

Bunker Hill Community College

Faculty and Staff Guide to Title IX

What You Need to Know About
Sexual Harassment, Sexual Violence
and Gender-Based Discrimination

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Bunker Hill Community College Cares

Our goal is to continue to promote a workplace and educational environment that is free of all forms of discrimination, including gender-based discrimination, sexual harassment and sexual violence. BHCC does not tolerate such behaviors, all of which are prohibited by state and federal laws as well as College policy. We keep our campuses safe by responding promptly and immediately whenever an incident may occur.

Bunker Hill Community College is committed to create a safe environment for all members of our college community. Many behaviors addressed in this guide begin as low-level scenarios in informal situations that students may encounter. The more you know, the better prepared you will be to respond in a safe, responsible and supportive manner.

The purpose of this Guide is to educate our College community about Title IX and our collective responsibility to keep our learning and working environments safe and free from all types of discrimination based upon sex for every student, faculty member and staff person.

What is Title IX?

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in education programs that receive federal financial assistance. Gender-based discrimination, sexual harassment and acts of sexual violence such as rape, sexual assault, sexual exploitation, dating violence, domestic violence and stalking are all forms of sex discrimination prohibited by Title IX and BHCC policy. Title IX and College policy also prohibit retaliation against any person for filing a complaint, cooperating with an investigation, or opposing a practice or policy that an individual reasonably believes to be unlawful.

What is a Title IX Coordinator?

The College employee assigned the responsibility for maintaining the College's compliance with Title IX. The Title IX Coordinator is responsible for administering College policies and BHCC's discrimination complaint procedure concerning all Title IX Offenses.

The College's Interim Affirmative Action Officer and Title IX and Section 504/ADA Coordinator is Cheryl Cephas, 250 New Rutherford Avenue, Room H193, Boston, MA 02129, email ccephas@bhcc.mass.edu or phone 617-228-3331.

The Title IX Coordinator is responsible for providing any student, employee or visitor who believes s/he has been discriminated against with information and documents necessary to file a discrimination complaint, and for responding effectively to those complaints. BHCC's Title IX Coordinator also investigates or otherwise resolves all other complaints of discrimination that are made to the College. BHCC will respect students' rights to the extent allowable by law. See *How Do We Insure Confidentiality* for more information.

What is Gender-Based Discrimination?

Gender-Based discrimination is unwelcome conduct of a nonsexual nature based on a person's actual or perceived gender, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; and/or
- b. submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or
- c. such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile, or offensive employment, educational, or living environment based on gender.

What is Sexual Harassment?

Sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment or academic decisions; or
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating or sexually offensive learning or working environment.

Under these definitions, direct or implied requests by a supervisor or instructor for sexual favors in exchange for actual or promised job or academic benefits constitute sexual harassment. The legal definition of sexual harassment is broad and sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work or educational environment that is hostile, offensive, intimidating, or humiliating to another may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and/or its pervasiveness:

- a. Unwelcome sexual advances - whether they involve physical touching or not.
- b. Repeated, unsolicited propositions for personal phone numbers, dates and/or sexual contact.
- c. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or sexual ability.
- d. Displaying sexually suggestive objects, pictures, cartoons.
- e. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.

- f. Verbal harassment or abuse on the basis of sex.
- g. Inquiries into another person's sexual activities, practices or experiences.
- h. Discussion of one's own sexual activities, practices or experiences.

What is Sexual Violence?

Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the person's age or use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be perpetrated by employees, students, or third parties. All such acts of sexual violence are forms of sex discrimination and are prohibited by Title IX.

