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Introduction

The security of our campus and the safety of students, faculty, staff and visitors are responsibilities shared by every member of the Berkeley College community. The Berkeley College Office of Public Safety, however, has primary responsibility and oversight with regard to the safety and security of the Berkeley College community. The Office of Public Safety works in close cooperation with the Campus Operating Officer, the Office for Student Development and Campus Life, the Operations Department, the Office of the General Counsel, and local law enforcement, fire safety and emergency management authorities to that end.

Access to the Campus

The Campus is open to the public during regular operational hours (Monday through Friday 7am to 10pm; Saturday 7am to 5pm). After that time, the buildings are locked.

Security Patrols and Monitoring

Uniformed campus security personnel are stationed on the ground floor when the campus is open to the public and can be reached at 212-986-4343 x 4241 (43rd Street) and x4315 (41st Street). The uniformed campus security personnel patrol the campus on a regular schedule. While the security guards are neither armed nor empowered to arrest, they, and the Office of Public Safety, work closely with the Midtown South Precinct of the NYPD, who respond rapidly to any request for assistance. They can be reached at (212)239-9811 for non-emergencies and 911 for emergencies.

The security guards work closely with the Office of Public Safety; the Office for Student Development and Campus Life; and the Campus Operating Officer, who have the authority to take appropriate disciplinary action in response to dangerous or inappropriate behavior. Berkeley College has a Memorandum of Understanding in place with the NYC Police Department, outlining the responsibilities of both parties and mutual cooperation, in the event of criminal activity on campus (in Clery geography), including incidents of sexual misconduct, intimate partner violence and stalking.

Campus security personnel conduct periodic video patrols to monitor activity, while the building is open for business, in the building entrances, elevators, stairwells and designated rooms and offices. The cameras digitally record activity 24/7 and the footage is stored for approximately 1 month. The campus is also equipped with burglar and fire alarms, as well as an emergency lighting system.

Maintenance personnel inspect the entire campus and buildings regularly to detect and remedy health, safety, or maintenance problems. Security-related maintenance issues (such as lights, doors, windows or locks in need of repair) are reported promptly to the Office of Public Safety.

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Reporting a Crime or a Threat

Notwithstanding the presence of professional security personnel, each member of the College community shares a responsibility to help maintain the safety of our campus. If you witness an emergency situation, or the commission of a serious crime, or perceive a situation to be an immediate threat to your safety or the safety of others, or you are a victim yourself, you should immediately dial "911" or call the New York City Police Department at (212) 239-9811. You should also call the Office of Public Safety (973-278-5400 x1194) or Campus Security (212-986-4343 x4241 (43rd St.) or x4315 (41st St.)) *but only after* reporting the matter to the Police. If you witness a crime that does *not* involve bodily injury, such as a theft, you should report the matter promptly to the Office of Public Safety (973-278-5400 x1194) or Campus Security (212-986-4343 x4241 - 43rd St. or x4315 - 41st St.). College personnel who receive a report of past criminal activity of any kind shall promptly report the incident to the Office of Public Safety (x1194). Reports of theft or other crimes that do not involve bodily injury will usually be investigated by College officials. If, however, the victim of such crime wishes to report the matter to the New York City Police Department, the Office of Public Safety will assist the victim in that process, if the victim so requests.

There may be instances in which a victim of or witness to a crime is reluctant to file a police report, which is typically treated as a public record under state law. In such situations, the victim or witness should consider seeking confidential assistance from the College, by discussing the matter with a Campus "Personal Counselor." The College provides Personal Counselors to whom a student victim or witness may disclose the commission of a crime in confidence. Upon receiving such information, the Counselor (who is not considered a "campus security authority") is not obligated to report the crime to College officials for investigation or for inclusion in the Annual Security Report. College policy does, however, require the Counselor to inform the victim or witness that the victim or witness may authorize the Counselor to report the crime, without identifying the victim or witness, to the Office of Public Safety for possible inclusion in the Annual Security Report. In addition, with the permission of the victim or witness, an authorized College official may file a police report on the details of the incident without revealing the identity of the victim or witness. Doing so may help protect others from danger. In all cases, the College strongly encourages Personal Counselors, who are the College's only designated confidential resource for students, to inform victims or witnesses of all appropriate reporting options, both inside and outside the College.

The Office of Public Safety maintains a daily crime log, which contains allegations of criminal acts that have been reported. The log is updated within 48 hours of the report being received and details information including: the nature of the crime, the general location, the date and time it occurred, the date it was reported, and the disposition. The crime log is maintained at the main security desk. The most recent 60 days of the log is available for viewing during regular business hours. For entries older than 60 days, arrangements can be made through the Office of Public Safety for viewing within 2 business days.

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Timely Warnings

In the event that the Department of Public Safety becomes aware of a dangerous or criminal situation that has occurred on, or near, any campus, and there is reason to believe that a perpetrator(s) is still at large, and/or there exists a serious or continuing threat to the campus community, the AVP for Public Safety or his designee will initiate a conversation regarding the issuing of a Timely Warning Notification. This conversation will include the Campus Operating Officer, the VP for Student Development and Campus Life (or her designee) and an attorney from the Office of General Counsel. The AVP for Public Safety will provide to the group his rationale for the need for the Notification, and specify to what population it will be directed. In the event that an investigation is needed to verify the validity of the original crime or threat, the decision to notify may be delayed until such time as the threat can be verified. The above-described group will decide whether to issue a Notification and its content. The Public Safety Department will issue the Notification.

The Notification will be issued using one or more of the following methods: BERK-ALERT (text, email or voice messages to registered phones); email to Berkeley College email addresses, postings on our website (www.berkeleycollege.edu) and/or the Engage portal (https://engage.berkeleycollege.edu/default/student_portal/index), media announcements, and portable public address equipment. The College shall provide such warnings in a way that withholds the names of victims. In the event of an emergency, Berkeley College's Information Line (1-800-446-5400) will become an Information Hotline Number that will provide information to the general public. (*See also* the 'Timely Warning' section on page 15 herein, in the context of sexual assault, intimate partner violence and stalking cases.)

Informational Programs Addressing Sexual Assault, Domestic Violence, Dating Violence and Stalking and General Security Awareness

Students

Student orientation programs are offered to all new students each semester. These orientation programs include a review of policies and procedures related to conduct and behavior expected of students. In addition, orientation includes presentations and information on topics including sexual assault, domestic violence, dating violence, stalking, affirmative consent, risk reduction, safe and positive options for bystander intervention and bias crimes and the availability of both on-campus and off-campus counseling, on-campus and off campus reporting options, and other resources. With regard to sexual assault, affirmative consent in the context of sexual activity, domestic violence, dating violence and stalking, students are provided with the definitions of these crimes in New York and/or New Jersey, as well as the definitions contained in College policy.

Resources and information on drug and alcohol abuse are also shared with students at orientation and educational programming on this topic is offered to students throughout the year.

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All new degree students receive additional education and information on sexual assault and sexual misconduct, and on-campus and off-campus reporting options and resources in their required first year SOC1123 seminar.

In addition to orientation programs and first year seminar presentations, the Berkeley College Student Development and Campus Life Department (SDCL) offers an average of 2-4 programs per semester, per campus location, to students throughout the year on the following topics: healthy relationships, communication and consent; sexual assault; sexual harassment; dating violence; domestic violence; stalking; abusive relationships; bystander intervention skills; and risk awareness and prevention strategies. These programs both reiterate what was provided at orientation and provide more targeted instruction relating to some additional topics.

As a result of the Covid pandemic, both orientation and these types of programs have been performed virtually since March of 2020.

Furthermore, SDCL staff have been trained by the *One Love Foundation* to facilitate the “Escalation” workshop for Berkeley College students. One Love was founded in 2010 by the Love family, following the death of University of Virginia student Yeardley Love who was beaten to death by her ex-boyfriend. The Escalation workshop is a film that educates students about relationship violence and about responsible bystander intervention. After viewing the film, SDCL staff facilitate a discussion with students. During the 90 minute workshop, students are presented with campus, local and national resources related to relationship violence, sexual assault and stalking. The facilitated discussion is based around these issues and also includes educational discussion on topics of consent, bystander intervention strategies and risk reduction strategies as they relate primarily to relationship violence, but also to sexual assault and stalking. Staff facilitate the Escalation workshop primarily in classes, including SOC1123 first year seminar classes.

In addition to seminar classes, SDCL staff have facilitated Escalation workshops for student athletes, student leaders and student employees.

At the request of One Love, Escalation workshops are not offered online or virtually. One Love offers additional educational and program resources that are well suited to virtual educational programs, however, and after March 2020, SDCL and Personal Counseling staff used those and other resources to design virtual programs and trainings on topics of relationship violence, bystander intervention, sexual assault, sexual harassment, and stalking.

