Bergen COMMUNITY COLLEGE
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BOARD OF TRUSTEES
PUBLIC MEETING

Paramus Campus – Technology Building – Conference Rooms B and C
400 Paramus Road, Paramus, New Jersey 07652

Tuesday, August 6, 2024 – 5:00 p.m.

I. Call to Order

II. Open Public Meetings Act Statement

III. Roll Call

IV. Pledge of Allegiance

V. Reports:
- A. Vice Chairman
- B. Secretary
- C. Treasurer
- D. President
- E. Committees
  1. Audit, Finance and Legal Affairs
  2. Education and Student Affairs
  3. Personnel
  4. Site and Facilities
  5. Strategic Planning and Issues
- F. Chairwoman

VI. Unfinished Business / Board Members

VII. New Business / Board Members

VIII. Open to the Public

IX. Actions

A.	Approval of Board Minutes:	Tuesday, June 4, 2024
B.	Consent Agenda:	Tuesday, August 6, 2024

X. Adjournment

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CONSENT AGENDA

Tuesday, August 6, 2024
Paramus Campus – Technology Building – Conference Rooms B and C
5:00 p.m.

Actions to be considered by the Board of Trustees. Additional actions may be added to this list and may be considered by the Board. Any actions herein listed may be removed from the Agenda by the Board prior to passage.

Approval of Board Minutes – Tuesday, June 4, 2024

AUDIT AND FINANCE (A/F)

1. Approval of Legal Vouchers – DeCotiis, FitzPatrick, Cole & Giblin, LLP.
2. To authorize the purchase of periodical titles and online subscription services from EBSCO Industries, Inc. (doing business as: EBSCO Information Services, LLC) for the Sidney Silverman Library.
3. To authorize renewals for the Sidney Silverman Library's annual subscription for access to full-text electronic databases from LYRASIS.
4. To authorize payment to Edge, fiduciary agent for The Virtual Academic Library Environment of New Jersey (VALE) Consortium, for the Sidney Silverman Library's share of the cost of electronic databases.
5. To authorize the purchase of managed print services provided by MRA International for Fiscal Year 2025.
6. To authorize the award of Public Bid P-2395 for Plumbing Preventive Maintenance and On-Call Plumbing Services to _____ for a two-year period with an option to extend for one (1) additional year.
7. To authorize the renewal of the College's GetAnswers and Chatbot through CareerAmerica, LLC (dba Ocelot).
8. To authorize the purchase of student athletic insurance through Bob McCloskey Insurance.

EDUCATION AND STUDENT AFFAIRS (E/SA)

1. To submit an application for **The Center for Adult Transition** grant to the Office of the New Jersey Secretary of Higher Education's (NJ OSHE) and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.
2. To submit a grant application for **The Hunger-Free Campus Grant** to the New Jersey Office of the Secretary of Higher Education's (NJ OSHE) and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.
3. To accept a US Department of Education's Developing Hispanic Serving Institutions (DHSI)'s FY 2023 Title V Grant award of $2,967,913.53 and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.
4. To approve submission of an application for funding from the **Basic Needs for Post Secondary Students Program** grant to **US Department of Education (USDOE)**, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.
5. To accept a grant award of $470,500 for the Bergen County Consolidated Adult Basic Education and Integrated English Literacy and Civics Education (ABE & IELCE) Grant Program funded through the New Jersey Department of Labor and Workforce Development, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.
6. To approve the revised Code of Student Conduct Policy and Procedures.

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CONSENT AGENDA

Tuesday, August 6, 2024

EDUCATION AND STUDENT AFFAIRS (E/SA)

7. To approve the revised Title IX Policy and Procedures.
8. To approve the attached Policy: Veteran and Military Affiliated Students

INSTITUTIONAL (I)

1. To approve the Travel, Mileage, and other Reimbursable Expenses for College Personnel Policy.

PERSONNEL (P)

1. To approve the specified personnel separations.
2. To approve the appointments of the specified Confidential and Grant-funded personnel.
3. To approve the appointment of the Academic Chair/Faculty for the Business Department.
4. To approve the appointments of the specified Faculty personnel.
5. To approve the Leave of Absence for the following individuals
6. To approve the appointments of the specified Support personnel.
7. To approve the appointment of the specified personnel to a stipend position.
8. To approve the promotion of the following individual.
9. To approve the stipend of the following individual.

SITE AND FACILITIES (S/F)

1. To award the preparation of contract drawings and specifications for the NextGen Hydroponics Lab in existing SA-Wing Vestibule Project to RSC Architects.

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BOARD OF TRUSTEES ACTION A/F1
Approval Date: August 6, 2024

Resolution
Approval of Legal Vouchers – DeCotiis, FitzPatrick, Cole & Giblin, LLP.

Submitted By
Dr. Eric M. Friedman, President
Mr. Wilton Thomas-Hooke, Chief Financial Officer

Action Requested
Approval for payment of the following legal vouchers:

DeCotiis, FitzPatrick, Cole & Giblin. LLP.

May 1, 2024 to May 31, 2024	$33,395.45
June 1, 2024 to June 30, 2024	$32, 199.16

Charge to:	College Operating Funds
Account Number:	10-01-186100-607566
Amount:	$65,594.61

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BOARD OF TRUSTEES ACTION A/F 2
Approval Date: August 6, 2024

Resolution
To authorize the purchase of periodical titles and online subscription services from EBSCO Industries, Inc. (doing business as: EBSCO Information Services, LLC) for the Sidney Silverman Library.

Submitted By
Dr. Eric M. Friedman, President
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Dr. David Marks, Dean, Library Services
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services

Action Requested
Authorization to purchase periodicals for the Sidney Silverman Library for the period July 1, 2024, through June 30, 2025; from EBSCO Industries, Inc. (doing business as: EBSCO Information Services, LLC) in the estimated amount of $45,000.00.

Justification
EBSCO is a leading comprehensive subscription service for periodicals for academic libraries. EBSCO has provided the College's subscription service for scholarly journals and magazines since the mid 1990's. EBSCO provides value-added electronic services which are compatible with the College's integrated library management system.

The College has a need to procure the above library materials and services pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.4. EBSCO Information Services, LLC has completed and submitted a Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26, a Stockholder Disclosure Certification, and a Business Entity Disclosure Certification, certifying that it has not made any reportable contributions to a political or candidate committee in the County of Bergen in the prior year, and that the contract will prohibit it from making any reportable contributions through the term of the contract. The Political Contribution Disclosure Form, Stockholder Disclosure Certification, and Business Entity Disclosure Certificate shall be placed and maintained on file at the College.

Library materials and services are exempt from Public Bidding in accordance with New Jersey County College Contracts Law 18A:64A-25.5 (a) (6).

Charge To:	College Operating Funds
Account Number:	10-04-490000-607537
Amount:	$35,000.00
Account Number:	10-04-490000-607765
Amount:	$10,000.00

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BOARD OF TRUSTEES ACTION A/F 3
Approval Date: August 6, 2024

Resolution
To authorize renewals for the Sidney Silverman Library's annual subscription for access to full-text electronic databases from LYRASIS.

Submitted By
Dr. Eric M. Friedman, President
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Dr. David Marks, Dean, Library Services
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services

Action Requested
Authorization to renew the Sidney Silverman Library's annual database subscriptions for the period July 1, 2024, through June 30, 2025, from LYRASIS in the estimated amount of $50,000.00. LYRASIS provides discounted annual subscriptions of full-text electronic databases, which are available 24/7.

Justification
LYRASIS is a non-profit member organization serving and supporting libraries, archives, museums, and cultural heritage organizations around the world. As a result, the College now processes its electronic resource renewals through LYRASIS, which has supported the procurement and administration of electronic information services for libraries since 2009. Additionally, LYRASIS provides discounts to annual subscriptions of full-text electronic databases, which are available 24/7. See attachment for list of proposed databases to be renewed.

Library materials are exempt from public bidding in accordance with 18A:64A-25.5 (a) (6).

LYRASIS is a non-profit organization and is exempt from Pay-to-Play.

Charge To: College Operating Funds
Account Number: 10-04-490000-607765
Total Amount: $50,000.00

Proposed Subscriptions from LYRASIS
2024-2025

Provider	Database(s)
ABC-CLIO	World Religions - Belief, Culture & Controversy
Alexander Street	Music Online: Listening Music Reference Collection
Bloomsbury	Berg Fashion Library Bloomsbury Food Library
Digital Theatre	Database Plus
Gale	Biography in Context Opposing Viewpoints in Context
JSTOR	Community College Resource Collection
McGraw-Hill	Access Engineering
Mergent Online	Hoover's Academic
The New York Times	NYT Academic Pass
Oxford	Oxford/Grove Music
PowerNotes	PowerNotes tool
Statista	Statista Expert

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BOARD OF TRUSTEES ACTION A/F 4
Approval Date: August 6, 2024

Resolution
To authorize payment to Edge, fiduciary agent for The Virtual Academic Library Environment of New Jersey (VALE) Consortium, for the Sidney Silverman Library's share of the cost of electronic databases.

Submitted By
Dr. Eric M. Friedman, President
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Dr. David Marks, Dean, Library Services
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services

Action Requested
Authorization to pay Edge the estimated amount of $125,000.00 to the VALE Consortium for the library's share of the cost of our electronic databases for the period of July 1, 2024, through June 30, 2025.

Justification
The VALE Consortium is the cooperative purchasing consortium for NJ academic Libraries, which allows substantial discounts for annual subscriptions to full-text electronic databases, available 24/7 to off-campus and on-campus users. The Library subscribes to databases offered through the consortium's discount program. See attachment for list of databases.

Consortium purchases are allowed in accordance with County College Contracts Law 18A:64A-25.10.

Edge is non-profit and is therefore exempt from Pay-to-Play.

Charge To: College Operating Funds
Account Number: 10-04-490000-607765
Total Amount: $125,000.00

Proposed Subscriptions from VALE
2024-25

Provider	Database
The Chronicle of Higher Ed	The Chronicle of Higher Education Online
EBSCO	CINAHL Ultimate
Gale	Literature Resource Center
Infobase	Films on Demand: Nursing
LexisNexis	Nexis Uni
Nature	Nature/Scientific American
ProQuest	Historical NYT PQ Central PsychArticles DEI eBook Collection
Springshare	LibAnswers (w/ Screensharing) LibGuides
StackMap	Collection Mapping Tools
TDS	StatPearls
ALA	RDA Toolkit

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BOARD OF TRUSTEES ACTION A/F 5
Approval Date: August 6, 2024

Resolution
To authorize the purchase of managed print services provided by MRA International for Fiscal Year 2025.

Submitted By
Dr. Eric M. Friedman, President
Mr. Wilton Thomas Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services
Mr. Tyler Beebe, Director of Technical Services

Action Requested
Authorization to purchase managed print services, including toner, parts, service, and maintenance, for the College's networked printer fleet from MRA International through Bergen County Cooperative BC-RFP 22-014, Resolution# 1462-23, at an estimated cost of $60,000.00.

Justification
As a member of the Bergen County Cooperative Purchasing System, the College is purchasing managed print services through MRA International to consolidate desktop printer support and maintenance, supply consumables, and asset inventory control for all of our networked printers. These services are provided through one qualified vendor, resulting in a lower total cost of ownership, optimizing the current and future printer fleet, and improving printer availability.

Cooperative procurement is allowed pursuant to County College Contracts Law 18A:64A-25.1 0.