Sexual Violence under this Policy includes, but is not limited to:

- a. Rape - Defined by the Federal Bureau of Investigation as follows: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b. Sexual Assault - Actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:
 - i. Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity;
 - ii. Incest - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and
 - iii. Statutory Rape - Sexual intercourse with a person who is under the statutory age of consent. The age of consent in Massachusetts is 16 years of age.
- c. Sexual Exploitation - Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include:
 - i. Prostituting another person;
 - ii. Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
 - iii. Distributing via Internet or any other means images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and

- iv. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.
- d. Aiding in the Commission of Sexual Violence - The aiding or assisting in the commission of an act(s) of sexual violence is prohibited.
- e. Dating Violence - 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; and
 - iii. the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- f. Domestic Violence - A felony or misdemeanor crime of violence including, but not limited to, attempting to cause or causing physical harm; placing another in fear of imminent serious physical harm; or causing another to engage involuntarily in sexual relations by force, threat or duress, which is committed by
 - i. a current or former spouse or intimate partner of the victim;
 - ii. a person with whom the victim shares a child in common;
 - iii. a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - iv. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
 - v. 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 in which the crime of violence occurred.
- g. Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. For the purposes of this definition, "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

What is Consent?

Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or other drug consumption that meets this standard, or being asleep or unconscious. Further, there is no consent if a person is younger than sixteen years old (the age of consent in Massachusetts).

Who is at Risk?

Title IX applies to all students. Gender-based discrimination, sexual harassment and sexual violence have no boundaries. Anyone can be a victim of gender-based discrimination, sexual harassment and/or sexual violence regardless of race, religion, sex, gender identity and expression, age, sexual orientation, socioeconomic status or level of education.

How Do We Ensure Confidentiality?

Personal identifiable information about a victim will be treated as confidential and only shared with persons with a specific need to know and/or who are investigating and/or adjudicating the complaint, delivering resources or support services to the victim or as public safety requires. The College does not publish the names or other identifiable information of victims in the BHCC Police Department's Daily Crime Log, in any Timely Warnings issued or online. In accordance with the Family Educational Rights and Privacy Act, no directory information maintained by the College will be released absent the victim's prior, written consent.

Where a complainant requests that no action be taken by the College or requests that her/his identity not be revealed, the College shall take reasonable steps to investigate and respond to the complaint, but shall inform the complainant that such a request may hamper its ability to fully investigate an alleged violation of College policies and/or to take appropriate remedial steps, including disciplinary action. Where an allegation of discrimination involves the potential of an ongoing threat to the health, safety or security of others at the College or a potential adverse employment action, the Affirmative Action Officer/Title IX Coordinator shall inform the Complainant that it cannot ensure confidentiality and disclosure of her/his name may likely be required. If you have any questions about confidentiality, contact Cheryl Cephas, Interim Affirmative Action Officer and Title IX and Section 504/ADA Coordinator, 250 New Rutherford Avenue, Room H193, Boston, MA 02129, by emailing ccephas@bhcc.mass.edu or by calling 617-228-3331.

Nurses in the Health Services Office acting in their professional capacity may speak with a victim in confidence, unless a potential risk to health and/or safety becomes apparent.

Title IX Policies and Procedures

- Discrimination complaints, including Title IX complaints, are investigated pursuant to the complaint procedure contained in the College's Policy on Affirmative Action, Equal Opportunity & Diversity. The policy contains both informal and formal procedures with respect to resolving complaints. The policy is available on-line at: www.bhcc.mass/media/03-documents/AffirmativeActionPlan.pdf. Hard copies may be obtained in the Office for Diversity and Inclusion.
- The College's investigations are conducted in a prompt, fair, thorough and impartial manner. The College may take interim actions before the investigation is completed to protect the complainant, witnesses, the integrity of the investigation and to protect the alleged perpetrator from further allegations.
- The investigation will be completed as soon as is practicable, usually within 60 days.
- During the investigative process, both parties can identify witnesses, present other evidence and can have a personal adviser.
- Both parties will be notified of the outcome of the investigative process.
- Where a violation of policy is found to have occurred, the College will act promptly to end the discrimination, remedy its effects, prevent its recurrence and protect the complainant and others from retaliation.

What is a Responsible Employee and Who Are They?