Finally, the Personal Counselors engage and educate students on the Violence Against Women Act (VAWA) and Title IX related issues through blog articles, the College’s internal social media platform called Yammer and social media posts.

Associates

The Berkeley College Orientation Program is offered to all new full-time Berkeley College associates. Included in this orientation, among other things, is information pertaining to the

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topics of sexual harassment, sexual assault, dating violence, domestic violence and stalking, risk reduction, and safe and positive options for bystander intervention (both College definitions and NJ/NY definitions of the VAWA offenses are referenced). College Policies and Procedures relating to VAWA offenses are also covered. Information is also provided regarding the availability of both on-campus and off campus reporting options and other resources and assistance. All new associates are required to complete an online mandatory training in these areas and are provided with links to policies/procedures in these areas, as well as links to drug and alcohol abuse materials.

Human Resources also requires all *existing* associates to complete a training and awareness program, on a regular basis, to include information on sexual harassment, sexual assault, dating violence, domestic violence, stalking, risk reduction and safe and positive options for bystander intervention. This program includes both College Policy definitions and NJ/NY definitions of the VAWA offenses.

Moreover, any College staff involved with intake and investigating or adjudicating these types of incidents undergo annual training on all pertinent issues, including, but not limited to, assessing credibility and evidence; protecting the safety of all parties involved; avoiding actual and perceived conflicts of interest; promoting transparency and accountability of the process, as well as the new training topics required by the May 2020 Federal Title IX rules.

Students and Associates

In addition to training and awareness programs, the College promotes its Title IX/VAWA web page, located on the College website, which contains education, policies and procedures, climate survey information, reporting options, rights, supportive measures, sanctions and on-campus and off-campus resources in the contexts of Title IX and VAWA. The web page URL and link is: http://berkeleycollege.edu/berkeley_bc/title-ix.htm Student Development and Campus Life staff and Human Resources staff advertise the web page(s) to students and staff, respectively.

In addition to the Title IX/VAWA web page, the College distributes a brochure, providing general education, information on preservation of evidence, information on prevention of violence and on-campus and off-campus resources in the context of sexual assault, intimate partner violence and stalking (“VAWA Brochure”). This Brochure, as well as the applicable Procedures, is given to student and/or associate Complainants who report these offenses to College officials; and Student Development and Human Resources utilize them at trainings, orientations and other public awareness events that they sponsor. The VAWA Brochure is also located on the College Title IX/VAWA web page here: <https://berkeleycollege.edu/pdf/vawa-brochure.pdf>

The Berkeley College Offices of Public Safety and Student Development and Campus Life offer students and associates presentations, information, and/or safety tips, on a variety of topics throughout the year. Subjects include preventing crimes against property, dating and domestic violence, date rape prevention, emergency management preparation and response, identity theft prevention, situational awareness, active shooter response, fire safety, classroom safety and city

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safety. Safety presentations can be specifically oriented (i.e. international students; safety abroad), or for general audiences. The Public Safety website also offers safety tips. The College also offers online webinars and online safety training for associates. As a result of Covid, there have been no such safety presentations since March of 2020. Rather, there has been Covid related information and safety tips provided to students during this time.

The College sponsors forums on security-related topics every few years featuring state and national experts, which are open to staff, students and the public. Past topics have included protecting critical infrastructure, medical field threats, domestic terrorism and social media concerns in the context of public safety.

Weapons

With limited, carefully circumscribed exceptions for certain law enforcement and active military personnel, no one is permitted to carry a weapon on campus. Violators of this College Policy will be subject to disciplinary action, up to and/or including suspension, dismissal, or termination of employment. To the extent that it deems appropriate, the College may also refer such incidents to appropriate law enforcement authorities for further action and, to the extent required or permitted by law, notify the parents or legal guardians of students who are non-emancipated minors.

Alcoholic Beverages & Illegal Drugs

Berkeley College has a robust Alcohol and Drug prevention program designed to provide students with relevant and accurate drug and alcohol information, including the risks associated with these substances, and to promote healthy choices and low-risk taking behaviors. This goal is achieved through educational programming, alcohol and drug screenings and assessments, staff trainings, and other resources that focus on prevention, education and treatment options. In addition to programming, the Alcohol and Drug program includes the availability of personal counselors, sponsoring alcohol and drug-free student activities, and alcohol and drug curriculum infusion.

Moreover, the College has a Drug and Alcohol Prevention Task Force charged with conducting Biennial Reviews of the College Drug and Alcohol prevention program; drafting Biennial Reports; and ensuring that the College otherwise complies with the Drug-Free Schools and Communities Act. Biennial Reports generally include descriptions and assessments of the College drug and alcohol program; policies; policy distribution; policy enforcement, violations and sanctions; strengths and weaknesses of the College program/programming; and recommendations for the next biennial. The College's Counseling and Wellness Office, which is part of the Office of Student Development and Campus Life, oversees the College's Drug and Alcohol Program and maintains the Biennial Reports.

Berkeley College strictly prohibits the possession, sale, use, or distribution of illegal drugs and drug paraphernalia; the misuse/abuse or redistribution of drugs obtained lawfully; and the unauthorized sale, possession or consumption of alcohol, on any College property, in College vehicles, or at any College related activity. It is also a violation of Berkeley's Alcohol and Drug

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Policy and Program for one Berkeley student or associate to coerce, even subtly, another Berkeley student or associate to use drugs or alcohol. The Student Alcohol and Drug Policy can be found here - <https://berkeleycollege.edu/pdf/alcohol-and-drug-policy-students.pdf> and the Associate Policy can be found here - <https://berkeleycollege.edu/pdf/alcohol-and-drug-policy-associates.pdf>

The sale or possession of alcohol and any controlled substance, including marijuana, is governed by federal and state law, and such laws are strictly enforced by College authorities. A list of some federal, state, and local laws pertaining to the sale, possession and consumption of drugs and alcohol, health risks associated with drug and alcohol abuse, as well as a list of resources and support programs, can be found in the College policies referenced above.

Students who violate Berkeley’s Alcohol and Drug Policy and Program are subject to disciplinary action. Based upon an evaluation of the relevant circumstances, such disciplinary action may include, in the sole discretion of the College and without limitation, warnings (oral or written); referral to Berkeley personal counselors; mandatory completion of a substance abuse rehabilitation program; suspension; or immediate dismissal from the College.

Associates who violate Berkeley’s Alcohol and Drug Policy and Program are also subject to disciplinary action. Based upon an evaluation of the relevant circumstances, such disciplinary action may include, in the sole discretion of the College and without limitation, warnings (oral or written); mandatory completion of a substance abuse rehabilitation program; suspension (with or without pay); or immediate termination of employment.

To the extent it deems appropriate, the College may also refer such violations to appropriate law enforcement authorities for further action and, to the extent required or permitted by law, notify the parents or legal guardians of students who are non-emancipated minors. Convictions involving certain drug-related crimes may also disqualify students from receiving financial aid under federally-subsidized programs.

Sexual Assault, Domestic Violence, Dating Violence and Stalking (Title IX¹, VAWA and NY 129-B²)

¹ Non-VAWA Title IX offenses, such as sexual discrimination, (traditional) sexual harassment and sexual exploitation, are not generally included in this Annual Security Report – either in the policy statements or crime stats – as they fall outside of VAWA’s scope. The May 2020 definition of Title IX “Sexual Harassment” (per the new Title IX rules) **includes** the VAWA offenses of sexual assault, intimate partner violence and stalking. Nevertheless, for purposes of this ASR, we do not refer to the VAWA offenses as “sexual harassment.” Thus, while the College policy and procedures set forth in this ASR apply to MORE than just VAWA offenses (i.e. Title IX Sexual Harassment and other sexual misconduct), we have, for the most part, limited the language of our policy statements in this ASR to **just** “VAWA offenses.”

² Violence Against Women Reauthorization Act of 2013, as well as NY Education Law Article 129-B of 2015. Because Berkeley College has campus locations in NYS, Berkeley College is in compliance with NY 129-B - a state law that is similar to the federal VAWA. Although some 129-B variations are not required by VAWA (Clery), they are nevertheless included in this Report where they change or effect sexual misconduct related policies, practices

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Berkeley College prohibits the offenses of sexual assault, domestic violence, dating violence and stalking.³

According to the Berkeley College Title IX (and Non-Title IX) Sexual Harassment and Sexual Misconduct Policy⁴:

Sexual Assault: Sexual assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of **consent**, including **incapacitation**). Sexual contact includes:

- i. sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
- ii. sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification.
- iii. attempts to commit sexual assault.