Charge to: College Operating Funds
Account Number: 10-01-160100-607508
Total Amount: $60,000.00

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PLACEHOLDER

BIDS DUE 8/1/24

BOARD OF TRUSTEES ACTION A/F 6
Approval Date: August 6, 2024

Resolution
To authorize the award of Public Bid P-2395 for Plumbing Preventive Maintenance and On-Call Plumbing Services to _____ for a two-year period with an option to extend for one (1) additional year.

Submitted By
Dr. Eric M. Friedman, President
Mr. Nathaniel Saviet, Vice President of Facilities
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services

Action Requested
Authorization to award Public Bid P-2395 for Plumbing Preventive Maintenance and On-Call Plumbing Services to _____ for a two-year period from August 6, 2024, through August 5, 2026 for an estimated amount of $_____.

Justification
The College requires an on-call plumbing contractor to respond to emergency situations to complete routine general plumbing repairs.

Bids were received from:

Charge To: College Operating Funds
Account Number: 10-06-610100-607550
Total Amount: $_____

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BOARD OF TRUSTEES ACTION A/F 7
Approval Date: August 6, 2024

Resolution
To authorize the renewal of the College's GetAnswers and Chatbot through CareerAmerica, LLC (dba Ocelot).

Submitted By
Dr. Eric M. Friedman, President
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services
Mrs. Nishika Gupta, Assistant Vice President, Information Technology

Action Requested
Authorization to renew GetAnswers with CareerAmerica, LLC for a one-year term from September 1, 2024, through August 31, 2025, and Chatbot for a one-year term from August 1, 2024 through July 31, 2025 at a cost of $41,686.

Justification
GetAnswers is a series of videos embedded in our Financial Aid webpage to help students navigate the complexities of Financial Aid. Ocelot has a dedicated team of experts who monitors regulatory filings and ensures solutions are updated as soon as state and federal laws are passed. This proactive monitoring ensures that content is compliant with the latest statutes, and that the college is leveraging the latest guidelines when communicating with students.

The Chatbot is an artificial intelligence platform where prospective students can easily find enrollment and financial aid information anonymously and obtain responses 24/7. The Chatbot immediately responds to inquiries by searching for information within our website while freeing up staff to focus on complex questions and guiding at-risk students.

This purchase is exempt from bidding in accordance with County College Contracts Law N.J.S.A. 18A:64A-25.5 (a) (3) (Not available from more than one supplier).

Charge to:	College Operating Funds
Account Number:	10-01-165100-607526
Total Amount:	$41,686

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BOARD OF TRUSTEES ACTION A/F 8
Approval Date: August 6, 2024

Resolution
To authorize the purchase of student athletic insurance through Bob McCloskey Insurance.

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony J. Trump, Vice President of Student Affairs
Mr. Wilton Thomas-Hooke, Chief Financial Officer

Action Requested
Authorization to purchase student athletic insurance coverage for the period of August 1, 2024 through August 1, 2025, through Bob McCloskey Insurance at a cost of $50,526.

Justification
The College requires insurance coverage for our student athletes participating in intercollegiate sports. The Bob McCloskey Insurance company specializes in intercollegiate athletic insurance and their policies are underwritten by A rated carriers. The total amount of the purchase incudes Base Intercollegiate Sports Accident Insurance in the amount of $40,000 and Catastrophic Intercollegiate Sports Accident Insurance in the amount of $10,526 for a total of $50,526.

The College has a need to procure this insurance through a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.4. Bob McCloskey has completed and submitted a C. 271 Statement of Political Contributions and a Shareholder Disclosure Form in accordance with N.J.S.A. 19:44A-20.26, and a Business Entity Disclosure Certification in accordance with N.J.S.A. 19:44A-20.8, certifying that it has not made any reportable contributions to a political or candidate committee in the County of Bergen in the prior year, and that the contract will prohibit it from making any reportable contributions through the term of the contract. The C. 271 Statement of Political Contributions, Shareholder Disclosure Certification and Business Entity Disclosure will be maintained on file at the College.

Quotes were solicited from the companies listed below:

Base Intercollegiate Sports Accident Insurance - Current $50 Deductible Plan

The Hartford Fire Insurance Company	$40,000
United States Fire Insurance Company:	$43,860
Zurich American Insurance Company	$41,500

Catastrophic Intercollegiate Sports Accident Insurance

Zurich American Insurance Company	$10,526

This is the NJCAA-endorsed catastrophic program for member schools.

Insurance is exempt from public bidding in accordance with County College Contracts Law 18A:64A-25.5 (a) (11).

Charge to:	Operating Funds
Account Number:	60-09-910000-607801
Total Amount:	$50,526

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BOARD OF TRUSTEES ACTION E/SA 1
Approval Date: August 6, 2024

Resolution
To submit an application for **The Center for Adult Transition** grant to the Office of the New Jersey Secretary of Higher Education's (NJ OSHE) and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony J. Trump, Vice-President Student Affairs
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Dr. Anjali Thanawala, Director of Grants Administration

Action Requested
To authorize submission of **The Center of Adult Transition** grant application for an amount of $350,000 for Fiscal Year 2025, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Justification
The purpose of this grant is to provide students (up to the age of 24) who have developmental disabilities additional support and resources to improve their transitions from secondary school to postsecondary education and adult employment, and to promote independent living opportunities by providing appropriate success skills.

No college funds are required.

The budget documents are in development.

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BOARD OF TRUSTEES ACTION E/SA 2
Approval Date: August 6, 2024

Resolution
To submit a grant application for **The Hunger-Free Campus Grant** to the New Jersey Office of the Secretary of Higher Education's (NJ OSHE) and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Submitted By
Dr. Eric M. Friedman, President
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Dr. Anthony J. Trump, Vice-President Student Affairs
Dr. Anjali Thanawala, Director of Grants Administration

Action Requested
To authorize submission of **The Hunger-Free Campus** grant application for $100,000 for Fiscal Year 2025, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Justification
Combatting Student Hunger: Funding directly addresses food insecurity among students by implementing programs that provide reliable access to nutritious food options.

Promoting Sustainable Solutions: Leveraging the grant funds, the College will develop and promote sustainable initiatives that ensure ongoing support for students facing food insecurities. This effort includes initiatives focused on food production, distribution, and waste reduction.

Raising Awareness of Campus Services: The College intends to raise awareness of existing campus services that cater to basic food and hygiene needs. This effort will include educational campaigns and outreach efforts to increase student awareness of and utilization of available resources.

Building Strategic Partnerships: To strengthen our impact, the College plans to establish and nurture strategic partnerships at the local, state, and national levels.

No college funds are required.

The budget documents are in development.

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BOARD OF TRUSTEES ACTION E/SA 3
Approval Date: August 6, 2024

Resolution
To accept a US Department of Education's Developing Hispanic Serving Institutions (DHSI)'s FY 2023 Title V Grant award of $2,967,913.53 and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Submitted By
Dr. Eric M. Friedman, President
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Dr. Anthony J. Trump, Vice-President of Student Affairs
Dr. Anjali Thanawala, Director of Grants Administration

Action Requested
To authorize acceptance of an award for the **Developing Hispanic Serving Institutions Title V** grant in the amount of $2,967,913.53 for a performance period of five years beginning October 1, 2024, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Justification
This grant will provide our Hispanic and at-risk students with evidence-based interventions to improve retention, persistence, and completion to graduation through student-centered high-impact practices. The program is designed to improve and expand services to Hispanic students through the following three goals:

- **Goal 1**: To increase the retention and graduation rates for Hispanic and Underrepresented low- income students by providing a comprehensive set of wrap-around student support services that are grounded in holistic-based best practices that will ***assist*** students throughout their academic career at BCC.
- **Goal 2**: To expand existing first-year institutional student success courses, support service structures, and professional development offerings that will ***advance*** the institution's student completion agenda.
- **Goal 3**: Introduce evidence-based practices and initiatives that improve institutional capacity, responsiveness, and readiness to support students, educators, and faculty to ***achieve*** their academic, professional, and personal goals.

The proposed five-year **Bergen Rebounds: Assist, Advance, and Achieve grant program** is designed around evidence-based practices consistent with What Works Clearinghouse (WWC) standards and will be housed within the Divisions of Academic and Student Affairs.

No college funds are required.

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BOARD OF TRUSTEES ACTION E/SA 4
Approval Date: August 6, 2024

Resolution
To approve submission of an application for funding from the **Basic Needs for Post Secondary Students Program** grant to **US Department of Education (USDOE)**, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony J. Trump, Vice President of Student Affairs
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Dr. Anjali Thanawala, Director of Grants Administration

Action Requested
To authorize submission of an application to the **Basic Needs for Post Secondary Student Program** grant program in the amount of $900,000 for a 36-month performance period to **USDOE,** and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Justification
The purpose of this Grant is to:

1. Coordinate efforts with federal, state, or local agencies or community-based organizations to address basic needs such as food assistance, childcare, transportation, and technology.
2. Promote equity in student access to educational resources and opportunities.
3. Foster a sense of belongingness and inclusion for underserved students.
4. Increase postsecondary education access, affordability, completion and post-enrollment success for our students.
5. Establish processes to leverage public benefit programs.

No college matching funds are required.

The project description and budget are in development.

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BOARD OF TRUSTEES ACTION E/SA 5
Approval Date: August 6, 2024

Resolution

To accept a grant award of $470,500 for the Bergen County Consolidated Adult Basic Education and Integrated English Literacy and Civics Education (ABE & IELCE) Grant Program funded through the New Jersey Department of Labor and Workforce Development, and to authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Submitted By

Dr. Eric M. Friedman, President
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Cinzia D'Iorio, Executive Director, Continuing Education and Workforce Development
Dr. Anjali Thanawala, Director Grants Administration

Action Requested

To authorize acceptance grant award of $470,500 to implement the FY 2025 Bergen County Consolidated Adult Basic Education and Integrated English Literacy and Civics Education (ABE & IELCE) Grant Program, and authorize Dr. Eric M. Friedman, President, or his designee, to execute the required documents.

Justification

The New Jersey Department of Labor and Workforce Development awarded one Adult Basic Education grant to Bergen County Technical Schools (Lead Agency) in partnership with Bergen Community College and Greater Bergen Community Action to continue their long-standing consortium partnership that has successfully operated since July 1, 2005. This grant enables the consortium to deliver adult basic skills education, English-as-a Second Language, and Integrated English Literacy and Civics Education programs for Bergen County residents and workers. The Bergen Community College portion of the grant to provide instructional services for FY 25 is $ 364,500 to serve 243 participants.

The grant requires a 25% match to be provided either in cash or in-kind. Bergen Community College's financial match is in-kind and derived from facility usage fees, fringe benefits, and a small portion of administrative salary for oversight.

The budget is in development.

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BOARD OF TRUSTEES ACTION E/SA6
Approval Date: August 6, 2024

Resolution:
To approve the revised Code of Student Conduct Policy and Procedures.

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony J. Trump, Vice President of Student Affairs

Action Requested
Revision of the Code of Student Conduct Policy and Procedures (attached).

Justification
The Bergen Community College Code of Student Conduct Policy and Procedures is crucial as it ensures alignment with current social norms, legal standards, and emerging issues such as first amendment rights, technological advancements, and more. This process promotes inclusivity, diversity, and equity, ensuring all students feel respected and supported. Clear, updated guidelines help students understand expectations and consequences, enhancing personal growth and ethical development. Regular revisions also improve campus safety and well-being, maintain the institution's reputation, and address feedback from the community, creating a dynamic and supportive environment for student success.

