

CONFIDENTIALITY – KNOW YOUR OPTIONS

We encourage victims of sexual violence to talk to someone about what happened – so you can get the support you need, and Berkeley City College (BCC) can respond appropriately. Whether – and the extent to which – a BCC employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the employee’s position and responsibilities at the college. This information is intended to make you aware of the various reporting and confidential disclosure options available to you to make informed choices about where to turn for help. BCC encourages victims to talk to someone identified in one or more of these groups.

As explained below, some employees are required by law to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” Other employees may talk to a victim in confidence, and generally only report to BCC that an incident occurred without revealing any personally identifying information. Thirdly, some employees are required to report all details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees constitutes a report to BCC, and generally creates a legal obligation for the college to investigate the incident and take appropriate steps to address the situation.

Privileged and Confidential Communications

*Physicians, Psychotherapists, Professional Counselors and Clergy*³ – Physicians, psychotherapists, professional, licensed counselors, and clergy who work or volunteer on or off campus, and who provide medical or mental health treatment or counseling (including those who act in that role under their supervision) may **not** report **any** information about an incident of Sexual Violence to anyone else at BCC, including the Title IX Coordinator, without your consent. You can seek assistance and support from physicians; psychotherapists, professional, licensed counselors, and clergy without triggering an investigation that could reveal your identity or the fact of your disclosure. *However, see limited exceptions below regarding when health care practitioners must report to local law enforcement agencies. Health care practitioners should explain these limited exceptions to you, if applicable.* Following is the contact information for professional counselors and physicians (if any) on campus:

Mental Health Services (by appointment only):

(510) 981-2894

<http://www.berkeleycitycollege.edu/wp/wellness-center/mental-health-services/>

**If you are in crisis and need immediate assistance,
Please call the Alameda Crisis Hotline at 1-800-309-2131 or 911.**

*Sexual Assault and Domestic Violence Counselors and Advocates*⁴ – Sexual assault and domestic violence counselors and advocates who work or volunteer on or off campus in sexual assault centers, victim advocacy offices, women’s centers, and health centers (including all individuals who work or volunteer in these centers and offices, as well as non-professional counselors or advocates, and those who act in that role under their supervision) may talk to you without revealing any information about you or the incident of sexual violence to anyone else at the college, including the Title IX Coordinator, without your consent. You can seek assistance and support from these counselors and advocates without triggering an investigation that could reveal your identity or that you disclosed an incident to them. *However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to you, if applicable.* The following is contact information for sexual assault and domestic violence counselors and advocates:

<p>Bay Area Women Against Rape 24-hour Confidential</p> <p>Rape Crisis Hotline: (510) 845-7273</p> <p>bawar@bawar.org</p> <p>Office: (510) 430-1298 Fax: (510) 430-2579</p> <p>470 27th Street Oakland, CA 94611</p>	<p>Victim/Witness Assistance Center (510) 272-6180 (510) 272-5044</p> <p>Email: askvw-da@acgov.org</p> <p>1401 Lakeside Drive, Suite 802 Oakland, California 94612</p>	<p>HEAL Program (510)-428-3770</p> <p>Contact: Nancy Compton, Ph.D., English Phone: (510) 587-3377</p> <p>Contact: Laura Mayorga, Ph.D., Spanish/English Phone: (415) 250-1274</p> <p>5400 Telegraph Ave. Oakland, CA 94609</p>	<p>Alameda County Medical Center Oakland Consortium on Sexual Assault</p> <p>TEL: 510-437-4688 FAX: 510-437-8313</p> <p>1411 E. 31st Street Oakland, CA 94602</p>
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Please note that BCC will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the perpetrator, if you choose to maintain confidentiality.

Regardless of the option you choose, these individuals still available to assist you in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services. They may not, however, be able to assist you with academic support or accommodations, or assist with adjustments to course schedules. Only BCC and the Title IX Coordinator can assist with those matters (see below). If at first you requests confidentiality, you may later decide to file a complaint with BCC or report the incident to the police and thus have the incident fully investigated. These counselors and advocates can provide you with that assistance if you wish. These

counselors and advocates will also explain that Title IX includes protections against retaliation. BCC will not only take steps to prevent retaliation when it is aware or reasonably anticipate possible retaliation but will also take strong responsive action if it occurs.

EXCEPTIONS: Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a *physical condition* to a patient/victim who he or she knows or reasonably suspects is suffering from (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including Sexual Violence, Domestic Violence, and Dating Violence).⁵ This exception does *not* apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to you, if applicable.