Affirmative Consent to a sexual act requires a clear, affirmative, current, and mutual agreement to take or permit such action. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon an individual's sex, sexual orientation, gender identity, or gender expression. Although consent need not be verbal, verbal communication is often the most reliable means of ensuring consent to sexual activity.

Consent to any one or prior sexual act does not constitute consent to any other or future sexual act. Consent to sexual activity may be withdrawn at any time, in which case the activity must

and procedures on the ground at Berkeley College. Generally speaking, references to VAWA incidents and VAWA compliance in this Report include 129-B incidents and compliance.

³ For the offenses of sexual assault, domestic violence, dating violence and stalking, the statistics in this ASR are compiled in accordance with the definitions used in the Violence Against Women Act. During training and awareness programs, students and/or associates are informed of the NJ and/or NY definitions of these offenses and College Policy definitions.

⁴ To see the Berkeley College Title IX (and non-Title IX) Sexual Harassment and Sexual Misconduct Policy in its entirety, go here: <https://berkeleycollege.edu/pdf/Title-IX-Non-Title-IX-Sexual-Harassment-and-Sexual-Misconduct-Policy.pdf>

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cease immediately. Consent cannot be obtained by physical force, threats, or intimidation. Consent is required regardless of whether the person *initiating* the act is under the influence of drugs and/or alcohol.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by a lack of consciousness or being asleep, being involuntarily restrained, or can exist if an individual's ability to make decisions is otherwise compromised. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

Consent cannot be given by a person who is under the legal age of consent. In addition, consent cannot be given by an individual with a mental, intellectual, physical or other disability that renders him/her incapable of giving consent.

Dating and Domestic Violence: Dating and Domestic Violence includes any act of violence against a Complainant who is or has been involved in a sexual, dating, domestic, or other intimate relationship with the Respondent, or against a person with whom the Respondent has sought to have such a relationship, as follows:

Dating Violence: includes any act of violence committed by a person:

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- (b) 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; and
 - (3) the frequency of interaction between the persons involved in the relationship.

Domestic Violence: includes any act of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under New Jersey and/or New York state law, respectively; or by any other person against an adult or minor Complainant who is protected from that person's acts under New Jersey and/or New York state law, respectively.

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Dating or Domestic Violence may also include Sexual Assault, Sexual Exploitation and Stalking.

Stalking: Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress.

Course of conduct means two or more instances including but not limited to unwelcome acts in which an individual 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. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

As stated on page 5 herein, the College created a Title IX/VAWA web page(s), located on the College website, to provide education, policies and procedures, reporting options, rights, supportive measures and on-campus and off-campus resources in the contexts of Title IX and VAWA. The website URL and link is: http://berkeleycollege.edu/berkeley_bc/title-ix.htm

The College also created a brochure, providing general education, information on preservation of evidence, information on prevention of violence and on-campus and off-campus resources in the context of sexual assault, intimate partner violence and stalking (“VAWA Brochure” or “Resource Brochure”). This Brochure, along with the applicable College Procedures, is given to student and/or associate Complainants who report these offenses to College officials; and Student Development and Human Resources utilize the Brochure at trainings, orientations and other public awareness events that they sponsor. The VAWA Brochure is also located on the College Title IX/VAWA web page here: <https://berkeleycollege.edu/pdf/vawa-brochure.pdf>

Reporting Options for Students

1(a). Non-Confidential Reporting

- Students can direct Title IX, VAWA or 129-B related complaints to, consult with, and/or file a report involving such matters with, the **Deputy Title IX Coordinator for Students** as follows: LaTysha Gaines, MPA, Assistant Vice President, Student Development and Campus Life, LaTysha-Gaines@BerkeleyCollege.edu, 212-986-4343 ext. 4218.⁵ The Deputy Title IX Coordinator shall promptly inform the Title IX Coordinator of any Title IX, VAWA or 129-B related inquires or complaints of which she becomes aware.

⁵ Available before and after normal business hours at 201-364-5407.

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- Students may also direct Title IX, VAWA or 129-B related inquiries, complaints, and/or reports to the designated **Title IX Coordinator** for Berkeley College - who serves as the overall College coordinator for Title IX, VAWA and NY 129-B compliance - Dallas F. Reed, Vice President, Student Development and Campus Life, who can be reached at 973-278-5400, x1391⁶, titleixcoordinator@berkeleycollege.edu
- Students may also report these matters to **College Public Safety, local law enforcement and/or the NY state police** (if applicable). The Title IX Coordinator and/or the College Public Safety Department can assist students with contacting local law enforcement and/or the NY state police, upon request.
- Where the Respondent is a Berkeley College associate, students may report these types of incidents to the College's **Deputy Title IX Coordinator for Associates**: Karen Carpentieri, VP for Human Resources, kjc@berkeleycollege.edu, 201-291-1111 x5162 or have the right to request that a confidential or private employee assist in reporting to Deputy Title IX Coordinator for Associates.
- Students may contact the U.S. Department of Education, Office for Civil Rights with Title IX related complaints, at 800-421-3481 or ocr@ed.gov
- Students can **decline** to notify any such authorities or individuals.

1(b). Confidential Assistance

Students seeking confidential assistance should consider speaking in confidence to a college “Personal Counselor,” located at each campus location. **College Personal Counselors** who acquire confidential information in the course of providing counseling services are not required to report the matter to the Title IX Coordinators. **Personal Counselors are the only designated/recognized confidential resource at the College.** Nevertheless, Personal Counselors shall inform students who seek confidential counseling of all of their reporting options and resources, both inside and outside the College. Students may disclose confidentially the incident and obtain services from state and/or local government services and hotlines. See http://berkeleycollege.edu/berkeley_bc/title-ix-resources-and-education.htm for more details and information.

1(c). Reporting Obligations of Associates Who Learn about Title IX, VAWA or 129-B Allegations – “Responsible Employees”

College faculty or staff (other than Personal Counselors) who receive reports or complaints of sexual discrimination, sexual harassment, sexual exploitation, sexual assault, intimate partner violence, or stalking involving students are considered “Responsible Employees” under Title IX

⁶ Available before and after normal business hours at 347-306-1774.

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and shall promptly notify the Deputy Title IX Coordinator for Students or the Title IX Coordinator.

1(d). Information Learned at Public Awareness and Advocacy Events

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public events, Berkeley College is not obligated to begin an investigation based on such information. The College may use the information provided at such an event to inform its efforts for additional education and training.

1(e). Drug and Alcohol Use Amnesty in Connection with Reporting

The health and safety of every student at Berkeley College is of utmost importance. Berkeley College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Berkeley College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Berkeley College officials in accordance with these procedures. A bystander acting in good faith, or a reporting individual acting in good faith, that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Berkeley College officials or law enforcement will not be subject to Berkeley College's disciplinary process for violations of College alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Reporting Options for Associates

Associates should direct complaints involving sexual assault, intimate partner violence and stalking to the **Deputy Title IX Coordinator for Associates**, who can be reached as follows: Karen Carpentieri, Vice President of Human Resources, kjc@berkeleycollege.edu ; 201-291-1111 x5162.

Associates may also direct these VAWA related inquiries or complaints to the designated **Title IX Coordinator** for Berkeley College - who serves as the overall College coordinator for Title IX and VAWA compliance - Dallas F. Reed, Vice President, Student Development and Campus Life, who can be reached at 212-986-4343, x4211⁷; titleixcoordinator@berkeleycollege.edu. Associates can decline to notify any such authorities or individuals.

Associates seeking confidential assistance concerning sexual assault, intimate partner violence, or stalking (among other issues) may contact the Employee Assistance Program ("EAP") by contacting **Toll-Free 855-RSL-HELP (855-775-4357)**, a confidential crisis line, or <http://rsli.acieap.com>

⁷ Available before and after normal business hours at 201-364-5407.

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The EAP is available regardless of whether an incident is reported to the College or law enforcement. Reports to the EAP, however, will not be provided to the College and will not result in investigation or disciplinary action by the College.

Duties of Title IX Team upon Receipt of a Report

The Title IX Coordinator and/or Deputy Title IX Coordinators (or designee) shall be available to Complainants 24/7, and:

- Shall communicate to the Complainant, at the first instance of disclosure, the availability of supportive measures, as described below, consider the Complainant’s wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process and procedures for pursuing a Formal Complaint through College grievance proceedings as described herein.
- Shall further communicate to the Complainant, at the first instance of disclosure, that, in addition to the option of filing a Formal Complaint with the College, the right to make a report to local law enforcement, and/or state police or to choose NOT to report to anybody; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College.
- Shall explain the importance of preserving evidence and obtaining a sexual assault forensic exam, if appropriate.
- Shall explain to the Complainant differences in the standards of proof used in the criminal justice process and the College’s formal grievance process;
- Shall explain to the Complainant the right to withdraw a Formal Complaint or involvement from the College process/proceedings at any time;
- Shall explain to the Complainant the differences between Confidentiality and Privacy in this context (see below);
- Shall share with the Complainant internal and community resources, and provide referral assistance for medical, mental health and legal resources, including how to initiate legal proceedings in family or civil court. See <https://berkeleycollege.edu/about/administration/general-counsel/title-ix/index.html> for more details and resource information.