Title IX regulations require "Responsible Employees" to assist BHCC in our ongoing efforts to comply with Title IX. Specifically, such employees must report all allegations involving Title IX offenses, including gender-based discrimination, sexual harassment, sexual violence, stalking, and domestic and dating violence to the Title IX coordinator or other official designee listed below as soon as the employee becomes aware of it. A Responsible Employee includes any College employee:

- who has the authority to take action to redress Title IX offenses;
- who has been given the duty of reporting Title IX offenses to the Title IX Coordinator or another appropriate school designee; or
- whom a student could reasonably believe has this authority or duty.

At BHCC, "Responsible Employees" include, but are not limited to:

- College Trustees;
- All Non-Unit Professionals ("NUP"s);
- Deans and Associate Deans;
- Professional Staff in the Health Services Office;
- Academic Department Chairs;

- Program Directors, Senior Academic Counselors and Senior Staff Associates;
- Faculty/Staff leading or chaperoning travel (including Study Abroad, away games or overnight trips);
- Faculty/Staff Advisors to Student Organizations;
- BHCC Police and Campus Security Authorities (CSA's); and
- Athletic Administrators, Coaches and Assistant Coaches.

Our Duty to Inform Victims

Before a person reveals information to you that s/he may wish to keep confidential, a Responsible Employee should make every effort to ensure that the alleged victim understands:

- The Responsible Employee has an obligation to report what the person tells her/him to the College administration;
- Complainants have the option to request that BHCC maintain confidentiality and/or undertake no investigation. BHCC will consider the request, but none of us may promise total confidentiality;
- S/he has the option to report the matter confidentially (so long as there is not a threat to health or safety) by speaking to the nurses in the Health Services Office acting in their professional capacities, or by requesting a referral to an external support services agency;
- S/he is entitled to support services from BHCC;
- BHCC will take other steps to protect her/him if necessary; and
- BHCC prohibits retaliation against anyone making a complaint or cooperating with an investigation.

Our Duty to Report Incidents

If a person tells you about something that may involve gender-based discrimination, sexual harassment or sexual violence, responsible employees have an obligation to report the matter immediately to the:

- Interim Affirmative Action Officer and Title IX and section 504/ADA Coordinator, Cephas, at 617-228-3331;
- BHCC Campus Police at 617-228-2222 (Emergencies) or 617-228-2053;
- Dean of Students, Julie Elkins, at 617-228-2436;
- Deans of the applicable academic divisions;

- Nurses in the Health Services Office, at 617-228-2185; or
- Associate Vice President for Human Resources, Molly Ambrose, at 617-228-2457.

The information shared by the complainant is confidential and should not be shared with anyone on campus except for one of the individuals listed above. It is important not to take the matter in your own hands and try to begin an investigation.

Reporting Incidents of Sexual Violence

If a person reports an incident involving sexual violence to you, get as much information as you can so you can brief the BHCC Police and the Title IX Coordinator immediately. A College Title IX investigation is different from a law enforcement investigation, so both need to be informed. If the person needs medical attention, escort her/him to the Health Services Office. If the Health Services Office is closed, contact the BHCC Police for an Emergency Medical Technician (EMT).

It is important that we respond immediately to the person's needs, whether physical and/or emotional.

How Are Victims of Sexual Violence Protected Once a Report is Made?

A person subjected to sexual violence will:

- Be provided with a copy of the College's Sexual Violence – Victim's Rights and Information Advisory, which shall include information concerning counseling, health, and mental health services, victim advocacy and support, law enforcement assistance, and other services available on and off campus;
- Have the right to pursue, or not pursue, assistance from campus administration officials or campus law enforcement;
- Not be discouraged by College officials from reporting an incident to on-campus and/or off-campus authorities;
- Be provided assistance in contacting local law enforcement if requested and have the full and prompt assistance and cooperation of campus personnel should a civil and/or criminal complaint be pursued;
- Be free from any suggestion that they somehow contributed to or had a shared responsibility for the violent act;
- Receive full and prompt cooperation from College personnel in obtaining and securing evidence (including medical evidence) necessary for any potential criminal proceedings;
- Have access to existing College counseling and medical professionals, and to obtain referrals to off-campus counseling and support services if desired;
- Be permitted to attend classes, work and participate in College activities free from

unwanted contact or proximity to the alleged perpetrator(s) insofar as the College is permitted and able;