The procedures manual should be updated and aligned regularly with the current College catalog, practices, organizational structure, as well as many updated legal standards including those related to Title IX.

Bergen Community College **Policy #:**
Board of Trustees **Effective Date:**
Section: **Responsible Official: Vice President of Student Affairs**

Student Code of Conduct

Policy Statement:

This Policy updates and establishes clear expectations and guidelines for student behavior and promotes a safe and inclusive learning environment. The code of conduct sets forth the standards of behavior that students are expected to adhere to while attending the institution and outlines the consequences for violating those standards.

Reason for Policy:

The Bergen Community College Code of Student Conduct Policy and Procedures is crucial as it ensures alignment with current social norms, legal standards, and emerging issues such as first amendment rights, technological advancements, and more. This process promotes inclusivity, diversity, and equity, ensuring all students feel respected and supported. Clear, updated guidelines help students understand expectations and consequences, enhancing personal growth and ethical development. Regular revisions also improve campus safety and well-being, maintain the institution's reputation, and address feedback from the community, creating a dynamic and supportive environment for student success.

The procedures manual should be updated and aligned regularly with the current College catalog, practices, organizational structure, as well as many updated legal standards including those related to Title IX.

Who Should Read This Policy:

All members of the Bergen Community College community.

The Policy:

Bergen Community College students are expected to uphold and abide by the standards of conduct that form the basis of the Student Code of Conduct. These standards are embodied within a set of five core values:

- Integrity: Bergen Community College students exemplify honesty, honor, and a respect for the truth in all of their dealings.
- Equity: Bergen Community College students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.
- Respect: Bergen Community College students exhibit positive regard for each other, for property, and for the community.
- Community: Bergen Community College students build and enhance their community.
- Responsibility: Bergen Community College students are given and accept a high level of responsibility to self, to others and to the community.

Bergen Community College students bear responsibility for their conduct. When students fail to exemplify the five core values by engaging in any violation of the standards, proceedings will take place as outlined in the Student Code of Conduct. Based on the outcome of the proceedings, the College reserves the right to engage in corrective and/or disciplinary action as outlined in the *Code*.

Procedure:

See Attached Document

Related Documents/Policies:

N/A

Policy History: (adopted/amended)

Adopted:
Amended:

POLICY

Bergen Community College students are expected to uphold and abide by the standards of conduct that form the basis of the Student Code of Conduct (the "Code"). These standards are embodied within a set of five (5) core values:

- Integrity: Bergen Community College students exemplify honesty, honor, and a respect for the truth in all of their dealings.
- Equity: Bergen Community College students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.
- Respect: Bergen Community College students exhibit positive regard for each other, for property, and for the community.
- Community: Bergen Community College students build and enhance their community.
- Responsibility: Bergen Community College students are given and accept a high level of responsibility to self, to others and to the community.

Bergen Community College students bear responsibility for their conduct. When students fail to exemplify the five (5) core values by engaging in any violation of the standards, proceedings will take place as outlined in the Student Code of Conduct. Based on the outcome of the proceedings, the College reserves the right to engage in corrective and/or disciplinary action as outlined in the Code.

PROCEDURES - The Code

Bergen Community College is committed to providing a campus environment that is conducive to academic inquiry in the College tradition. The Vice President of Student Affairs is responsible for the oversight of student discipline at Bergen Community College, and has the authority to implement the procedures contained in the Bergen Community College Student Code of Conduct, which is designed to address all student misconduct allegations at the College.

Bergen Community College students bear responsibility for their conduct; as such, they should familiarize themselves with the Bergen Community College Student Code of Conduct, which is also available on our website.

Bergen Community College Student Code of Conduct

I. **Student Code of Conduct**
   A. Preface
   B. Philosophy Statement
   C. Core Values of Student Conduct at Bergen Community College
   D. Definitions

II. **Jurisdiction**
   A. Protected Speech and Online Behavior
   B. Guests, Visitors, Vendors, and Community Members

III. **Violations of the Law and This Code**

IV. **Special Provisions**
   A. Amnesty
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   H. Notification of Outcomes
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V. **How to Report an Incident**

VI. **Standards of Conduct**
   A. Integrity
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VII. **Student Conduct Authority**

VIII. **Student Code of Conduct Process and Procedures**

IX. **Disciplinary Records**

SECTION I: STUDENT CODE OF CONDUCT

Preface

A community exists on the basis of shared values and principles. Students at Bergen Community College are expected to uphold and abide by certain standards of conduct that form the bases of the Student Code of Conduct. These standards are embodied within a set of five (5) core values: integrity, equity, respect, community, and responsibility. The Student Code of Conduct is provided to give students a general notice of expected conduct. This Code has not been designed to set forth an exhaustive list of misconduct, but rather to establish behavioral guidelines, and is not intended to create rights beyond those of the background laws framing such codes, generally.

It is the responsibility of all students to become familiar with the information, policies, and procedures contained in this Code. Bergen Community College reserves the right to make changes to this code as necessary; changes are effective when they are posted online. Students are encouraged to check online at bergen.edu/policies for the updated versions of all Bergen Community College policies and procedures.

Nothing contained in this document is intended to conflict with local, state, or federal law, and if provisions do conflict, will be construed so as not to do so, or to honor appropriate conflict-of-laws principles.

Philosophy Statement

Bergen Community College is committed to providing a campus environment that is conducive to academic inquiry in the College tradition. The Office of Student Conduct is committed to an educational and developmental process that balances the interests of individual students with the interests of the greater College community. This Student Code of Conduct is designed to establish behavioral guidelines that pertain to student misconduct, excluding sex and gender-based misconduct. Sex and gender-based misconduct is covered by the Title IX Policy Covering Discrimination, Harassment, and Sexual Misconduct. Student members of the College community are expected to abide by certain standards of conduct that form the basis of this Student Code of Conduct and ensure that their visitors do likewise. When students fail to adhere to this Code, College or community standards, appropriate proceedings may be initiated under this Code to address the failure and its consequences.

The student conduct process at Bergen Community College is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those

whose behavior is not in accordance with College policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with community expectations. When students are unable to conform their behavior to community expectations, the student conduct process may determine that the students should no longer share in the privilege of participating in this community.

The student conduct process is quite different from criminal and civil court proceedings. Student conduct procedures and rights are managed with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within this Code, assures written notice, a thorough and equitable investigation, and the right to appeal in writing a finding or sanction, or both, based on specific grounds, as outlined in this document. Preponderance of the evidence is the evidentiary standard for this code. No student will be found in violation of Bergen Community College policy or the Student Code of Conduct without information showing that it is more likely than not that a violation occurred, and sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

Core Values of Student Conduct at Bergen Community College

- **Integrity**: The quality of being honest and having strong ethical principles.
- **Equity**: The quality of being fair, just, and impartial.
- **Respect**: A feeling of deep admiration for another entity elicited by their abilities or qualities.
- **Community**: A group of people interacting in the same place and having a particular characteristic in common.
- **Responsibility**: The state or fact of having a duty to take ownership of one's behavior.

Definitions

Advisor - A member of the College community, who is not an attorney and not related to the student going through the process, who has been selected by a respondent or by a complainant to assist them in investigations or conferences conducted in accordance with this Code. The advisor shall not speak on behalf of the student.

Anonymous - To report an incident without identifying the name of the Complainant in order to protect one's identity.

Appeal - Refers to a process by which a respondent has requested to have the outcome of a student discipline investigation reconsidered if certain conditions are met (see Appeal Standards for Respondents).

Administration or Staff - Any employee who currently holds a non-faculty appointment within the College.

BCC Official Method of Communication with Students – Bergen Community College email is the College's primary means of communication with students; all notices, letters, and other items described in this document will be delivered to students via their BCC email addresses. Students are responsible for all communication delivered to their official College email addresses.

Business Day - Any day when the College offices are open for business.

College - The institution and all of its campus locations, divisions and programs.

College Grounds or Premises - All buildings or grounds, used, owned, leased, operated, controlled or supervised by the College.

College Sponsored Activity - A College sponsored activity means any academic, athletic, co-curricular, extra-curricular or other activity on or off-campus, which is initiated, aided, or sponsored, authorized, or supervised by the College.

Complainant - When reporting a violation of this Code and/or College policy, a Complainant may be a member or non-member of the campus community, including, but not limited to students, student organizations, faculty, administrators, staff, guests, visitors, vendors, or others.

Disciplinary Record - Written documentation of a student disciplinary proceeding created when the Office of Student Conduct (or designee) finds the student responsible for violating one or more of the policies in the Student Code of Conduct or the results of an appeal filed by the student that results in an affirmation of the decision by the Office of Student Conduct (or designee).

Distribution - Sale and/or exchange.

Faculty - Any person who holds a current academic appointment within the College.

Member of the College Community - Any student, faculty, administrator, or staff member of the College or visitor to the College, during the time of visitation.

Possession – The state of having, owning, or controlling something.

Respondent - Any student who has been accused of an act or misconduct as prohibited by this Code.

Sanction - Penalty for a violation of the Student Code of Conduct and/or College policy, which is intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with community expectations.

Student - A person to whom an offer of admission has been extended or registration processed for any course or program and thereafter as long as the person has a continuing educational interest, or intent to continue learning, as a member of the College community.

Student Organization - A College-recognized group of Bergen students meeting the criteria for group registration or recognition established by the Office of Student Life.

SECTION II: JURISDICTION

The Board of Trustees at Bergen Community College has adopted by appropriate resolution the terms and provisions of this Student Code of Conduct and, by the adoption of this Student Code of Conduct, has empowered the employees and committees referenced herein to enforce the terms and provisions set forth. The College maintains the right to take all necessary and appropriate action to protect the health, safety, and welfare of the employees, students, and visitors to the College campus community.

Bergen Community College students are provided a copy of the Student Code of Conduct annually in the form of a link on the Bergen Community College website. Hard copies are available upon request from the Office of Student Life. Students are responsible for having read and for abiding by the provisions of the Student Code of Conduct.

For the purposes of student conduct, Bergen Community College considers an individual to be a student when they meet the definition above in the Definition section of the Code. If non-compliance with BCC's Student Conduct Code is alleged for a student who is enrolled simultaneously at BCC and at an affiliated high school, the BCC Student Code of Conduct will apply for incidents that occur within BCC jurisdiction, outside of the time when the student is under the supervision of the faculty/staff/administrators of the partner high school.

Bergen Community College affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. These procedures are applicable regardless of the status of a Complainant. A Complainant may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, vendors, or others.

Bergen Community College retains conduct jurisdiction over students who choose to take a leave of absence, withdraw, or have graduated, for any misconduct that occurred prior to the leave, withdrawal, or graduation. If sanctioned, holds may be placed on the students' ability to re-enroll, and/or obtain official transcripts, and/or graduate. All sanctions must be satisfied prior to re-enrollment. In the event of serious misconduct committed while still enrolled but reported after the Respondent has graduated, Bergen Community College may invoke these procedures. Should the Respondent (former student) be found responsible for a violation, Bergen Community College may revoke that student's degree and/or impose other penalties and restrictions as appropriate.

The Student Code of Conduct applies to behaviors that take place on the campus, at Bergen Community College-sponsored events, and off-campus when the Vice President of Student Affairs, or designee, determines that the off-campus conduct affects a substantial Bergen Community College interest. A substantial Bergen Community College interest is defined to include:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of self or others; and/or
- Violations of local ordinance, state, or federal law, including repeat violations of any local ordinance, state, or federal law; and/or
- Any situation that significantly impinges upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of BCC; and/or
- Any situation in which BCC policy or this Code is violated.