These rights, options and resources shall be both explained to the Complainant orally and given to the Complainant in writing, via the College Title IX (and non-Title IX) Sexual Harassment and Sexual Misconduct Policy, the College Title IX Sexual Harassment and Sexual Misconduct Procedures and the VAWA Brochure, also found here: <https://berkeleycollege.edu/pdf/vawa-brochure.pdf>

Understanding the Difference Between Privacy and Confidentiality

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Berkeley College is committed to protecting the privacy of all individuals involved in a report of a VAWA offense under College policy. All associates who are involved in the College's response to a VAWA offense, including the Title IX Coordinator, investigators and adjudicators, receive specific training and guidance about safeguarding private information, including the protections set forth in Title IX, the Clery Act, and the Family Educational Rights and Privacy Act ("FERPA").

Privacy and **Confidentiality** have distinct meanings under the College Title IX (and non-Title IX) Sexual Harassment and Sexual Misconduct Policy.

Privacy: refers to the discretion that will be exercised by the College in the course of any investigation or disciplinary processes under this Policy. Information related to a report of a VAWA offense will be handled discreetly and shared with a limited circle of College associates or designees who need to know in order to assist in the assessment, investigation, and resolution of the report and related issues. The College will make reasonable efforts to investigate and address reports of VAWA offenses and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, the College will maintain the privacy of the parties to the extent reasonably possible.

Confidentiality: refers to the statutory protections provided to individuals who disclose information in legally-protected or privileged relationships, including College **Personal Counselors** (students) and the **Employee Assistance Program** (associates) (Confidential Resources). Information shared by an individual with a Confidential Resource, on campus or in the community, intended as a confidential communication, cannot be revealed to any other individual without express permission of the individual seeking services, unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor. When a report involves suspected abuse of a minor under the age of 18, these Confidential Resources are required by state law to notify child protective services and/or local law enforcement.

Similarly, an individual's medical and counseling records are confidential and cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations.

If you share information about a VAWA offense with any faculty or staff member who is not a designated Confidential Resource, that faculty or staff member will share that information with the Title IX Coordinator. Upon receiving such information, the Title IX Coordinator will offer supportive measures to a Complainant, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator will consider the Complainant's wishes with respect to supportive measures and seek to respect a Complainant's autonomy in making the determination regarding how to proceed.

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The Formal Complaint process does not provide for anonymity and complete confidentiality, although the principles of privacy, described above, apply throughout all processes.⁸

In limited circumstances, typically where a risk of imminent harm to an individual or others or a threat to the physical health and safety of the campus community is determined to exist, the College may be required to take immediate action upon receipt of a VAWA report.⁹ In such circumstances, the reasons and steps the College will take will be explained to the Complainant.

In all cases, a Complainant's personally identifiable information will *not* be included in any publicly available record-keeping, including the Annual Security Report or the daily crime log.

Timely Warning

Any College associate who receives a report of a sexual assault, intimate partner violence, or stalking on or adjacent to College property must promptly report it to the Public Safety Department. In accordance with College policy and procedures, and as stated on page 3 herein, the AVP for Public Safety or his designee will initiate a conversation regarding whether there exists a serious or continuing threat to the campus community, such that a Timely Warning Notification should be issued. This conversation will include the Campus Operating Officer, the Title IX Coordinator (or her designee) and an attorney from the Office of General Counsel. The AVP for Public Safety will provide to the group his rationale for the need for the Notification, and specify to what population it will be directed. In the event that an investigation is needed to verify the validity of the original crime or threat, the decision to notify may be delayed until such

⁸ The Family Educational Rights and Privacy Act, 20 U.S.C. 1232g (“FERPA”) allows Berkeley College to share information with parents when 1) there is a health or safety emergency or 2) when the student is a dependent on either parent's prior year federal income tax return. Generally, the College will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual. For more information on FERPA, please see the College Student Records Policy here: <https://berkeleycollege.edu/pdf/ferpa-notice.pdf>.

⁹ The College will weigh a number of factors when determining whether to honor a confidentiality request, including, but not limited to:

- The nature of the reported conduct;
- Whether the Respondent has a history of violent behavior or there have been other complaints or reports of harassment, misconduct or prohibited conduct against the Respondent;
- Whether the incident represents potential escalating behavior on the part of the Respondent;
- Whether the circumstances suggest there is an increased risk of the Respondent committing additional acts of sexual violence or other violence, including but not limited to reported threats of sexual violence or other violence by the Respondent against the Complainant or others;
- Whether the Respondent is reported to have used a weapon, force, threats or coercion;
- Whether the Respondent is reported to have intentionally drugged or caused the incapacitation of another as a means of committing the conduct;
- Whether the conduct was reportedly committed by multiple individuals;
- Whether the Complainant is a minor;
- Whether the Respondent is an associate; and
- Whether the College possesses other competent means to obtain relevant evidence.

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time as the threat can be verified. The above-described group will decide whether to issue a Notification and its content. The Public Safety Department will issue the Notification, in a way that withholds the name of the alleged victim(s).

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent when a report is received. Supportive measures are available before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are designed to restore or preserve equal access to the College's Education Program or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual misconduct.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The College will consider a number of factors in determining which supportive measures to take, including the needs of the student or associate seeking supportive measures; the severity or pervasiveness of the alleged conduct; any continuing effects on the Complainant; whether the Complainant and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Complainant (e.g., protective orders). The College will work in good faith to implement the requirements of judicially issued protective orders and similar orders, to the extent that doing so is within its authority.

The Title IX Coordinator or Deputy Title IX Coordinators are responsible for ensuring the implementation of supportive measures and coordinating the College's response with the appropriate offices on campus. The College will maintain the privacy of any supportive measures provided to the extent practicable and will promptly address any violation of the protective measures. If a Supportive Measure is implemented, including a no-contact order, both the Complainant and Respondent may request a review, if reasonable under the circumstances, of the need for, and terms of, such measures, with the Title IX Coordinator or Deputy Title IX Coordinators and shall be allowed to submit evidence in support of their request.

Berkeley College will also provide reasonably available supportive measures for third parties, provided that the supportive measures are within the scope of that individual's relationship to the College.

Orders of Protection and Restraining Orders

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The College will endeavor to enforce any orders of protection or restraining orders obtained from the courts that have been provided. Although not required, Complainants are encouraged to provide the College with a photo of, and other identifying information about, the Respondent. Complainants should provide a copy of the court order, and other information about the Respondent, to the Title IX Coordinator, Deputy Title IX Coordinators, or to the Public Safety Department. Either party may obtain a copy of the order of protection or restraining order from the Public Safety Department (if such order has been provided to the College), and may request an appointment to speak with a Public Safety associate about the order and ask questions. The Public Safety Department will contact and assist local law enforcement in effecting an arrest for a violation of any order of protection or restraining order. Students and associates subject to an order of protection or restraining order may face consequences for any violation, including, but not limited to, arrest, additional conduct charges, and/or emergency removal/interim suspension.

Note: The Public Safety Department is available to assist students and associates in obtaining an order of protection or restraining order. However, the College cannot obtain such order on the student or associate's behalf. The Public Safety Department can assist with identifying and obtaining contact information for local law enforcement and nearby legal services.

Overview of Procedural Options

Upon receipt of a VAWA offense report, the Title IX Coordinator or Deputy Title IX Coordinators will engage in a preliminary inquiry to assess and understand the nature of the report, provide outreach to a Complainant, offer supportive measures, and determine whether the Title IX (and non-Title IX) Sexual Harassment and Sexual Misconduct Policy applies to the report, and if so, what form of resolution is reasonably available and appropriate.

- For Formal Complaints of Title IX Sexual Harassment, including Dating Violence, Domestic Violence, and Stalking, occurring in the United States *and* in a Berkeley College Education Program or Activity, notwithstanding whether the Respondent is an associate or student, the following procedures apply:

Title IX Sexual Harassment and Sexual Misconduct Procedures

<http://berkeleycollege.edu/pdf/Title-IX-Sexual-Harassment-and-Sexual-Misconduct-Procedures.pdf>

Pursuant to the Title IX Sexual Harassment and Sexual Misconduct Procedures, the investigation will be followed by a live hearing, and an opportunity to appeal the finding of the decision maker.

