, letters of disposition will be filed in the faculty or staff member/employee personnel files and student files, respectively.

Formal Grievance Process for Faculty or Staff NOT involving students

The procedures described below are provided for the prompt and equitable resolution of complaints by employees who believe they might have experienced a specific act or pattern of conduct falling within the above definitions of harassment or discrimination and/or complaints which involve retaliation regarding complaints about such conduct or participation in an investigation into any such complaint. While the Director of Human Resources will be sensitive to a complainant's wishes not to proceed, if any, in certain circumstances, the University may need to take action including, but not limited to, the referral of a complaint to further review and/or investigation and action consistent with the University's legal obligations and/or this policy.

Any individual having such a belief, or making such a claim (referred to as the "Complainant"), may do either or both of the following:

1. Engage in Self-Help

Any employee who believes he/she has experienced sexual assault or sexual misconduct should feel free to avail himself/herself of all remedies, including confidential discussion with the University Counseling Center, the University Chaplain, or the University Wellness Center. If the complainant is in no jeopardy to his/her personal safety, they may solely at his/her option, verbally or in writing, communicate to the claimed Respondent that the behavior is unwelcome and/or offensive and request that the conduct cease immediately. The complainant should keep a record of what happened, the date it happened, the names, addresses and telephone numbers of any witnesses to the conduct, and a record of his/her communication with the claimed Respondent.

2. Make a Complaint

Any employee who is aware of or has experienced an incident of sexual harassment or sexual assault should promptly report the matter to the following individual:

Director of Human Resources x 2268
(or in his/her absence, the Human Resources Consultant, on x2334, x2332 or x2364)
After hours contact the Security Office at (908) 852-2720 or "0"

Complainants are encouraged to provide the following information, preferably in writing:

- The Complainant's name, title and department
- The basis for the complaint: unlawful sexual or other harassment, gender-based discrimination and/or retaliation,
- A brief description of what occurred including, but not limited to, dates and times of all claimed unlawful conduct, names and any available contact information of witnesses or individuals who have any knowledge of the claimed unlawful conduct,
- The name and position of the University community member, visitor, or third-party who engaged in the claimed unlawful conduct,
- The date on which the complainant first knew of the claimed unlawful conduct and any steps the complainant has taken, to date, if any, to resolve the complaint,
- A statement of the remedy sought by the complainant,
- The complainant's signature and date of signature,
- Copies of materials, if any, which the complainant believes may be relevant to the University's investigation, should be attached and/or provided.

The Director of Human Resources will review with the complainant the complainant's claim of unlawful sexual or other harassment, discrimination or retaliation. The Director of Human Resources may then do any of the following things, or any combination thereof, in his or her discretion:

- Discuss (separately) with the Complainant and the claimed Respondent the claimed unlawful conduct;
- Remind the claimed Respondent of the University's policy against such claimed unlawful conduct and this policy's provisions against retaliation;
- Attempt to facilitate an informal solution to the extent practicable under the circumstances;
- Take other steps deemed appropriate by the Director of Human Resources which may include (a) instructing the Complainant and the claimed Respondent to refrain from engaging in any communication except that which is required for business and/or academic purposes pending resolution of the matter and/or (b) taking appropriate steps so that the Complainant and the claimed Respondent will have minimal or no business or academic contact with one another, to the extent practicable, pending resolution of the matter.
- Gather any other information or conduct any investigation or interviews that the Director of Human Resources, in his or her discretion, deems appropriate;

Standard of Proof/Outcome

A violation of this Policy must be established by a preponderance of the evidence. The Complainant carries the burden of proof. Neither party can be compelled to make statements at the appeal hearing.

The Investigation Report shall be based upon statements and evidence gathered formally during the course of the investigation. If the Respondent is found to have violated this policy, the Title IX Coordinator, in making his or her decision(s), should take into account prior disciplinary action(s), if any, against the Respondent.

The Title IX Coordinator will write an Investigative Summary Report outlining the investigative findings and an organizational action plan. This report will recommend sanction(s)/discipline if it is found that a violation has occurred. The recommendation may include, but is not limited to, (1) a letter of disposition which includes a statement of the University's policy against unlawful sexual or other harassment, gender-based discrimination and/or retaliation; (2) a letter of disposition stating the discipline or recommended discipline for the Respondent; a statement recommending the organizational action plan going forward; and (3) the guidelines to submit an appeal.

While this Policy is intended to provide for the prompt and equitable resolution of complaints regarding unlawful sexual or other harassment, discrimination and/or retaliation, this Policy is not intended to abrogate or limit in any way the status of any at-will staff member/employee and/or agent of the University. This Policy does not create an employment contract or a guarantee of continued employment for any staff member/employee and/or agent. Nor does this Policy abrogate or limit the University's authority or discretion to make all lawful employment decisions, including decisions about discipline, suspension without pay, discharge, corrective action concerning conduct that the University deems unacceptable, improper or inappropriate regardless of whether that conduct constitutes sexual or other harassment, discrimination or retaliation. Nor does it limit the University's authority or discretion to impose a non-disciplinary suspension without pay pending the results of an investigation, subject to the provisions set forth in the University Constitution.

This Policy is a product of the law as it currently exists. The University reserves the right to revise, modify, amend or terminate any part or all of this Policy at any time at the University's sole discretion without prior notice.