Protected Speech and Online Behavior

The Student Code of Conduct may be applied to behavior conducted online, via email, or other electronic medium. Students should be aware that online postings, such as postings on blogs, web postings, chats, and social networking sites, are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of a violation is posted online. The College may act, if and when, such information is brought to the attention of Bergen Community College officials.

Any online postings or other electronic communications by students not on College networks, websites, or between College email accounts, occurring completely outside of the College's control, will be subject to this Code only when those online behaviors can be shown to cause a substantial disruption to the campus or College operations. Otherwise, such communications are typically considered speech protected by the First Amendment. Remedies for such conduct will be provided, but protected speech cannot be legally subjected to discipline under this Code, with one exception – in the case of a true threat, defined as an intentional, reckless, or serious expression that a speaker means to commit an act of unlawful violence or inflict bodily harm upon specific individuals.

Guests, Visitors, Vendors, and Community Members

Under the Student Code of Conduct, students may be held accountable for the misconduct of guests, visitors, vendors, and community members that the students invite to campus and/or host on campus. The Student Code of Conduct also applies to students who are a part of any on-site contractual partner agreements including high school bridge, extensions, academy partnerships and dual-credit programs. Students in these programs are subject to the Student Code of Conduct's jurisdiction as defined above when they are not under the supervision of representatives of the partner agency.

SECTION III: VIOLATIONS OF THE LAW AND THIS CODE

Alleged violations of federal, state, and local laws may be investigated and addressed under the Student Code of Conduct. When an offense occurs over which the College has jurisdiction, the Bergen Community College conduct process will move forward, notwithstanding any criminal complaint, or its outcome, that may arise from the same incident.

Students accused of crimes may request to take a leave of absence from Bergen Community College until the criminal charges are resolved. In such situations, voluntary leaves of absence are subject to the following conditions:

- The student must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial; and
- The student must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- In order to be reinstated to active status, the student must first be subject to, and fully cooperate with, the campus conduct process and must comply with all imposed sanctions.

Bergen Community College reserves the right to exercise its authority to impose interim suspension upon notification that a student is facing criminal investigation and/or complaint. Full procedures for interim suspension are found in the interim sanctions part of this Code.

SECTION IV: SPECIAL PROVISIONS

Amnesty for Serious Violations

The College encourages the reporting of incidents of harassment, violations of equal opportunity, discrimination, and crimes to College officials. Sometimes, Complainants or witnesses are hesitant to report or participate as witnesses in the student conduct process because they fear they themselves may be accused of policy or code violations, such as underage drinking at the time of the incident. It is in the best interests of this community that Complainants choose to inform College officials of serious violations and that witnesses come forward to share what they know. To encourage reporting, the College pursues a policy of offering Complainants and witnesses amnesty from minor policy and code violations related to serious conduct violations.

For Complainants - Educational options will be explored, but no conduct proceedings or conduct record will result.

For Those Who Offer Assistance - Educational options will be explored, but no conduct proceedings or conduct record will result.

For Those Who Receive Assistance -- At the discretion of the Director of Student Life and Development, amnesty may also be extended, on a case-by-case basis, to the person receiving assistance.

Abuse of amnesty requests can result in a decision by the Student Conduct Office not to extend amnesty to the same person repeatedly.

Attempted Violations

In most circumstances, the College will treat attempts to commit any of the violations listed in this Code as if those attempts had been completed.

College as Complainant

As necessary, the College reserves the right to initiate a complaint, to serve as Complainant, and to initiate conduct proceedings without a formal complaint by the alleged victim of misconduct.

False Allegations

The College will not tolerate intentional false reporting of incidents. It is a violation of this Code to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

Student Organization Violations

When members of groups, individuals acting collusively, or members of an organization act in concert in violation of any policy, they may be held accountable as a group, and an investigation may proceed with the group as joint Respondents. In any such action, however, determinations will be made with respect to the involvement of each individual Respondent. Code violations may be charged as collateral misconduct in other College proceedings, and in such cases, those proceedings share Student Code of Conduct authority, and those procedures will be used in lieu of the procedures described herein.

Good Samaritan

In a community, students are encouraged to help other members of the community who are in need; to be Good Samaritans. When a student has assisted an intoxicated student in procuring campus safety and/or professional medical assistance at Health Services, or any other healthcare facility, neither the intoxicated student nor the individual(s) who assist them will be subject to formal action through this process for (a) being intoxicated, or (b) having provided that person alcohol and/or drugs. This applies only to first-time, isolated incidents, and does not excuse or protect those who flagrantly or repeatedly violate college alcohol and/or drug policies.

Parental Notification

The College reserves the right to notify parents/guardians of any student whose conduct is deemed to be in violation of this Code, when permitted by law. The College reserves the right to notify all law enforcement agencies of any breach of the provisions of this Code involving alcohol, drugs, or any other act that is a danger to the health, safety, and well-being of any member of the College community. The College also reserves the right to designate which college officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act ("FERPA").

Notification of Outcomes

The outcome of a campus formal investigation is part of the educational record of the Respondent and is protected from release under the Federal Education Rights and Privacy Act "(FERPA"), except under certain conditions:

1. As allowed by FERPA, when a student is accused of a policy/code violation that would constitute a "crime of violence", Bergen Community College will inform the Complainant in writing of the final results of an investigation regardless of whether the College concludes that a violation was committed. Such release of information may only include the name of the Respondent, the alleged violation, the finding, and the sanctions assigned (if applicable).
2. Students should be aware that, in the event they pursue a job that requires some kind of security clearance and Bergen Community College receives a request from a government agency with a signed release from the student, these records must be released to the requesting government agency.
3. Conduct records can be shared with a transferee institution upon a student's application to transfer to that institution, without consent.
4. If a student is enrolled simultaneously at BCC and at an affiliated high school and their complaint is adjudicated under BCC's Student Code of Conduct, the administration of the affiliated high school may be notified of the outcome of the investigation.
5. In cases where Bergen Community College determines through the student conduct process that a student violated a policy/code that would constitute a "crime of violence," the College may also release the above information publicly and/or to any third party. FERPA defines "crimes of violence" to include:
    1. Arson
    2. Assault Offenses (includes stalking)
    3. Burglary
    4. Criminal Homicide—Manslaughter by Negligence
    5. Criminal Homicide—Murder and Non-Negligent Manslaughter
    6. Destruction/Damage/Vandalism of Property
    7. Kidnapping/Abduction
    8. Robbery
    9. Forcible Sex Offenses
    10. Non-Forcible Sex Offenses

Defenses

It has become common for students accused of policy violations to try to excuse their actions with explanations such as prescription drug interactions, self-defense, disabilities, etc. The College's policy on defenses is clear. Defending your actions could be admission of a violation of policy. "Yes, we fought, but Complainant started it" still means you had a fight, and that violates this Code. Taking someone's property under the influence of an anti-depressant is still taking someone else's property. While your defense will not excuse your actions, the College will take the legitimacy of your defense into consideration in addressing the proper sanction. If you were not the aggressor in a fight, you may still be sanctioned, but your sanction may be lesser than the sanction of the person who started the fight.

Withdrawal of a Respondent

A Respondent facing an alleged violation(s) of the Student Code of Conduct is not permitted to withdraw from Bergen Community College until the allegation(s) is resolved, unless permission is granted in writing by an appropriate administrator.

SECTION V: HOW TO REPORT AN INCIDENT

A complaint against a student for violations of this Code may be made by anyone who feels this Code has been violated. A complaint should be made as soon as possible following the incident. The Complainant should include as much detail of the alleged violation as possible and to the degree possible include specific references to the part of this Code that pertains to the complaint.

Reports can be filed online at www.bergen.edu/report.

The incident report should include:

- Complainant's name, address, and telephone number.
- The name of the person who is accused of a violation of this *Code.*
- The date(s) on which the alleged incident occurred.
- The place(s) where the alleged incident occurred.
- A statement describing, in detail, the alleged incident.
- The name, address, and telephone number of any witnesses.

In exceptional circumstances, provisions may be made to protect the identity of reporters and witnesses upon request.

Please note if the form is not completed in its entirety, the Office of Student Conduct may be limited in its ability to investigate and address the incident. Students are responsible to read and to abide by the provisions of this Code and the authority of the student conduct process.

This Code and the student conduct process apply to the conduct of individual students and College recognized student organizations.

As this Code is based on shared values, it sets a range of expectations for the student no matter where or when their conduct may take place. Individuals and resources are available for the reporting of crimes and policy/code violations, and action will be taken as soon as an incident is reported. Those who are aware of crimes or misconduct are encouraged to report it as quickly as possible.

Office of Public Safety
201-447-9200 or by dialing "6" on any campus phone

Office of Student Life & Student Conduct
201-447-7215 or email studentconduct@bergen.edu

Note: Reporting a Student for an Academic Integrity Violation

A faculty member who suspects a student in their class, or working under their direction, of conduct demonstrating a lack of academic integrity can choose to:

- Submit the complaint as "information only" to request that the incident be kept "on file" for the student.
    - An instructor who has addressed an alleged violation within the context of their course, and/or believes that a student made an unintentional mistake and who does not want to file a formal complaint should submit an "information only" complaint through their Dean/Coordinator to the Director of Student Life and Development who will enter the "information only" complaint into the Maxient system. A record of the number of "information only" complaints will be kept in the system for reference with any future incidents.
- File official charges with the Office of Student Conduct.
    - The Office of Student Conduct, in collaboration with the Academic Department Chair and Faculty, will review all complaints submitted against a student to determine whether sufficient evidence exists to support a charge for conduct demonstrating a lack of academic integrity. If the Dean determines that the evidence is sufficient, the complaint will be assigned to an investigator within the Office of Student Conduct.
    - The Office of Student Conduct does not typically investigate academic incidents unless there are multiple informational complaints, or the alleged violation is so serious that the scope of appropriate sanctions falls outside of what can be applied by an instructor, coordinator, or dean. Once a complaint is assigned and necessary documentation is received by the office, the student will be notified of the incident, charges, and a meeting time and follow the appropriate processes in this Code.

SECTION VI: STANDARDS OF CONDUCT

Core Values and Behavioral Expectations

Bergen Community College considers the behavior described in the following sub-sections as inappropriate for the BCC community and in opposition to the core values set forth in the Bergen Community College Student Code of Conduct. These expectations and rules apply to all students. BCC encourages community members to report to College officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following examples of misconduct is subject to the sanctions outlined in Section VIII. E. of the Code.

A. Integrity: *Bergen Community College students exemplify honesty, honor, and a respect for the truth in all of their dealings.*

1. **Falsification.** Knowingly furnishing or possessing false, falsified, fraudulent, or forged materials, documents, accounts, records, identification, or financial instruments, such as transcripts, diplomas, immunization records, doctors' notes, worthless checks, or money orders.
2. **Unauthorized Access.** Unauthorized access to any Bergen Community College building (i.e., keys, cards) or unauthorized possession, duplication, or use of means of access to any College building or failing to timely report a lost College identification card or key.
3. **Collusion.** Action or inaction with another or others to violate the Student Code of Conduct. The knowing failure of any organized group to exercise preventive measures relative to violations of this *Code* by members.
4. **Trust.** Violations of positions of trust or authority within the community.
5. **Election Tampering.** Tampering with the election of any Bergen Community College recognized student organization.
6. **Unauthorized Use.** Misuse or unauthorized use of the College or organizational names and images.
7. **Theft.** Intentional and unauthorized taking or maintaining possession of College property or the personal property of another without permission, including goods, services, and other valuables.
8. **Academic Dishonesty.** Acts of academic dishonesty as outlined in the Academic Regulations section of the College Catalog.