Additionally, under California law, *all* professionals described above (physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates) are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement.⁶ These professionals will explain this limited exception to you, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger;⁷ or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Violence incident.⁸ If applicable, these professionals will explain this limited exception to you.

Reporting to Local Police

If you report to local police about Sexual Violence, the police are required to notify you that your name will become a matter of public record **unless confidentiality is requested.**⁹ If you request that your identity be kept confidential, your name will not become a matter of public record and the police will not report your identity to anyone else at BCC, including the Title IX Coordinator. The Police will, however, report the facts of the incident itself to the Title IX Coordinator being sure not to reveal your name/identity, or compromise their own criminal investigation.

Berkeley City College is required by the Federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while BCC will report the **type**

of incident in the annual crime statistics report known as the Annual Security Report, your name/identity will not be revealed.

Reporting to the Title IX Coordinator and Other College Employees

Most BCC employees have a duty to report incidents of sexual violence when they receive notice. When you tell the Title IX Coordinator or another employee about a sexual violence incident, you have the right to expect BCC to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. ***In all cases, we strongly encourage victims to report sexual violence directly to the Title IX Coordinator.***

As detailed above, all BCC employees ***except*** physicians, licensed counselors, sexual assault counselors and advocates, must report to the Title IX Coordinator all relevant details about any sexual violence incidents of which they become aware. BCC will need to determine what happened – and will need to know the names of the victim(s) and the perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other employee will be shared only with individuals responsible for handling BCC’s response to the incident. BCC will protect the privacy of individuals involved in a sexual violence incident except as otherwise required by law or Peralta District policy. An incident report will result when gathering extremely sensitive information about you and other individuals in the campus community. While such information is considered confidential, policies regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual violence. In such cases, efforts will be made to redact the records, as appropriate, in order to protect our identity and privacy and the privacy of other involved individuals.

The Title IX Coordinator can be reached at:
<http://www.berkeleycitycollege.edu/wp/title-ix/>

Title IX Coordinator: Jason Cifra Vice President of Student Services Room 242, 2nd Floor (510) 981-2820 jcifra@peralta.edu	Confidential Resource: Janine Greer Mental Health Specialist (510) 981-2894 jgreer@peralta.edu
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If you request of the Title IX Coordinator or another employee that your identity remain completely confidential, the Title IX Coordinator will explain that BCC cannot always honor that request and guarantee complete confidentiality. If you wish to maintain confidentiality or request that no investigation be conducted or disciplinary action taken,

BCC must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students, employees and third parties, including you. Under those circumstances, the Title IX Coordinator will determine whether your request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether BCC has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about your identity, BCC's ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited.

The Title IX Coordinator will inform you prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The Title IX Coordinator will remain mindful of your well-being, and will take ongoing steps to protect you from retaliation or harm, and work with you to create a safety plan. Retaliation against you, whether by students or employees, will not be tolerated. BCC and Title IX Coordinator will also:

- Provide interim remedies requested by you, if they are reasonably available, regardless of whether you choose to report sexual violence to campus or local police (Accommodations and Protective Measures provided to you is generally confidential);
- Assist you in accessing other available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules (including for the perpetrator pending the outcome of the investigation) or adjustments for assignments, tests, or work duties; and
- Inform you of your right to report a crime to University or local police – and provide you with assistance if you wish to do so.

BCC will not require you to participate in any investigation or disciplinary proceeding if you do not wish to participate.

BCC will not generally notify parents or legal guardians of your report of sexual violence unless you are under the age of 18 or you provide the University with written permission to do so.¹⁰

Under California law, all employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that

they are required to report the Sexual Violence incident to the police.¹¹ However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.¹²

Because BCC is under a continuing legal obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) may also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increased education, training and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revising its policies and practices.

³ Cal. Evid. Code § 990 *et seq.*, § 1010 *et seq.*, and § 1030 *et seq.*

⁴ Cal. Evid. Code § 1035 *et seq.* and § 1037 *et seq.*

⁵ Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including Sexual Battery, incest, Rape, spousal Rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. Cal. Penal Code §§ 11160-11163.2.

⁶ Cal. Penal Code §§ 11164-11174.3.

⁷ Cal. Evid. Code § 1024.

⁸ Cal. Evid. Code § 1035.4.

⁹ Cal. Penal Code § 293; Cal. Gov. Code § 6254(f).

¹⁰ If there is a health and safety issue (e.g., immediate threat to self or others), BCC may notify parents or legal guardians, regardless of the victim's age, as allowed under the Family Educational Rights and Privacy Act (20§ 1232g).

¹¹ Cal. Penal Code §§ 11164-11174.3.

¹² Cal. Penal Code § 11167(d).