All other grievances by employees against employees or employees and third parties not involving sexual harassment, will be addressed by the Director of Human Resources as soon as practicable and in any event no later than 60 business days after receipt of the complaint, make reasonable effort to ensure that a fact-finding investigation of the complaint is completed and that the final report, inclusive of recommendation(s) or discipline regarding resolution of the complaint, is presented to the parties named in the complaint.

If any complaint under this policy is made against the Director of Human Resources, the functions assigned to that person under this policy will be transferred to an individual designated by the President of the University.

Complaints Filed by the Director of Human Resources

The Director of Human Resources may file a complaint of unlawful sexual or other harassment, discrimination or retaliation against an individual believed to have engaged in such conduct, based on the number of complaints filed against the individual. In the event of a complaint under this section, the Director of Human Resources shall function as the Complainant. The President or designee shall assign the functions of the Director of Human Resources delineated in this policy to a member of the Executive Staff.

Appeal

The Respondent or Complainant may request an appeal of the recommendation and/or sanctions rendered by the Title IX Coordinator on one or more of the following three grounds:

1. The party believes a procedural error occurred, which the party feels may change or affect the outcome of the decision;
2. The party has substantive new evidence that was not available to the investigator at the time of the hearing and that may change the outcome of the decision;
3. The party feels that the severity of the sanction is substantially disproportionate given the details of the case.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The request for an appeal, including the grounds upon which the request is based, should be submitted in writing via Registered Mail to the Title IX Coordinator within five (5) business days following the date on the transmittal email attaching the Investigative Summary Report. The other party will be notified if an appeal request is submitted and be provided the opportunity to submit a written statement to the Appeals Panel within five (5) business days of notification.

If no appeal is requested within the time limit set forth, the Investigative Summary Report shall become final and binding.

Appeals will be conducted in an impartial manner by University officials without conflict of interest or bias for or against either party. A party with a concern about a conflict of interest or bias should contact the Title IX Coordinator. The Appeals Panel can determine whether a change in the Title IX Coordinator's decision is warranted. If a change in this

decision is necessary, the Appeals Panel will review the appeal and Title IX Coordinator's rationale and make a final decision. The appeals decision is final.

Appeals will not be reviewed or considered beyond the Appeals Panel. Appeals decisions will be rendered within thirty (30) business days after the receipt of the formal request for appeal. Both parties will be notified in writing of appeals outcome.

Appeals Panel

A panel of three administrators will serve as the Appeals Panel. Typically, the Appeals Panel will comprise three individuals selected by the President of the University.

This appeal procedure applies to all violations of this Policy with the exception of those cases wherein an appeals procedure contained in the Faculty Constitution is applicable, in which case the appeals procedure contained in the Constitution shall apply.

Complaint - Title IX Coordinator

If any complaint under this policy is made against the Title IX Coordinator, the functions assigned to that person under this policy will be transferred to an individual designated by the President of the University.

External Reporting

In addition to utilizing the internal procedures set forth in this Policy, any student who believes that she/he has been the subject of unlawful sexual or other harassment, discrimination and/or retaliation may file a complaint through the college's anonymous hotline number at (800) 401-8004 (English speaking) (800) 216-1288 (Spanish speaking); website: <https://www.lighthouse-services.com/CentenaryUniversity>; email: reports@lighthouse-services.com or fax: (215) 689-3885.

In addition, the individual may formally file a complaint directly with the United States Department of Education:

Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: 800-421-3481
Fax: 202-453-6012
TDD#: 877-521-2172 Email: OCR@ed.gov Web: <http://www.ed.gov/ocr>

Or

State of New Jersey Division of Civil Rights
Central Regional Office
140 East Front Street
6th Floor
Trenton, NJ 08625

609-292-4605
TTY: 609-292-1785

False Accusations

Once a complaint of unlawful sexual or other harassment, discrimination and/or retaliation has been made and if it is determined that a faculty member, staff member/employee or student knowingly made a false or dishonest accusation of unlawful sexual or other harassment, discrimination and/or retaliation, or knowingly provided false information in the course of an investigation of such a complaint, such conduct *will be grounds for disciplinary action up to and including discharge in the case of a staff member/employee, expulsion in the case of a student and dismissal for cause in the case of a faculty member governed by Article IX of the Constitution.*

Time Limits

Any time limits set forth in this Policy may be extended by the Director of Human Resources for good cause which shall be determined by the Director of Human Resources in their sole discretion. For purposes of this Policy, "good cause" shall include, but not be limited to, examination periods or schedules, University recess and any other facts or circumstances rendering the time limits set forth in the Policy unreasonable or impracticable. By way of example, in the event that an investigation requires the interview of a faculty member(s), student(s) or staff member/employee(s) who may be unavailable between semesters, and those interviews are significant to the investigation, these deadlines may be extended until the beginning of the following semester.

The Complainant and Claimed Respondent will be given reasonable notice of any such extensions of the time limits set forth in the Policy.

In the event the Complainant fails to respond within the time limits provided, upon written notice of such failure by the Director of Human Resources to the Complainant, the complaint will be deemed to have been withdrawn.

In addition to utilizing the internal procedures set forth in this Policy, any faculty member or staff member who believes that she/he has been the subject of unlawful sexual or other harassment, discrimination and/or retaliation may file a complaint directly with external agencies that investigate discrimination, harassment and retaliation charges as stipulated in the External Reporting Section above.