B. Equity. *Bergen Community College students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors. Behavior demonstrating a lapse of equity includes, but is not limited to:*

1. **Discrimination or Harassment.** For offensive or annoying behavior to rise to the level of a Code violation, such behavior must have the potential to cause a

deprivation of the civil rights of a member of a protected class. Protected classes at the College include pre-disposing genetic characteristics/testing requirements, gender identity/expression, sex, race, color, religion, creed, age, national origin, nationality, ancestry, ethnicity, disability, veteran's status, military service, sexual orientation, and pregnancy or breastfeeding status, marital status or domestic partnership/civil union status (See College Non-Discrimination Policy for more details).

2. **Retaliatory Discrimination or Harassment.** Any intentional, adverse action taken by a Respondent or allied third party, absent legitimate nondiscriminatory purposes, against a participant or supporter of a participant in a civil rights grievance proceeding or other protected activity under this Code, regardless of the outcome of the initial complaint, which has the effect of depriving a member of the community of educational or employment access, enjoyment, benefits or opportunities. See College Non-Discrimination Policy for more details.

3. **Bystanding/Complicity.**
    a. Complicity with or failure of any student to appropriately address known or obvious violations of the Student Code of Conduct or law.
    b. Complicity with or failure of any organized group to appropriately address known or obvious violations of this Student Code of Conduct or law by its members.

4. **Abuse of Conduct Process.** Abuse of, interference with, or failure to comply with College processes, including conduct and academic integrity processes:
    a. Falsification, distortion, or misrepresentation of information.
    b. Failure to provide, destroying, or concealing information during an investigation of an alleged policy violation.
    c. Attempting to discourage an individual's proper participation in, or use of, the campus conduct system.
    d. Harassment, both verbal and physical, and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding.
    e. Failure to comply with supportive measures or sanction(s) imposed by the College.
    f. Influencing, or attempting to influence another person to commit an abuse of the campus conduct system.
    g. Retaliation of any kind, whether against a Complainant, witness, or any participant in the conduct process.

C. Respect. *Bergen Community College students exhibit positive regard for each other, for property, and for the community. Behavior demonstrating a lack of respect includes, but is not limited to:*

1. **Harm to Persons.** Intentionally or recklessly causing physical harm or endangering the health or safety of any person.
2. **Threatening Behaviors.** Threat, verbal assault, abuse, or physical obstruction of any individual. Such behavior includes verbal or physical disruption or obstruction of teaching, research or disciplinary proceedings of any individual, office or authorized College activity. Intimidation (implied threats) or coercion (pressuring another unreasonably until an act is not truly voluntary).
    a. **Threat.** Written or verbal conduct, or gestures, that intentionally or recklessly cause a reasonable expectation of injury or harm to the health or safety of any person or damage to any property that is not otherwise protected by freedom of speech.
    b. **Intimidation.** Implied threats or acts that cause another to reasonably fear harm.
3. **Bullying and Cyberbullying.** Repeated and/or severe aggressive behaviors, likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally, which are not protected by freedom of expression.
4. **Harassment.** Conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive, or persistent so as to threaten an individual or limit the ability of an individual to work, study, or participate in the activities of the College.
5. **Hazing.** An act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent, failing to discourage, and/or failing to report those acts may also violate this policy.
6. **Lewd or obscene conduct.**
    a. Public urination, defecation, or intentional expression of bodily fluids onto another.
    b. Deliberately and publicly exposing one's intimate body parts.
    c. Sexual acts performed in public.
    d. Surreptitiously taking pictures or recording of another person in a gym, locker room, restroom, or any other area where a reasonable expectation of privacy exists.
    e. Streaking.
    f. Possession or distribution of any obscene materials, as defined by the standards of the College community, including sexual materials that may be prohibited by law, including revenge porn, deepfakes, etc.
7. **Unauthorized Use of Electronic or Other Devices.** Phones, cameras, or any recording devices used to make an audio, video, or photographic record of any

person or thing while in the classroom or in any campus location where there is a reasonable expectation of privacy, including but not limited to locker rooms, changing rooms, and restrooms.

D. Community. *Bergen Community College students build and enhance their community. Violations of community standards include but are not limited to:*

1. **Disruptive Behavior.** Disruption or obstruction of teaching, research, administration, other College activities, including its public service functions on or off campus, or of other authorized non-College activities when the conduct occurs on College premises. Examples of this include, but are not limited to:
    a. Unruly classroom behavior which substantially impacts or interferes with the learning environment.
    b. Obstruction of the free flow of pedestrian or vehicular traffic on College premises or at College sponsored or supervised functions.
    c. Participating in an on-campus or off-campus demonstration, riot or activity that substantially disrupts the normal operations of the College and/or infringes on the rights of other members of the College community.
    d. Leading or inciting others to substantially disrupt scheduled and/or normal activities within any campus building or area.
    e. Disorderly conduct that is lewd or indecent regardless of the intent; or
    f. Verbal assault or abuse of, interference with, or noncompliance to campus public safety officer(s) or other College officer(s) while they are acting in performance of their duties on College premises.
2. **Rioting.** Causing, inciting, or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or causes damage and/or destruction of property.
3. **Unauthorized Entry.** Misuse of access privileges to College premises or unauthorized entry to or use of buildings, including trespassing, propping, or unauthorized use of alarmed doors for entry into or exit from a College building.
4. **Trademark.** Unauthorized use and misuse of Bergen Community College or organizational names and images.
5. **Damage and Destruction.** Intentional, reckless, and/or unauthorized damage, littering, vandalism, or destruction of Bergen Community College property or the personal property of another including but not limited to:
    a. Misuse of access privileges to College premises or unauthorized entry to or use of buildings, including trespass.
    b. Driving motor vehicles on lawn or grounds without permission.
    c. Failure to clean up after a registered event.
    d. Failure to maintain an organization's facilities and/or surrounding property.

6. **IT and Acceptable Use.** Violating the Bergen Community College IT Acceptable Use Policy.
7. **Gambling.** Gambling as prohibited by the laws of the State of New Jersey. Gambling may include raffles, lotteries, sports pools, and online betting activities.
8. **Weapons.** Violating the Bergen Community College Weapons on Campus Policy.
9. **Tobacco.** Use of tobacco products, including but not limited to cigarettes, cigars, cigarillos, smokeless tobacco, e-cigarettes and other vaping devices on College property. Bergen Community College is a tobacco-free campus.
10. **Fire Safety.** Violation of local, state, federal, or campus fire policies, such as:
    a. Intentionally or recklessly causing a fire which damages Bergen Community College or personal property or which causes injury.
    b. Failure to evacuate a College-controlled building during a fire alarm.
    c. Intentionally or recklessly obstructing a fire exit in any College building;
    d. Improper use of College fire safety equipment.
    e. Tampering with or improperly engaging fire alarm or fire detection/control equipment while on College property, which could result in a local fine in addition to Bergen Community College sanctions.
11. **Ineligible Pledging or Association.** Pledging or associating with a student organization without having met eligibility requirements established by the College.
12. **Animals.** Animals, with the exception of service animals that provide assistance, are not permitted on campus.
13. **Wheeled and Recreational Devices.** Skateboards, sleds, roller blades, roller skates, scooters, bicycles, and similar wheeled devices are not permitted inside College buildings. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities; individuals may be liable for damage to College property caused by these activities.

E. Responsibility. *Bergen Community College students are given and accept a high level of responsibility to self, to others and to the community.*

1. **Alcohol.** Use, possession, or distribution of alcoholic beverages or paraphernalia, except as expressly permitted by law or policy.
2. **Drugs.** Use, possession, or distribution of illegal drugs and other controlled substances or drug paraphernalia, except as expressly permitted by law or policy.
3. **Prescription Medications.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications.

4. **Failure to Comply.** Failure to comply with the reasonable directives of Bergen Community College officials or law enforcement officers during the performance of their duties and/or failure to identify oneself accurately to these persons when requested to do so.
5. **Failure to Follow College Procedures.** Failure to follow procedures for College events held on or off-campus.
6. **Other Policies.** Violating other published Bergen Community College policies or rules.
7. **Health and Safety.** Creation of health and/or safety hazards
8. **Violations of Law.** Evidence of violation of local, state, or federal laws, when substantiated through Bergen Community College's conduct process.

SECTION VII: STUDENT CONDUCT AUTHORITY

The President is vested with the authority over student conduct by the Board of Trustees. The President designates the Vice President of Student Affairs to oversee the student conduct process.

SECTION VIII: STUDENT CODE OF CONDUCT PROCESS AND PROCEDURES

This overview provides a general awareness of the way in which Bergen Community College's campus conduct proceedings work, but it is noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible and may not be the same in every situation, although consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of Bergen Community College rules.

Notice

When notice is received from any source, such as a Complainant, third party, or through an online communication, Bergen Community College may proceed with an investigation.

Group Violations

A student group or Student Organization and its officers and membership may be held collectively and individually responsible when violations of this *Code* by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Investigations of student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made

and sanctions may be assigned collectively and individually, which will be proportionate to the involvement of each individual and the organization.

Notice of Investigation and Alleged Violation

When an investigation is opened by Vice President of Student Affairs or designee, a notice of investigation will be sent to respondents with an invitation to an informational meeting. In addition, a complete Student Code of Conduct will be sent to all parties. In the case of a student who is enrolled simultaneously at BCC and at an affiliated high school, who is being investigated under BCC's Student Code of Conduct, the administration of the affiliated high school may be notified of the investigation and be provided updates as needed. The Director of Student Life and Development, or designee, will appoint investigator(s) to investigate allegations of violations under this *Code*. The investigator(s) may institute "Interim Measures".

Interim Measures

Under the Student Code of Conduct, the Director of Student Life and Development or designee, may:

- Take action to provide interim support and remedies to the Complainant and the community, such as no contact orders, counseling, academic support, student financial aid advising, a campus escort, academic or work schedule and assignment accommodations, safety planning, and referral to campus and community support resources.
- Impose restrictions and/or suspend a Respondent from the College pending the investigation of alleged violation(s) of the Student Code of Conduct when a Respondent is determined to represent a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve Bergen Community College property, and/or to prevent disruption of, or interference with, the normal operations of Bergen Community College.

Interim Suspension. Interim suspensions are imposed until an investigation can be completed, typically for up to ten (10) business days, pending the results of an investigation of alleged violation(s) of the Student Code of Conduct. The interim suspension may be continued if a danger to the community is posed. The College may be delayed or prevented from conducting its own investigation and resolving the allegation because of an ongoing criminal process. In such cases, the College will only delay its decision until such time as it can conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed. This delay will be no longer than ten (10) business days from notice of the incident unless a longer delay is requested in writing by the Complainant to allow the criminal investigation to proceed before the College process.

A student who receives an interim suspension may request a meeting with the Vice President of Student Affairs (for Student Conduct interim suspension) or designee, to demonstrate why an interim suspension is not merited or its terms should be modified. Regardless of the outcome of this meeting, Bergen Community College may still proceed with an investigation.

During an interim suspension, a student may be denied access to the Bergen Community College campus, facilities, and/or events. As determined appropriate by the Director of Student Life and Development, or designee, this restriction may include classes and/or all other Bergen Community College activities or privileges for which the student might otherwise be eligible. A student's instructor(s), appropriate Dean(s), and Public Safety will be notified in writing by the Director of Student Life and Development, or designee, regarding the interim suspension of the student. At the discretion of the aforementioned officials and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent.