- For Formal Complaints that include an allegation of Sexual Assault, regardless of

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where the incident(s) is alleged to have occurred, notwithstanding whether the Respondent is an associate or student, the following procedures apply:

- Title IX Sexual Harassment and Sexual Misconduct Procedures
<http://berkeleycollege.edu/pdf/Title-IX-Sexual-Harassment-and-Sexual-Misconduct-Procedures.pdf>

Pursuant to the Title IX Sexual Harassment and Sexual Misconduct Procedures, the investigation will be followed by a live hearing, and an opportunity to appeal the finding of the decision maker.

- For Formal Complaints of Title IX Sexual Harassment, including Dating Violence, Domestic Violence, and Stalking, *not* occurring in the United States, *or outside* a Berkeley College Education Program or Activity, the following procedures apply:
 - Non-Title IX Sexual Harassment and Sexual Misconduct Procedures for Students - for complaints where a student is either the Complainant or Respondent
<http://berkeleycollege.edu/pdf/Non-Title-IX-Sexual-Harassment-and-Sexual-Misconduct-Procedures-for-Students.pdf>
 - Non-Title IX Sexual Harassment and Sexual Misconduct Procedures for Associates - for complaints brought by an associate against an associate
<http://berkeleycollege.edu/pdf/Non-Title-IX-Sex-Harass-and-Sex-Misconduct-Procedures-for-Associates.pdf>
- For Formal Complaints that include an allegation(s) of Sexual Exploitation or Other Sexual Harassment, *and not* Title IX Sexual Harassment, Dating Violence, Domestic Violence, and Stalking, the following procedures apply:

Non-Title IX Sexual Harassment and Sexual Misconduct Procedures for Students - for complaints where a student is either the Complainant or Respondent

<http://berkeleycollege.edu/pdf/Non-Title-IX-Sexual-Harassment-and-Sexual-Misconduct-Procedures-for-Students.pdf>

- Non-Title IX Sexual Harassment and Sexual Misconduct Procedures for Associates - for complaints brought by an associate against an associate
<http://berkeleycollege.edu/pdf/Non-Title-IX-Sex-Harass-and-Sex-Misconduct-Procedures-for-Associates.pdf>

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Advisors

Complainants and Respondents are entitled to be accompanied and assisted by an advisor of their choice throughout all phases of the process, including at interviews, other meetings, or hearings. There is no requirement that the advisor be an individual from Berkeley College. Advisors, including attorneys, may not participate in the process or speak on behalf of the Complainant or Respondent, although advisors are permitted to question the other party and witnesses at a live hearing under the process. In addition, advisors may ask to suspend any meetings, interviews, or hearings briefly to consult with the party they are advising. The College retains the discretion to deny advisors' requests to suspend meetings, interviews, or hearings if such requests are excessive, burdensome, or otherwise unreasonable. Complainants and Respondents may choose to have an attorney serve as their advisor, but adjustments to the process, including scheduling of interviews or hearings, will not be made for any advisors, including attorneys, if they unduly delay the process. If a Complainant or Respondent does not have an advisor present at a live hearing, the College will provide an advisor free of charge to the party for the sole purpose of facilitating questioning on the party's behalf of other parties and witnesses.

Processes for Formal Resolution¹⁰

A. Standard of Evidence

In all stages of the process, Berkeley College will apply the preponderance of the evidence standard (i.e., more likely than not) when determining whether the Title IX (and non-Title IX) Sexual Harassment and Sexual Misconduct Policy has been violated.

B. Formal Resolution Process

A formal resolution process will occur when (a) a report of a violation of the Policy is made and the Complainant files a Formal Complaint; or (b) the Title IX Coordinator files a Formal Complaint after making the determination that a formal resolution process is necessary.

1. Investigation

a. Expectations for the Parties

¹⁰ The investigation and adjudication procedures that follow in this ASR are for cases falling inside the Title IX definition of "Sexual Harassment" (which includes VAWA offenses) as further explained in the "Overview of Procedural Options" section above, and come from the [Title IX Sexual Harassment and Sexual Misconduct Procedures](#). For cases of prohibited conduct falling *outside* of Title IX "Sexual Harassment" (also including VAWA offenses) – but which are still addressed by the College – the College will utilize the *other* disciplinary processes, also explained in the "Overview of Procedural Options" section on page 17.

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During the investigation and resolution process, both the Complainant and Respondent have equal rights, including:

- The opportunity to receive a written notice of the investigation;
- The right to a reasonably prompt response to any complaint, and to have the complaint investigated and adjudicated in an impartial, timely and thorough manner by individuals who have no conflicts of interest and who receive pertinent annual training;
- To present information and evidence, including fact and expert witnesses, and other inculpatory and exculpatory evidence, insuring that credibility determinations shall not be based on a person's status as a Complainant, Respondent, or witness;
- To be accompanied by an advisor of their choice to any meeting;
- To timely and equal access to all information gathered that is directly related to the allegations in the Formal Complaint, as well as the information contained in the investigation report that will be used in disciplinary proceedings;
- To notice of the hearing, and to question the other party and witnesses during the hearing, through the party's advisor; and,
- To simultaneous written notice of the outcome, sanction, and rationale; and to appeal the outcome.

b. Notice of Investigation

The Title IX Coordinator (or designee) will provide written notice of the Formal Complaint to all known parties. The written notice will include, at a minimum, (a) a link to, or copy of, the applicable procedures; (b) details regarding the identities of the parties, date, time and location, and nature of the reported conduct; (c) the potential policy violations; (d) the name of the investigator(s); (e) how to challenge participation by the investigator(s) on the basis of conflict of interest or bias; (f) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Formal Complaint process; (g) the parties' rights to be accompanied by an advisor of their choice throughout the process; (h) the importance of preserving any potentially relevant evidence; (i) information about the parties' rights and responsibilities; and (j) prohibition against making false statements during the process.

If the investigation reveals the existence of additional potential policy violations, the College will issue a supplemental notice of investigation. This initial notice, and any supplemental notices, will be provided to the intended recipient in advance of any interview or meeting with investigators to allow the party sufficient time to prepare a response.

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c. Overview of Investigation

The Title IX Coordinator will assign an investigator(s) (“Title IX Investigator(s)”) to complete a fact finding investigation of the Formal Complaint. The Title IX Investigator(s) may be a Berkeley College associate or an external professional. The Title IX Coordinator will ensure that the Title IX Investigator(s) has the appropriate training and experience and is free of a conflict of interest or bias for or against either party. The name of the Title IX Investigator(s) will be provided to the parties in the notice of investigation and the parties will be allowed to challenge the appointment of an investigator on the basis of conflict of interest or bias. The Title IX Coordinator will also ensure that the Title IX Investigator(s) has received training on the definitions of the applicable prohibited conduct, including Sexual Harassment and the VAWA offenses, the scope of the College’s Education Program or Activity, how to conduct an investigation, how to serve impartially, conflicts of interest and bias, and issues of relevance to create an investigative report that fairly summarizes the relevant evidence.

d. Gathering Information

During an investigation, the investigator will seek to meet separately with the Complainant, Respondent, and relevant witnesses. The Title IX Investigator(s) will send written notice of the interview date, time, and location, name of participant(s) and purpose of the interview to the parties and witnesses, in sufficient time for the party to prepare and participate. The Title IX Investigator(s) will also gather other relevant information or evidence, including documents, photographs, communications between the parties, and medical records (subject to the consent of the applicable person), and other electronic records as appropriate. The Title IX Investigator(s) will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. If a person voluntarily chooses to share medical or counseling records with the Title IX Investigator(s), they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond. At the conclusion of the investigation, the Complainant and the Respondent will both have the opportunity to review and respond to all information gathered in the investigation that is directly related to the allegations, including information shared by the Complainant or the Respondent during their interviews or through evidence either provides.

The Title IX Investigator(s) may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Title IX Investigator(s) may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

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The Title IX Investigator(s) may also consider information publicly available from social media or other online sources that comes to the attention of the investigator. The Title IX team does not actively monitor social media or online sources, however, and as with all potentially relevant information, the Complainant, Respondent, or witness should bring online information to the attention of the investigator.

The Title IX Investigator(s) will seek to complete the fact gathering stage of the investigation within 45 business days of the issuance of the notice of investigation. The Title IX Coordinator and the Title IX Investigator(s) may grant temporary delays of the investigation or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

e. Witnesses

Both the Complainant and Respondent have the option to provide names of potential witnesses to the Title IX Investigator(s). Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters.