- Be permitted to request changes to an academic schedule if such changes are reasonably available;
- Be informed of any no-contact or no-trespass orders issued to the accused party by the College and the College's commitment to honor any court-issued restraining or protective orders, to the extent permitted by law;
- Receive the same level of support at any proceeding before College officials as is permitted to the accused party, including the presence of a personal advisor during any investigative or disciplinary proceeding and the right to be notified in a timely manner of the outcome of such proceedings and any appeal right available;
- Be informed that retaliation of any kind against an individual who files a complaint or cooperates with an investigation is prohibited by College policy as well as state and federal laws. Should retaliation occur, the Title IX Coordinator and/or BHCC Police should be contacted immediately.

Rape Crisis Center Information

The Rape Crisis Centers listed below offer free, confidential services for adolescent and adult survivors—and for people who care about survivors of all ages. Trained rape crisis counselors at local programs:

- Answer 24/7 hotlines for phone counseling, questions, and referrals
- Will meet a sexual assault survivor 24/7 at a hospital or a police station
- Will go with a sexual assault survivor to court
- Offer in-person counseling sessions at no cost (some rape crisis centers also offer support groups)
- Provide prevention education; professional training; outreach

As the following contact information may be subject to change, current contact information on rape crisis centers in Massachusetts can be found at the Commonwealth's Executive Office of Health and Human Services Department of Public Health website at www.mass.gov/dph/sexualassaultservices.

Rape Crisis Centers

Greater Boston Area

Boston Area Rape Crisis Center

Cambridge, 617-492-8306
Hotline, 800-841-8371

Northeastern Massachusetts

North Shore Rape Crisis Center

Lynn, 781-477-2313
Hotline, 800-922-8772

Center for Hope and Healing

Lowell, 978-452-7721
Hotline, 800-542-5212

YWCA of Greater Lawrence

Lawrence, 978-682-3039
SA Hotline, 877-509-9922

Southeastern Massachusetts

A Safe Place

Nantucket, 508-228-0561
Hotline, 508-228-2111

Independence House

Hyannis, 508-771-6507
Hotline, 800-439-6507

Martha's Vineyard Community Services

Vineyard Haven, 508-684-8082
Hotline, 508-696-7233

New Bedford Women's Center

New Bedford, 508-996-3343
Hotline, 508-839-6636

New Hope

Attleboro, 508-226-4015
Hotline/TTY, 800-323-4673

New Bedford Women's Center

New Bedford/
Fall River, 508-675-0087
Hotline, 508-673-3328

Health Imperatives

Brockton, 508-580-3964
SA Hotline, 508-588-8255

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This is the current listing from the Commonwealth's Executive Office of Health and Human Services Department of Public Health website at www.mass.gov/dph/sexualassaultservices, as of December 8, 2016.



CONTACT:

Cheryl Cephas

Interim Affirmative Action Officer and Title IX and Section 504/ADA Coordinator

Charlestown Campus, Room H193

617- 228-3331

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Boston, MA 02129-2925

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AFFIRMATIVE ACTION and EQUAL OPPORTUNITY STATEMENT

Bunker Hill Community College does not discriminate on the basis of race, creed, religion, color, gender, sexual orientation, gender identity, age, disability, genetic information, maternity leave status, criminal record or national origin in its educational programs or in admission to, access to, treatment in or employment in its programs or activities as required by Title VI, Civil Rights Act of 1964; Title IX, Education Amendments of 1972; and Section 504, Rehabilitation Act of 1973 and regulations promulgated thereunder.

Direct all inquiries concerning the application of these regulations to Cheryl Cephas, Interim Affirmative Action Officer and Title IX and Section 504/ADA Coordinator, 250 New Rutherford Avenue, Room H193, Boston, MA 02129, by emailing ccephas@bhcc.mass.edu or by calling 617-228-3331.