No-Contact Order. The Director of Student Life & Development, or designee may impose a limited or campus-wide No-Contact Order between parties to a complaint when concerns for retaliation, ongoing conflict, and/or harassment may be present. Specific instructions will accompany the No-Contact Order outlining to all parties the expected behavior including face-to-face contact, correspondence, e-mail, text, online or electronic communication or telephone. Friends and relatives may also be prohibited from contact on behalf of either party.

Investigation Procedures

When the Director of Student Life and Development or designee determines an investigation may be required, the complaint is forwarded to Student Conduct investigator(s).

The investigator(s) will proceed as follows:

1. Conduct a comprehensive investigation to determine if there is reasonable cause to believe that the Respondent violated Bergen Community College code/policy and to determine the specific violations that should serve as the basis for the complaint.
    a. If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action.

2. Prepare the notice of alleged code/policy violation(s) on the basis of the reasonable cause determination, which will be delivered to the Complainant and Respondent via BCC's official means of student communication, usually prior to any meetings between the Respondent and the investigator(s). The notice of investigation letter will include an invitation to an Informational Meeting to the Respondent(s).

3. Meet with the Complainant prior to the Informational Meeting to finalize the official statement of complaint, which will be developed by the investigator(s), or designee, as a result of this meeting. Discuss the next steps of the conduct process including the Informational Meeting.

Informational Meeting. All Respondents are provided an opportunity to attend a scheduled informational meeting with the Director of Student Life and Development or designee

responsible for resolving the case. An informational meeting is an informal meeting with the Director of Student Life and Development or designee who will explain the Respondent's rights and the alleged violation(s), discuss resolution options, review the Respondent's responsibilities, and provide an opportunity to review, after any required redaction, the information that was provided as the basis for the alleged policy violation(s). The Director of Student Life and Development or designee will also answer questions about the process and available options. The Director of Student Life and Development or designee may provide a range of possible outcomes for the alleged violation, but that individual cannot ensure that a specific outcome will occur.

During the informational meeting, the Respondent may select one of the available resolution processes (Administrative Conference, Informal Resolution, or Formal Resolution) for the case. In certain circumstances, the Director of Student Life and Development or designee may exercise the authority to select the resolution process. In the absence of a resolution option selection from the Respondent, the Director of Student Life and Development or designee will determine the appropriate resolution process for the case. Failure to attend an informational meeting will not delay the student conduct proceedings or impact the validity of such proceedings.

Administrative Conference

If the Director of Student Life and Development or designee believes the outcome for the alleged violation would likely not rise above Probation or result in removal from the College, the Respondent may elect to have the case resolved by Administrative Conference. An Administrative Conference takes place between the Respondent and Director of Student Life and Development or designee and does not allow for the presentation of witnesses or additional information to be submitted by the Respondent before the meeting, although the administrator may follow up with other parties as necessary before making a decision. The Administrative Conference will primarily consist of the Respondent sharing their perspective on the reported behavior and the Director of Student Life and Development or designee asking questions of the Respondent. The result of an Administrative Conference is not appealable.

An Administrative Conference may occur directly following an informational meeting or may be scheduled for a later date. Every effort will be made to schedule an Administrative Conference within five (5) Business days of the informational meeting. Following an Administrative Conference, the Director of Student Life and Development or designee will determine whether it is more likely than not that a violation occurred and determine appropriate sanction(s), if applicable.

If the Respondent does not wish to proceed with an Administrative Conference, and/or the sanction for an alleged violation would be more serious than probation, or result in removal from the College, the Respondent may elect to pursue Formal Resolution. A Formal Resolution may be required by the Director of Student Life and Development or designee for any case that may result in expulsion.

Informal Resolution

Informal Resolution (e.g., mediation, restorative practices, facilitated dialogue) is a voluntary process by which the Complainant and Respondent reach a mutually agreed upon resolution of a complaint. The Informal Resolution process will only be used at the request and agreement of both the Complainant and Respondent; and under the direction of the Director of Student Life and Development or designee. All parties must agree to the use of an Informal Resolution approach.

The Director of Student Life and Development or designee may consider the following factors to assess whether Informal Resolution is appropriate, or which form of Informal Resolution may be most successful for the parties:

The parties' amenability to Informal Resolution

- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties' motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether interim measures are needed
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Informal Resolution (time, staff, etc.)

The ultimate determination of whether Informal Resolution is available or successful is made by the Director of Student Life and Development or designee. The Director of Student Life and Development or designee is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties. The College reserves the right to suspend or terminate the Informal Resolution process at any time.

Any agreements reached as part of the Informal Resolution Process must be documented, signed in-person or electronically by the Complainant and Respondent, and approved by the Director of Student Life and Development or designee. If no agreement is reached, then the matter may be referred to the Director of Student Life and Development or designee for further action.

The Director of Student Life and Development or designee maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions for failure to comply. Results of complaints resolved by Informal Resolution are not appealable.

Formal Resolution

When the Director of Student Life and Development or designee determines a formal investigation is required, the complaint is forwarded to Student Conduct investigator(s). The investigator(s) will proceed as follows:

1. Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Respondent, who may be given notice of the interview prior to or at the time of the interview, as long as their access to an advisor is not compromised;
2. Interview all relevant witnesses and summarize the information they are able to share;
3. A Complainant or Respondent is permitted to bring an advisor of their choosing to the meeting. However, the advisor may not interfere with the investigative process. The advisor's presence is to provide support and guidance to the student. The advisor may not speak on behalf of the student, nor may the advisor question the investigator.
4. Obtain all documentary evidence and information that is available;
5. Obtain all physical evidence that is available;
6. Send additional Notice of Alleged Violations to the parties if additional violations of the Student Code of Conduct are discovered during the course of the investigation;
7. Arrange and have follow-up meetings with any of the parties as deemed necessary based on the information gathered throughout the investigation;
8. Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline;
9. Make a finding, based on a preponderance of the evidence (whether a policy/code violation is more likely than not).
10. Present the investigation report and findings to the Director of Student Life and Development.

Parties may inquire with the Director of Student Life and Development if they have questions about any aspect of the process or would like an update on the status of an investigation. During these conversations, issues of procedure and timelines may be discussed. Any information directly related to the investigation must be addressed with the investigator(s). Bergen Community College reserves the right to record all conduct meetings and interviews.

Finalization of Investigation and Determination of Sanctions. In the event the investigator(s) finds that the Respondent is responsible for the violation(s), the investigation report with the finding will be forwarded to the Director of Student Life and Development to assign sanctions. Sanctions for all cases will be assigned by the Director of Student Life and Development to ensure consistency. The Director of Student Life and Development will deliver notice of findings and sanctions to all parties.

Notice of Findings and Sanction(s). At the conclusion of an investigation, Bergen Community College will notify appropriate parties of the findings and sanctions as well as provide a copy of the investigation report. Respondents have the right to accept or reject findings or sanctions within seven (7) business days of their receipt of the notice of findings and sanctions.

Accept. A Respondent may accept the finding and sanction(s) by not responding to the notification and allowing seven (7) business days to pass, or by communicating acceptance in writing pursuant to the instructions in the notification of outcome.

- If the Respondent accepts the finding and sanction(s) by not filing an appeal within seven (7) business days or in writing, Bergen Community College considers this an "uncontested allegation." If accepted, the process ends, and any sanction(s) are applied.

Reject. A Respondent may reject the finding and/or the sanctions only by filing a written appeal within seven (7) business days of receiving official notification of responsibility from the College. This written appeal document must contain all the information that the Respondent wants to be considered in the appeal of either the finding, the sanction(s), or both.

- If the Respondent rejects the finding, sanction(s), or both, and files an appeal that meets the standards for filing an appeal within seven (7) business days, Bergen Community College will conduct an administrative review of the finding and/or the sanction(s).

Appeal Standards. Appeals requests from Respondents for both findings and sanctions are limited to the following grounds:

1. A procedural, or substantive, error occurred that significantly impacted the outcome of the investigation and determination of sanction(s), such as substantiated bias or a material deviation from established procedures;
2. To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal;
3. The conduct sanctions fall outside the range of sanctions designated for the offense(s), considering the cumulative conduct history of the Respondent and the sanctioning rubric.

Appeals must be filed in writing to the Vice President of Student Affairs, or designee within seven (7) business days of the notice of the outcome of the investigation to the student. In order to file an appeal, a Respondent filing an appeal must include the following three elements:

1. Clearly identify the grounds under which the appeal is being filed based on one or more of the three reasons identified above;
2. Address the ways in which the circumstances meet the grounds for appeal;
3. Provide a complete summary of the appeal, including all new evidence, if applicable, and any other information that supports the appeal.

It is recommended that these elements of the written appeal are organized as three (3) sections in the document so that reasons and support for the appeal are clear. The Vice President of Student Affairs, or designee will review and determine if the grounds for an appeal are met. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error. No appeal will be forwarded for an administrative review unless there is reasonable cause to believe that the grounds for appeal have been met. Reasonable cause is defined as some credible information to support each element for the appeal, even if that information is merely a credible witness or a Complainant's statement. If the Vice President of Student Affairs, or designee determines there is no basis for an appeal, the appeal will be denied, and the Respondent will be notified of the decision within seven (7) business days. Decisions regarding the merit of an appeal by the Vice President of Student Affairs, or designee are final.

If credible support for the appeal is submitted, the Vice President of Student Affairs will forward the appeal for administrative review and will notify the parties within seven (7) business days that the appeal will be sent to the Administrative Review Panel for consideration.

Composition of the Administrative Review Panel. The Vice President of Student Affairs, or designee will be responsible for assembling the Administrative Review Panel according to the following guidelines:

1. The membership of the Panel is selected from a pool of students/staff/administrative members appointed and trained annually by the Vice President of Student Affairs.
2. For each appeal, a Panel will be chosen by the Vice President of Student Affairs, or designee, from the available pool and is usually comprised of one student, one faculty member, and one staff member or administrator. Availability may dictate a different composition for the Panel.
3. Where grounds for appeal have been met, the Vice President of Student Affairs, or designee, must form a Panel and schedule a meeting to review the appeal, absent mitigating factors, that occurs within ten (10) business days of the day that the appeal was forwarded to the Administrative Review Panel.

To serve in the Panel pool, students must:

1. Be in academic good standing and good standing with the conduct;
2. Have completed 15 hours of academic credit with a cumulative GPA of at least 2.5.
    a. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel.
3. A serious history of misconduct could disqualify a student from service.

In the event of a resignation from the Panel, the Vice President of Student Affairs, or designee, will identify a replacement from the group from which the representative came. In the event of a conflict of interest the Vice President of Student Affairs will recuse any conflicted panelist and appoint an alternate.

Administrative Review Panel Procedures.