Witnesses may also be offered to provide subject matter expert information. If either party wishes to provide expert testimony or evidence, they are solely responsible for securing attendance of any expert witness at a hearing, and for the costs or fees associated with any expert report or testimony. If the *College* (i.e. the Decision Maker) determines that expert witness testimony is necessary, then the College will secure attendance and be responsible for costs.

Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be shared with the parties at the conclusion of the investigation. The Title IX Investigator(s) has the discretion to determine which of those potential witnesses, or other persons, may have information directly related to the alleged conduct.

f. Additional Evidence

Both the Complainant and the Respondent are permitted to provide other evidence directly related to the allegations to the Title IX Investigator(s). Evidence may be inculpatory or exculpatory. Evidence includes any facts or information presented in support of an assertion and may include text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared by the Complainant or the Respondent with the Title IX Investigator(s) will be provided to the other party. The Title IX Investigator(s) may also consider additional documents, items or other relevant information.

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During the course of the investigation, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Title IX Investigator(s). The Title IX Investigator(s) may consider such information in the investigation and will also share any information about retaliation or violation of the terms of a Supportive Measure with the Title IX Coordinator for further action.

g. Relevance and Evidentiary Considerations

The College will not restrict the ability of either party to gather and present relevant evidence. Evidence is relevant if it makes a material fact more or less probable than it would be without the evidence. In general, during the investigation phase, the Title IX Investigator(s) has the discretion to determine the relevance and probative value of information proffered or received. At the live hearing, as further described below, the Decision Maker has the discretion to determine whether questions posed by the party's advisor are relevant, and only relevant questions may be asked of parties or witnesses at the hearing.

In addition, the Title IX Investigator(s) and Decision Maker(s) will be guided by the following evidentiary considerations:

Prior or Subsequent Conduct of the Respondent: Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of prohibited misconduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the prohibited conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct so distinctive and so closely resembling either party's account of the encounter as to tend to prove a material fact may be considered. The Title IX Investigator(s) will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

Prior Sexual History of the Complainant: Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are: 1) offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or, 2) the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. As set forth in the College's definition of consent, however, previous relationships or prior consent cannot imply consent to future sexual acts. The Title IX Investigator(s), in consultation with the Title IX Coordinator, will assess whether information

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related to prior sexual history makes a material fact in the investigation more or less likely. Where a sufficient informational foundation exists for the inclusion of prior sexual history, the Title IX Investigator(s) will provide notice to both parties of the scope of any inclusion of such information in the investigative report. The parties will have a full and fair opportunity to respond to the information included in the investigative report.

Medical or Counseling Records: The Title IX Investigator(s) will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. If a person voluntarily chooses to share medical or counseling records with the Title IX Investigator(s), they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond. At the conclusion of the investigation, the Complainant and the Respondent will both have the opportunity to review and respond to all information gathered in the investigation that is directly related to the allegations, including information shared by the Complainant or the Respondent during their interviews or through evidence either provides.

h. Acceptance of Responsibility

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential policy violations, the Title IX Investigator(s) will complete an investigation report of all information gathered to date and refer the matter to the Decision Maker for sanctioning as described below.

2. Review of Information Gathered

Prior to completion of the investigative report, the College shall make information gathered in the investigation available for review by the parties and their advisors. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The College will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have 10 business days to submit a written response, which the Title IX Investigator(s) will consider prior to completion of the investigative report.

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In the written submission, the parties may offer additional comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, suggest additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency and reliability of the investigation.

The College shall make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

3. Investigation Report

The Title IX Investigator(s) will produce a written investigation report that fairly summarizes the relevant information and facts gathered during the investigation and may include direct observations and reasonable inferences drawn from the facts and discussion of any consistencies or inconsistencies between the various sources of information.

As stated above, the Title IX Investigator(s) has the discretion to determine the relevance of any witness or other evidence and shall exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative. Evidence pertaining to the mental health of either party is not relevant to the determination of responsibility.

The investigation report will be a fair and thorough summary of all relevant information gathered that is inculpatory or exculpatory, and the accounts of the Complainant, the Respondent or other witnesses. The investigation report will be sent to each party and their advisors in an electronic format or a hard copy, for their review and written response. If a party disagrees with the Title IX Investigator(s)'s determinations about relevance, the party can make that argument in the party's written response to the investigative report and to the decision-maker at any hearing held.

4. Jurisdictional Assessment

At the conclusion of the investigation, the Title IX Investigator(s) will determine whether the matter qualifies for a live hearing. This determination will be included in the investigation report. The matter will proceed to a live hearing if the Title IX Investigator(s) determines either:

- The conduct alleged in the Formal Complaint, taken as true, constitutes Title IX Sexual Harassment, Dating Violence, Domestic Violence, and/or Stalking, is alleged to have been committed against a person in the United States *and* within the Berkeley College Education Program or Activity; or,
- The conduct alleged in the Formal Complaint, taken as true, constitutes Sexual Assault.

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The Title IX Investigator(s)'s determination following the investigation is not a determination of responsibility, nor does it involve a determination about the credibility of the information gathered; those decisions are reserved for the Decision Maker. Rather, this evaluation accepts all facts as presented by the Complainant as true in order to determine the procedures for adjudication and, if appropriate, the potential policy violations that will be the subject of the hearing.

Based on the determination by the Title IX Investigator(s) in the investigative report, the Title IX Coordinator must dismiss some or all of the allegations in the Formal Complaint if: 1) the conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking, as defined in the Policy; 2) the conduct did not occur within a Berkeley College Education Program or Activity; or, 3) the conduct did not occur against a person in the United States.

If the Title IX Coordinator dismisses the Formal Complaint with respect to Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking, the Title IX Coordinator may determine that sufficient cause exists to move forward with the resolution of the remaining allegations if those allegations, if true, would constitute prohibited conduct outside the jurisdiction and scope described in the Title IX regulations. The Title IX Coordinator will provide the investigative report, along with a written notice of hearing, to the parties, their advisors, and the Decision Maker, in an electronic format or a hard copy ten days prior to the scheduled hearing. The Complainant and Respondent are provided the opportunity, in writing, to offer any additional comment or feedback with respect to the facts or the Title IX Investigator(s)' determinations about scope or jurisdiction.

5. Notice of Hearing

The Title IX Coordinator or designee will provide the Complainant and Respondent with a written notice of hearing. The notice of hearing will include: the specific policy violations that will be the subject of the hearing; the date, time, and location of the hearing; the name of the Decision Maker; how to challenge participation by the Decision Maker on the basis of conflict of interest or bias; the right to have an advisor present at the hearing to conduct cross-examination on the party's behalf; that the College will provide an advisor, without fee or charge, to conduct cross-examination on behalf of the party at the hearing if the party does not have an advisor present for the hearing; and how to request that witnesses be present at the hearing.

If some or all of the allegations in the Formal Complaint have been dismissed, the parties will receive written information about how to appeal the dismissal of the Formal Complaint.

6. Impact and Mitigation Statements

The Complainant may submit a written statement describing the impact of the prohibited conduct on the Complainant and expressing a preference about the sanction(s) to be imposed.

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The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Title IX Coordinator will provide any statement(s) to the Decision Maker, which will only be considered if there is a finding of responsibility. Each party has the opportunity to view the other party's statement.

7. Hearing

Hearings will be conducted either in-person or virtually with technology that enables the Decision Maker and parties to simultaneously see and hear the party and witnesses speaking. The College will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision Maker and the parties and their advisors to simultaneously see and hear the party or the witness answering questions.

The Decision Maker may be a Berkeley College associate or an external professional, as determined at the sole discretion of the Title IX Coordinator. Any Decision Maker will be free from conflicts of interest and bias for or against either party, and trained on the definitions of prohibited conduct, including Sexual Harassment and the VAWA offenses, the scope of the College's Education Program or Activity, how to conduct a hearing, how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision Makers will also be trained on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Hearings will generally consist of the following steps, allowing the parties equal opportunities at each stage: (a) introductions; (b) review of procedural rules; (c) presentation of information and witnesses by parties; (d) the advisor for each party will ask the other party and any witnesses all relevant questions and follow-up questions, including those assessing credibility; and (e) closing remarks.

All parties and witnesses will be invited to speak at the hearing, but no party or witness is required to attend the hearing. If a party or witness declines to attend a hearing, or attends but declines to submit to questioning by the other party's advisor, the Decision Maker may not rely on any statement of that party or witness in reaching a determination regarding responsibility. Decision Maker will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or declination to answer cross-examination or other questions.

Traditional civil or criminal court rules of evidence do not apply. The Decision Maker will determine the relevance of questions asked by the parties, and preclude questions that seek irrelevant information. As noted above, questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the

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questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

At their sole discretion, the Decision Maker may rely upon the investigative report, the parties' responses to the report, and any supplemental reports, for their understanding of the relevant facts, or they may conduct additional witness interviews and/or gather additional information. The Decision Maker may also invite the investigator to participate as a witness at the hearing.

Each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

The hearing will be recorded. Recordings will not include deliberations.

8. Written Decision Letter

The Title IX Coordinator shall provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. The written determination must include:

- Identification of the allegations potentially constituting sexual harassment or VAWA offenses as defined in the College Title IX (Non-Title IX) Sexual Harassment and Sexual Misconduct Policy;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to

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the College’s education program or activity will be provided by the College to the Complainant; and,

- The College’s appeal procedures and permissible bases for the Complainant and Respondent to appeal.
-

9. Sanctions

Sanctions imposed by the institution following a Title IX/VAWA hearing may include, but are not limited to, oral or written warning/probation, mandatory counseling, education and training requirements, no-contact orders, changes to academic, working or living arrangements (if applicable), revocation of campus privileges, suspension (length of which, and reinstatement conditions, shall depend upon the nature and severity of the offense) and dismissal/termination.

10. Appeal

Any party may appeal the determination of the Decision Maker, or the dismissal of a Formal Complaint or any allegations therein, within ten (10) business days of its issuance (the “Appeal Period”).

Parties wishing to appeal may do so only by (1) notifying the Title IX Coordinator in writing of the party’s intent to appeal, and (2) submitting a written statement prior to the expiration of the Appeal Period. In their sole discretion, the Title IX Coordinator may grant a brief extension of the Appeal Period for good cause shown upon a party’s written request, and such extension shall apply to all parties.

The Title IX Coordinator shall advise all parties of any party’s intention to appeal and furnish each party copies of any appeal statements simultaneously. If one party submits a written statement during the Appeal Period, the other party will be given an opportunity to submit a written statement in response, within a designated time period.

Determinations will only be overturned or modified on appeal on the following bases (i) a procedural irregularity that affected the outcome of the matter; (ii) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or (iii) The Title IX Coordinator, Title IX Investigator(s), or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

In each instance, the College will convene a panel of not less than three (3) appropriately trained members to decide an appeal based upon the appeal statement(s) and the original

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record; and the decision of the appeal panel by majority vote will be final. Whenever practicable, such review will be completed within thirty (30) business days, and both parties will be informed of the result, and the rationale for the result, simultaneously in writing.

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Additional information and hotline assistance are available at:

National Hotlines:

Drug Abuse Hotline	800-662-4357
CDC AIDS Information	800-232-4636
National Runaway Hotline	800-621-4000
Missing & Exploited Children	800-843-5678
Youth Crisis Hotline	888-222-2228
Poison Control Center	800-222-1222
Suicide Prevention Hotline	800-442-4673

New York City Resources:

Ambulance & Police 24 Hours	911 & Police 212-239-9811
Crime and Rape Victim Hotline	212-577-7777
Suicide Help Line	212-673-3000
Teen/Adult Domestic Violence	800-621-HOPE
Emotional and Substance Abuse	800 LIFENET
Al Anon Family Group	800-356-9996

Annual Disclosure of Crime Statistics

Federal law requires the College to prepare and circulate this Campus Security & Crime Report each year. The report must include specified crime statistics for the previous 3 years and specified security related policy statements. The Office of the General Counsel and the Office of Public Safety together oversee preparation of this Report. The campus crime, arrest, and referral statistics that follow include incidents reported to designated campus officials – “campus security authorities” - (including, but not limited to, the Campus Operating Officer, the Office of Public Safety and the Office for Student Development and Campus Life). Statistics compiled by local law enforcement authorities are also reflected to the extent that they have been furnished to the College.

Each year, enrolled students, faculty, and staff receive an email, on or before October 1st, alerting them to both a description of and location for this Report, namely, at the Berkeley College website, Public Safety page (go to http://berkeleycollege.edu/berkeley_bc/2040.htm then select *Security Reports*.) Paper copies are also available upon request by contacting the Office of Public Safety at 973-278-5400 x1194. This Report is also made available to prospective students and prospective employees.

Campus crime data is also available from the United States Department of Education website at <http://ope.ed.gov/security>. Federal regulations also require the College to inform the campus community that registered sex offenders are listed on the Internet at <http://www.criminaljustice.ny.gov/nsor/>

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OFFENSE	YEAR	New York City Midtown Campus Manhattan, N.Y.			
		ON CAMPUS PROPERTY	ON CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
MURDER/NON-NEGLIGENT MANSLAUGHTER	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
MANSLAUGHTER BY NEGLIGENCE	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
RAPE	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
FONDLING	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
INCEST	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
STATUTORY RAPE	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
ROBBERY	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
AGGRAVATED ASSAULT	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
BURGLARY	2020	0	0	0	0
	2019	1	0	0	0
	2018	0	0	0	0
MOTOR VEHICLE THEFT	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
ARSON	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0

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OFFENSE	YEAR	New York City Midtown Campus Manhattan, N.Y.			
		ON CAMPUS PROPERTY	ON CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
DOMESTIC VIOLENCE	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
DATING VIOLENCE	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	1	0
STALKING	2020	1	0	0	0
	2019	2	0	0	0
	2018	0	0	0	0

OFFENSE	YEAR	New York City Midtown Campus Manhattan, N.Y.			
		ON CAMPUS PROPERTY	ON CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
ARRESTS: WEAPONS: CARRYING, POSSESING, ETC.	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESING, ETC.	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
ARRESTS: DRUG ABUSE VIOLATIONS	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
ARRESTS: LIQUOR LAW VIOLATIONS	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS	2020	0	0	0	0
	2019	0	0	0	0
	2018	0	0	0	0

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Note 1: Referrals for disciplinary action include incidents where no arrest occurred, but the matter was referred for internal disciplinary action.

Note 2: There were no hate crimes reported, or unfounded crimes, for 2020, 2019 or 2018.

Note 3: This report does not include New York City police statistics.

Note 4: The Campus has no on-campus housing, no off-campus housing, nor off-campus student organizations, but has off-campus sports practice facilities (“non-campus property”).

Note 5: In the case of a violent crime or non-forcible sex offense (Incest or Statutory Rape), the College will, upon written request, disclose to the alleged victim of such crime or offense, the results of any disciplinary proceeding conducted by the College against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

Emergency Response Procedures

COVID-19

The College formed a Crisis Management Team in response to the COVID-19 pandemic on or about January 29, 2020. In March of 2020, the College created a pandemic specific addendum to its Emergency Management Plan. In addition, on or about March 16, 2020, Berkeley transitioned to 100% online classes, system wide. The College thereafter submitted a Restart Plan to the State of New York on August 7, 2020, and the plan was approved, allowing for reopening on September 8, 2020. Depending upon the program of study, the Fall 2020 reopening included fully online courses and hybrid courses, which consist of a blend of on-site and online components.

After the CDC, as well as the New Jersey and New York departments of health, relaxed many pandemic-related restrictions in May of 2021, Berkeley College’s COVID-19 Task Force reassessed and realigned our Restart Plans, including current protocols, with the revised CDC guidance. Once those plans were ready for implementation, the CDC released new guidance in response to increasing COVID-19 infection rates, mainly as a result of the Delta variant, which is currently the predominant strain across the United States due to its high transmissibility. Given this latest guidance, the COVID-19 Task Force issued, in August 2021, a Fall 2021 Operations Plan that applies to all Berkeley campuses. This plan maintains many of the same protocols from the past year. You can see the Plan here:

<https://berkeleycollege.edu/newsroom/coronavirus/pdf/fall-2021-operation-plan.pdf>

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The Crisis Management Team continues to monitor compliance with federal, state, and local guidelines, discuss challenges, and make recommendations to update our Operations Plan over time, as health data and guidance evolves. This plan is subject to change. Revised versions will be posted on <http://berkeleycollege.edu/coronavirus>.

In addition, at the beginning of the COVID-19 pandemic, the College created a banner at the top of its website's homepage directing users to a page containing a wealth of information about COVID-19. Included on this page, among other things, are links to the New Jersey and New York Restart plans, several FAQs, and links to hotlines and resources, including a statement about the global pandemic and a link to the CDC's website.
<https://berkeleycollege.edu/newsroom/coronavirus/index.html>

The College has a detailed Emergency Management Plan that provides for the safety of the Berkeley College community in the event of a serious emergency or threat involving the New York City Midtown Campus. The plan identifies members of the Emergency Management Team; outlines their respective roles and responsibilities in declaring and responding to an emergency; and specifies procedures, safety equipment, methods of communication (to the campus and the larger community), and emergency services contact information. Unannounced emergency drills are held periodically and the emergency notification system is tested at various times throughout the year, thereby verifying its availability in an emergency situation. The Office of Public Safety publicizes emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff. A detailed summary of the Plan is set forth below.