1. The Vice President of Student Affairs, or designee, will be present in a non-voting capacity to answer policy or procedure questions only and to ensure that policy and procedures are followed.
2. Neither the Complainant nor the Respondent (or their representatives) may be present or know the identity of the members of the Administrative Review Panel.
3. The Director of Student Life and Development may be consulted during the review.
4. The panel must keep all proceedings confidential.
5. Panel members will review:
    a. The Bergen Community College investigation report and the sanction(s) assigned by the Director of Student Life and Development.
    b. The appeal materials submitted by appropriate parties.
6. The Panel will decide if the appeal is approved or denied by simple majority vote.
7. If an appeal is approved, the Panel may:
    a. Find that the Respondent is still responsible but revise the sanction(s). If the Panel chooses this option, the process ends, and no further appeals may be filed by any party.
    b. Reverse the finding of "responsible" and remove the sanction(s). If the Panel chooses this option, the process ends, and no further appeals may be filed by any party.
    c. In rare cases where a procedural error cannot be cured by the original investigators, as in case of bias, the Administrative Review Panel may order a new investigation with a new investigator.
    d. If a new investigation is ordered, a new investigator will be assigned and will follow the Investigation process. If the outcome of this investigation finds the student is responsible for Code violations, a trained Administrator from the Administrative Review Panel pool who did not serve on the appeals committee will determine and issue the appropriate sanction(s).
8. If an appeal is denied, the finding and sanction(s) assigned by the College are final and the process ends.
9. Following the Administrative Review Panel meeting and decision, the Vice President of Student Affairs, or designee, absent mitigating factors, has three (3) business days to inform the appropriate parties of the panel's decision, and will do so in writing.

All notes and materials used in the review must be returned to the Vice President of Student Affairs, or designee.

Conduct Sanctions

When considering sanctions to be imposed, a range of factors may be considered, including but not limited to:

1. The nature and severity of the incident;
2. The disciplinary history of the student;

3. The developmental needs of the student;
4. The level of accountability and responsibility taken by the student;
5. The level of cooperation from the student;
6. The interests of the community and those impacted by the violation and;
7. Any other aggravating, mitigating, or relevant factors.

Underage students sanctioned for the possession or distribution of illegal drugs will be subject to the College parental notification policy.

One or more of the following sanctions may be imposed upon any student for any single violation of the Student Code of Conduct. In addition, other remedies and sanctions may be fashioned at the discretion of the Director of Student Life and Development:

1. ***Written Warning*** - An official written notice that the student has violated Bergen Community College policies and/or rules and that more severe sanctions will result should the student be involved in other violations while the student is enrolled at the College.
2. ***Restitution*** - Compensation for damage caused to Bergen Community College or any person's property. This could also include the payment of labor costs and expenses when a student fails to return a reserved space (classroom, conference room) to its proper condition. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
3. ***Community Service*** - Service assignment requiring an individual to perform services for the community or the College.
4. ***Loss of Privileges*** - The student may be denied specific privileges for a designated period of time.
5. ***Confiscation of Prohibited Property*** - Items whose presence is in violation of Bergen Community College policy/code will be confiscated and become the property of the College. Prohibited items may be returned to the owner at the discretion of the Director of Student Life and Development and/or Public Safety.
6. ***Behavioral Requirement*** - The student may be required to seek academic counseling, personal counseling, substance abuse screening, write a letter of apology, or other actions.
7. ***Educational Program or Assignment*** - Requirement to attend, present, and/or participate in a program or write a research/reflection paper related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
8. ***Probation*** - The student may be put on official notice that, should further violations of the BCC policies/codes occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
9. ***Eligibility Restriction*** - The student is deemed "not in good standing" with Bergen Community College for a specified period of time. Specific limitations or exceptions may be granted by the Director of Student Life and Development, or designee, such as:

a. Ineligibility to hold any leadership role in any student organization recognized by Bergen Community College or hold an elected or appointed office at the College;
b. Ineligibility to represent Bergen Community College to anyone outside the College community in any way, including participating in the study abroad program, attending conferences, or representing BCC at an official function, event, or intercollegiate competition as a player, manager, or student coach.
c. Ineligibility for membership in student organizations and/or participation in activities.

10. ***Revocation of Driving and Parking Privileges on Campus*** - Evidence of reckless or repeated violations of traffic safety or parking regulations on College premises may lead to a revocation of driving and parking privileges on campus.
11. ***Removal from Class*** - A student who is disruptive to the learning environment may be removed or withdrawn from a class or transferred to another section of the course.
12. ***Suspension*** - A student may be separated from Bergen Community College for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. During the suspension period, the student is banned from Bergen Community College property, functions, events, and activities without prior written approval from the Director of Student Life and Development, or designee. This sanction may be enforced with a trespass action as necessary. This sanction will be noted as a Conduct Suspension on the student's official academic record. The suspension assigned shall be clearly dated for a period not less than one semester and not more than two academic years.
13. ***Facilities Restriction*** - Revocation or restriction of privileges for the use of some but not all College facilities.
14. ***Expulsion*** - A student may be permanently separated from Bergen Community College, with the student being banned from College property and the student's presence at any BCC-sponsored activity or event prohibited. Bergen Community College will contact local law enforcement to report a person who has been expelled for trespassing if they are found on College property. This sanction will be noted as a Conduct Expulsion on the student's official academic record.
15. ***Referral to civil or criminal authorities*** – Including local, state, or federal law enforcement officials
16. ***Campus-Wide Notice of No Trespass*** – This prohibits an individual from entering any part of the campus.
17. ***No Contact Order*** - The Director of Student Life and Development, or designee may extend a Campus Wide No-Contact Order between parties to a complaint when the fear of retaliation and/or harassment may be present. Specific instructions will accompany the No-Contact Order outlining to all parties the expected behavior including face to face contact, correspondence, electronic or online communication, e-mail, text message or telephone. Friends and relatives are also not permitted to have any contact on behalf of either party.
18. ***Assignment Failure*** - Assigning a failing grade on the assignment for a specific Bergen Community College course.

19. ***Reduced Course Grade*** - Assigning a lower final course grade for a specific Bergen Community College course.
20. ***Course Failure*** - Failing the student in the specific Bergen Community College course in which an academic integrity violation occurred.
21. ***Other Educational Sanction*** - Educational sanctions are meant to help students learn from their experiences. Educational sanctions, such as reflection papers, required attendance at educational programs, letters of apology or other restorative assignments may be imposed consistent with the nature and severity of the violation(s).

The following sanctions may be imposed upon student groups or Student Organizations found to have violated the Student Code of Conduct:
One or more of the sanctions listed above and/or

1. Deactivation, de-recognition, or loss of all privileges, including status as a Bergen Community College registered student group or Student Organization, for a specified period of time.

Failure to Complete Conduct Sanctions. All students, as members of the Bergen Community College community, are expected to comply with conduct sanctions within the timeframe specified by the Director of Student Life and Development or Administrative Review Panel. A Disciplinary Hold, prohibiting all academic and financial transactions, will be placed on student accounts until sanctions have been fulfilled. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension from Bergen Community College. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Director of Student Life and Development.

SECTION IX: DISCIPLINARY RECORDS

All conduct records are maintained by Bergen Community College in accordance with New Jersey document retention law.

Bergen
COMMUNITY COLLEGE
400 Paramus Road, Paramus, New Jersey 07652
201-447-7100 • www.bergen.edu

BOARD OF TRUSTEES ACTION E/SA 7
Approval Date: August 6, 2024

Resolution:
To approve the revised Title IX Policy and Procedures.

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony J. Trump, Vice President of Student Affairs

Action Requested
Revision of the Title IX Policy and Procedures (attached).

Justification
Updating the Bergen Community College Title IX Policy and Procedures is essential for ensuring compliance with the latest federal regulations. This update guarantees that our processes for handling complaints are fair, transparent, compliant, and effective, addressing any previous gaps and safeguarding the rights of all parties involved.

Moreover, the update underscores our commitment to campus safety and well-being by preventing incidents of sexual harassment and discrimination and fostering a supportive environment for victims. Meeting the August implementation deadline also enhances our institution's reputation, reflecting a strong commitment to equality and safety, which is vital for attracting and retaining students, faculty, and staff.

BERGEN COMMUNITY COLLEGE PROHIBITED SEX DISCRIMINATION, SEX-BASED HARASSMENT, AND RETALIATION POLICY FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES (Hereinafter, "the Policy")

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BERGEN COMMUNITY COLLEGE PROHIBITED SEX DISCRIMINATION, SEX-BASED HARASSMENT, AND RETALIATION POLICY FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES (Hereinafter, "the Policy")

1. Purpose

Bergen Community College ("BCC") is committed to providing an educational and employment environment that is free from sex discrimination, sex-based harassment, and retaliation for engaging in protected activity.

BCC values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local sex discrimination laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, BCC has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of sex discrimination, sex-based harassment, or retaliation.

2. Notice of Nondiscrimination

BCC seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting sex discrimination in public post-secondary education institutions.

BCC does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived sex.

This Policy covers sex discrimination in both employment and access to educational opportunities. Therefore, any member of the BCC community whose acts deny, deprive, unreasonably interfere with, or limit the education or employment, and/or social access, benefits, and/or opportunities of any member of the BCC community, guest, or visitor on the basis of that person's actual or perceived sex, is in violation of this Policy.

BCC will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution process in the Sex Discrimination, Sex-Based Harassment, and Retaliation Procedures.

3. Title IX Coordinator and Deputy Coordinators

BCC has appointed the following individual(s), to coordinate BCC's compliance with federal, state, and local sex discrimination laws and ordinances:

For sex discrimination, sex-based harassment, and retaliation allegations:

Title IX Coordinator
Ellianne Gallardo
Associate Director of Employee Relations and Organizational Development
A-316, Pitkin Education Center
HumanResourcesGroup@bergen.edu
(201) 447-7442

In addition, the following individuals have been designated as Deputy Coordinators to handle inquiries regarding these policies:

Title IX Deputy Coordinator (for off campus sites)
Janet Pagan
Executive Secretary
Lyndhurst Campus
janet.pagan@bergen.edu
(201) 493-3596

Title IX Deputy Coordinator (for faculty & staff)
Michael Vivenzio
Talent and Development Manager
mvivenzio@bergen.edu
A-316, Pitkin Education Center
(201) 879-3562

Title IX Deputy Coordinator (for students)
Dr. Jennifer Migliorino-Diaz
Assistant Vice President of Student Affairs
jreyes@bergen.edu
OS-140, Pitkin Education Center
(201) 447-7456

Clery Compliance Officer/Title IX Deputy Coordinator
Marie Jardine
Associate Director of Public Safety
mjardine@bergen.edu
S-151, Pitkin Education Center
(201) 612-5489

Title IX Deputy Coordinator (Athletics)
Jorge Hernandez
Director of Athletics
Jhernandez@bergen.edu
G-201A, Pitkin Education Center
(201) 447-7183

Title IX Investigator (faculty & staff)
Maureen Rotker
Assistant Director of HRIS & Compliance
mrotker@bergen.edu
A-316, Pitkin Education Center
(201) 879-1263

Title IX Investigator (students)
Jenny Gamez
Coordinator of Student Conduct & Student Information
jgamez@bergen.edu
SC-111A, Pitkin Education Center
(201) 879-7906

Collectively, these individuals are responsible for providing comprehensive sex discrimination education and training; coordinating BCC's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy, and related procedures to ensure an education and employment environment free from sex discrimination, sex-based harassment, and retaliation.

BCC recognizes that allegations under this Policy may include multiple forms of sex discrimination and sex-based harassment, as well as violations of other BCC policies; may involve various combinations of students, employees, and other members of the BCC community; and may require the simultaneous attention of multiple BCC departments. Accordingly, all BCC departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable BCC policies, to provide uniform, consistent, efficient, and effective responses to alleged sex discrimination, sex-based harassment, or retaliation.