Policy Statement and Objectives of the Plan

The AVP of the Public Safety Department, or his designee, shall determine whether there is an emergency, triggering the Emergency Management Master Plan.

The purpose of the Berkeley College Emergency Management Master Plan is to establish policies, procedures and an organizational structure for response to emergencies throughout the Berkeley College System. The Plan contains clear strategies and roles played by the campus-based **Emergency Management Team** during the initial response and throughout the emergency. The Plan also outlines the responsibilities of the **Crisis Management Team** consisting of the College President and senior administrators. Nothing in this plan shall be construed in a manner that limits the use of good judgment and common sense in matters not foreseen or covered by the elements of the plan.

Organizational Statement, Roles and Responsibilities

The Emergency Management Plan is a campus based plan that guides the **Emergency Management Team** during a major emergency. The Campus Operating Officer or his/her designee on each campus acts as the **EMT Leader**. His or her responsibilities would include:

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- Ensuring that notification is made to emergency responders (police department, fire department, emergency medical services, etc.).
- Coordinating with responding emergency services personnel.
- Ensuring that notification is made to the Emergency Management Team (EMT) along with the Crisis Management Team (CMT).
- Determining if a lockdown or a full or partial evacuation of any building is necessary and initiating that process if warranted.

Notifications

A master list of College officials' office, home and cell phone numbers is kept at each campus. Contact numbers for emergency service units (Fire, Police, EMS) along with Government agencies (Office of Emergency Management, Board of Health, Environmental Protection Agency, Poison Control Center, American Red Cross, Federal Office of Emergency Management and the National Response Center for Chemical, Oil and Chemical/Biological Terrorism) are also maintained in the Emergency Management Plan. Medical facilities, utility companies (electricity, water, gas, and telephone) and contractors (elevator, plumbing, electrical, sprinkler, hazardous material cleanup, and smoke/fire restoration) are maintained along with emergency contact numbers for all current staff, faculty and students. A list of local housing facilities (hotels, inns) and alternative mass transit contact numbers are also included in the plan.

Emergency Equipment

The Command Center on each campus will be equipped with:

- Flashlights
- Spare batteries
- Portable public address equipment (bullhorns)
- Dust masks and protective gloves
- First aid kits (Appropriate for the number of people on the campus at any given time)
- Floor plans for all campus buildings
- Battery powered radio
- Telephones
- Walkie-talkie radios with chargers
- Pads and Pens

Emergency Management Team

The Campus Operating Officer on each campus has identified an **Emergency Management Team (EMT)**. Under their direction the **EMT** will be responsible for assessment and implementation of emergency procedures (evacuations, lockdowns, crowd control, access controls and coordination with responding emergency services.) The **EMT** consists of representatives from, or will work in concert with the:

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- Office of Public Safety, (and/or a security guard), who will make the initial notification to the Emergency Management Services;
- Buildings & Grounds Department, who will be in charge of emergency repairs, equipment shutdown, emergency power hookups and structural and utility assessment;
- Office of Student Development (where applicable) who will deal with student and housing issues and will provide counseling services before and after the emergency;
- Department of Information Systems who will maintain communication systems;
- Other designated personnel.

The **EMT** is Responsible for:

- Setting up the Command Center and establishing communication (television, radios, computers, telephones, internet, walkie-talkie radios).
- Maintaining current reports indicating which staff, faculty, students and guests are scheduled to be on campus.
- Compiling information regarding all students, staff and visitors on campus at the time of the emergency (as accurately as realistically possible).
- Maintaining all emergency contact lists (emergency agencies, medical services, temporary housing and shelters, available transportation, etc.)
- Monitoring all sources of information (television, radio, Internet, word of mouth, social media, etc.). They will also receive information from the scene of the emergency and advise the **EMT leader**.
- Assisting the Office of Communications and External Relations by providing situational updates and in handling media issues.
- Communicating with the College Community.
- Perform any other assignments at the direction of the **EMT Leader** (COO or his/her designee).

Crisis Management Team

In the event of a major emergency, an executive level Crisis Management Team will be assembled in the President's Office at New York City and/or the Executive Offices at Woodland Park, to manage the College's total response and recovery effort. The Crisis Management Team will include the President and his senior administrative staff. The **CMT** will also include the Vice President of Communications and External Relations, who will provide information to the media only as authorized by the College President or his designee. (Berkeley College has a Crisis Media Policy as part of its Plan.) As the emergency response is ongoing, basic information on the nature and scope of damage being caused by the emergency will be provided to the **Crisis Management Team** by the campus **Emergency Management Team**.

Communication with the Campus Community and General Public

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The campus Command Centers provide for several redundant methods of communication with the campus community and general public during and after an emergency. Depending on the type of emergency and the type of information to be disseminated, the Command Center can use any one or a combination of the following methods to provide information: alerts from the Office of Public Safety, electronic mail, the Berkeley College website, social media, voice mail, phone tree implementation, media announcements, portable and/or stationary public address equipment (bullhorns) and the BERK-ALERT emergency mass notification system.

In the event of an emergency, Berkeley College's 800 Information Line, (1-800-446-5400) will become an Information Hotline Number that will provide information regarding individuals confirmed to be on Campus. Designated personnel will answer the hotline calls to provide basic information obtained from the campus **Emergency Management Team**. (Berkeley College has a Disaster Information Policy as part of its Master Plan.)

The **Emergency Management Team**, in conjunction with the **Crisis Management Team** will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Community Roles

Each community member has a role to play during an emergency:

- **Role of Students:** All students should familiarize themselves with the emergency procedures and evacuation routes in buildings they live in or use frequently. Students must be prepared to assess situations quickly but thoroughly, and use common sense in determining a course of action. They should evacuate buildings in an orderly manner when an alarm sounds or when directed to do so by emergency personnel. They should evacuate to a pre-designated Emergency Assembly Area. The Office for Student Development and Campus Life provides training to help students know what to do in emergencies and how they can prepare ahead of time.
- **Role of Faculty and Staff:** All members of the faculty and staff should familiarize themselves with emergency procedures and evacuation routes. Associates must be prepared to assess situations quickly and thoroughly, and use common sense in determining a course of action. They should follow the regular procedures to report a fire or other emergency that requires immediate attention and evacuate the building (except when otherwise instructed) to a pre-designated Emergency Assembly Area in an orderly manner.

Evacuation Guidelines

Notification to evacuate a building will be made by means of the fire alarm, hand held public address horns, telephones, word of mouth or any other means that may be available at that time.

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In the event of a fire, Berkeley College employees, visitors and students are required to evacuate the building. In non-fire emergencies, a decision to evacuate should be based on the worst-case scenario. Consideration will be given to the specific threat (bomb threat, explosion, hazardous material incident etc.), its context (time of day, its likelihood etc.) and the recommendation of public safety officials. When the order is given to evacuate a building for any reason, the procedure is basically the same. Occupants are instructed to follow life safety survival skills, not to use elevators and to evacuate by way of the nearest safe stairway. They are instructed to exit the building and proceed to a pre-designated Emergency Assembly Area. If a decision is made not to evacuate, **Emergency Management Team** members will have the responsibility to pass the word throughout the building or the entire campus. (Emergency Assembly Areas are listed in the Campus Specifics designated in the Plan.)

Students and Staff with Disabilities: At least each semester, or at other necessary and appropriate times, College personnel shall furnish the Office of Public Safety and the Campus Operating Officer with a complete and accurate list of all consenting students and staff to whom disability accommodations have been granted. Promptly upon receiving such information, the Office of Public Safety shall take any steps necessary to include such information in emergency management and response planning and execution, for the health and safety of students and staff with disabilities.

Lockdown Procedures

A decision to implement the lock down procedure will be made by the Emergency Management Team leader, or local law enforcement, and notification of a lockdown will be made by means of hand held public address horns, telephones, word of mouth or any other means that may be available at that time.

In the event of a lockdown, The Berkeley community will be instructed to either simply remain inside the building or to move quickly out of common areas and into the nearest classroom or office. Once they are in a room, they are to secure the door with any means possible, including barricading it with furniture, cover the window to the room preventing anyone from seeing inside, and spread out. College staff or law enforcement officials will come to each room or notify the occupants when the lockdown has ended.

Mass Notification System (BERK-ALERT)

The AVP of Public Safety, COOs, and their designees have the ability to send out mass notifications to students, faculty and staff, via email, text messaging, telephone (cell, home, or business) pertaining to any emergency situation that will impact the College community. Directions on how to sign up for BERK-ALERT can be found on the College website at <https://berkeleycollege.edu/current-students/student-safety/berkalert/index.html>.