4. External Contact Information

Concerns about BCC's application of this Policy and compliance with Title IX of the Education Amendments of 1972 may also be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

For Complaints involving employee-on-employee conduct: Equal Employment Opportunity Commission (EEOC)

5. Mandated Reporting and Confidential Employees

All BCC faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal BCC action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe BCC's reporting options for a Complainant or third party (including parents/guardians when appropriate):

A. Confidential Employees

There are three (3) categories of Confidential Employees: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; 2) Those whom BCC has specifically designated as Confidential Resources for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by the BCC Institutional Review Board ("IRB"). For those in category 1), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

To enable Complainants to access support and resources without filing a Complaint, BCC has designated specific employees as Confidential Resources. Those designated by BCC as Confidential Resources are not required to report actual or suspected sex discrimination, sex-based harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact

information and offer options and resources without any obligation to inform an outside agency or BCC official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with counselors, health service providers, victim services advocates, domestic violence resources, local or state assistance agencies, or members of the clergy who are permitted by law to maintain confidentiality (except in extreme cases of immediacy of threat or danger or abuse of a minor). These sources may submit anonymous statistical information for timely warning and Clery Act purposes. If a Complainant is unsure of a resource's ability to maintain confidentiality, the Complainant is advised to ask them before talking to them.

BCC personal counselors for students and/or the Employee Assistance Program for employees are available to help free of charge and can be seen on an emergency basis.

Failure of a Mandated Reporter, as described above in this section, to report an incident of sex discrimination, sex-based harassment, or retaliation of which they become aware is a violation of BCC Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of discrimination, harassment, or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

In addition, Complainants may speak with individuals unaffiliated with BCC without concern that this Policy will require them to disclose information to the institution without permission:

- Licensed professional counselors and other medical providers;
- Local rape crisis counselors;
- Domestic violence resources;
- Local or state assistance agencies;
- Clergy/Chaplains; and,
- Attorneys.

6. Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and at https://bergen.edu/about-us/title-ix/.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in BCC's program or activities, including education and employment.

This Policy prohibits all forms of sex discrimination, and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

7. Jurisdiction

This Policy applies to BCC's education programs and activities (defined as including locations, events, or circumstances in which BCC exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where BCC has disciplinary authority, and to misconduct occurring within any building owned or controlled by a BCC-recognized student organization.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to BCC's education program or activities. BCC may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial BCC interest.

A substantial BCC interest includes:

1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2) Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4) Any situation that substantially interferes with BCC's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be a BCC faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the BCC community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options, and will implement appropriate supportive measures and/or remedial actions (e.g., escorting a person from campus). BCC can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving BCC through third-party contracts are subject to the policies and procedures of their employers.

When a party is participating in a dual enrollment/early college program, BCC will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

The Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination or sex-based harassment in an externship, study abroad program, or other environment external to BCC where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

8. Supportive Measures

BCC will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged sex discrimination, sex-based harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to BCC's education program or activity, including measures designed to protect the safety of all Parties and/or BCC's educational environment and/or to deter sex discrimination, sex-based harassment, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, BCC will inform the Complainant, in writing, that they may file a Complaint with BCC either at that time or in the future. The Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

BCC will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair BCC's ability to provide those supportive measures. BCC will act to ensure as minimal an academic/occupational impact on the Parties as possible. BCC will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services;
- Referral to the Employee Assistance Program;
- Referral to community-based service providers;
- Visa and immigration assistance;
- Student financial aid counseling;
- Education to the institutional community or community subgroup(s);
- Altering campus housing assignment(s);
- Altering work arrangements for employees or student-employees;
- Safety planning;
- Providing campus safety escorts;

- Providing transportation assistance;
- Implementing contact restrictions (no contact orders) between the Parties;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout ("BOLO") orders;
- Timely warnings;
- Class schedule modifications, withdrawals, or leaves of absence;
- Increased security and monitoring of certain areas of the campus; and,
- Any other actions deemed appropriate by the Title IX Coordinator.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of BCC's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. BCC typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Title IX Coordinator.

9. Online Harassment and Misconduct

BCC policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on BCC's education program and activities, or when they involve the use of BCC networks, technology, or equipment.

Although BCC may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to BCC, it will engage in a variety of means to address and mitigate the effects. These means may include use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to BCC's education program or activity.

Public Institutions: Nothing in this Policy is intended to infringe upon or limit a person's rights to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring completely outside of BCC's control (e.g., not on BCC networks, websites, or between BCC email accounts) will only be subject to this Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement on/harm to the rights of others. Otherwise,

such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided.

Off-campus harassing speech by employees, whether online or in person, may be regulated by BCC only when such speech is made in an employee's official or work-related capacity.

10. Inclusion Related to Gender Identity/Expression

BCC strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by BCC. If a member of the BCC community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

11. Prohibited Conduct

Students and employees are entitled to an educational and employment environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under BCC Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of BCC Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation ("NOIA") will clearly indicate that both individual incidents and a pattern of conduct are being investigated. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

A. Sex Discrimination

Sex discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Discrimination can take two (2) primary forms:

1) **Disparate Treatment Discrimination:**
   - Any intentional differential treatment of a person or persons that is based on a person's actual or perceived sex and that:
     - Excludes a person from participation in;
     - Denies a person benefits of; or
     - Otherwise adversely affects a term or condition of a person's participation in a BCC program or activity.

2) **Disparate Impact Discrimination:**
   - Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
     - Excludes a person from participation in;
     - Denies a person benefits of; or
     - Otherwise adversely affects a term or condition of a person's participation in a BCC program or activity.

B. Sex-based Harassment (Applicable under Title IX and Title VII)

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,[1] including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) **Quid Pro Quo:**
   - an employee agent, or other person authorized by BCC,
   - to provide an aid, benefit, or service under BCC's education program or activity,
   - explicitly or impliedly conditioning the provision of such aid, benefit, or service,
   - on a person's participation in unwelcome sexual conduct.

2) **Hostile Environment Harassment:**
   - unwelcome sex-based conduct, that
   - based on the totality of the circumstances,
   - is subjectively and objectively offensive, and
   - is so severe or pervasive,
   - that it limits or denies a person's ability to participate in or benefit from BCC's education program or activity

BCC reserves the right to address offensive conduct and/or harassment that (1) does not

[1] Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

rise to the level of creating a hostile environment, or (2) that is of a generic nature and not prohibited by law. Addressing such conduct will not result in the imposition of discipline under BCC Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

3) **Sexual Assault:**[2]
    a. **Rape:**
        - Penetration by the Respondent, no matter how slight,
        - of the vagina or anus of the Complainant,
        - with any body part or object, or
        - oral penetration of the Complainant by a sex organ of the Respondent,
        - without the consent of the Complainant.

    b. **Fondling:**
        - The touching of the private body parts of the Complainant (buttocks, groin, breasts),
        - for the purpose of sexual gratification,
        - without the consent of the Complainant,
        - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

    c. **Incest**:
        - Sexual intercourse,
        - between persons who are related to each other,
        - within the degrees wherein marriage is prohibited by New Jersey law.

    d. **Statutory Rape**:
        - Sexual intercourse,
        - with a person who is under the statutory age of consent of 16.

4) **Dating Violence**, defined as:
    a. violence,
    b. on the basis of sex,
    c. committed by a person,

[2] This would include having another person touch you sexually, forcibly, and/or without their consent.

d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
        a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
        b) Dating violence does not include acts covered under the definition of domestic violence.

5) **Domestic Violence**,[3] defined as:
    a. violence,
    b. on the basis of sex,
    c. committed by a current or former spouse or intimate partner of the Complainant,
    d. by a person with whom the Complainant shares a child in common, or
    e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
    f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New Jersey, or
    g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of New Jersey.

6) **Stalking**, defined as:
    a. engaging in a course of conduct[4],
    b. on the basis of sex,
    c. directed at the Complainant, that
        i. would cause a reasonable person to fear for the person's safety, or
        ii. the safety of others; or
        iii. Suffer substantial emotional distress.

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[3] To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

[4] For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

B. Sexual Misconduct

7) Sexual Exploitation:[5]

- a person taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease ("STD") or infection ("STI"), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking

[5] This offense is not classified under Title IX as "Sex-based Harassment," but it is included here in this Policy as a tool to address a wider range of behaviors.

- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

C. Other Prohibited Conduct

1) Bullying:[6]

- repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant.

2) Endangerment:

- threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3) Hazing:

- any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any BCC group or organization.

4) Retaliation:

- Adverse action, including intimidation, threats, coercion, or discrimination,
- against any person,
- by BCC, a student, employee, or a person authorized by BCC to provide aid, benefit, or service under BCC's education program or activity,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under this Policy, including an Informal Resolution process, or in

[6] For Bullying, Hazing, and Endangerment, these offenses can be applied when the conduct is on the basis of sex but is not a form of Sex-based Harassment.

any other appropriate steps taken by BCC to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for BCC to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5) **Unauthorized Disclosure:**[7]
   - Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by BCC; or
   - publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

6) **Failure to Comply/Process Interference**
   - Intentional failure to comply with the reasonable directives of Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
   - Intentional failure to comply with emergency removal or interim suspension terms
   - Intentional failure to comply with sanctions
   - Intentional failure to adhere to the terms of an Informal Resolution agreement
   - Intentional failure to comply with mandated reporting duties as defined in this Policy
   - Intentional interference with the Resolution Process, including, but not limited to:
     - Destruction of or concealing of evidence
     - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
     - Intimidating or bribing a witness or party

[7] Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

D. Sanction Ranges

The following sanction ranges apply for Prohibited Conduct under this Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record.

- **Sex Discrimination:** warning through expulsion or termination.
- **Quid Pro Quo Harassment:** warning through expulsion or termination.
- **Hostile Environment Harassment:** warning through expulsion or termination.
- **Rape:** suspension through expulsion or termination.
- **Fondling:** warning through suspension (termination for employees).
- **Incest:** warning through probation.
- **Statutory Rape:** warning through suspension (termination for employees).
- **Stalking:** probation through expulsion or termination.
- **Dating/Domestic Violence:** probation through expulsion or termination.
- **Sexual Exploitation:** warning through expulsion or termination.
- **Bullying:** warning through expulsion or termination.
- **Endangerment:** warning through expulsion or termination.
- **Hazing:** warning through expulsion or termination.
- **Retaliation:** warning through expulsion or termination.
- **Unauthorized Disclosure:** warning through expulsion or termination.
- **Failure to Comply/Process Interference:** warning through expulsion or termination.

E. Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

1) Consent

Consent is defined as:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.

If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on BCC to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.[8]

2) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me. I'll do what you want.").

[8] Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual.

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3) **Incapacitation**
Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

F. Unethical and Personal Relationships / Nepotism (See Appendix E)

12. Standard of Proof

BCC uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that BCC will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

13. Reports/Complaints of Sex Discrimination, Sex-Based Harassment, and/or Retaliation

A Report provides notice to BCC of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to BCC that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of sex discrimination, sex-based harassment, and/or retaliation may be made using any of the following options:

1) File a Complaint with, or give verbal Notice directly to, the Title IX Coordinator or Deputy Coordinator. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office

of the Title IX Coordinator or any Deputy Coordinator listed in this Policy.

2) Submit report at http://www.bergen.edu/report. Anonymous Notice is accepted, but the Notice may give rise to a need to try to determine the Parties' identities. Anonymous Notice typically limits BCC's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Notice.

Reporting carries no obligation to initiate a Complaint, and in most situations, BCC is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where BCC may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, BCC will maintain the privacy of information to the extent possible.

In addition to required campus reporting, reports may also be made to the police and/or campus security, especially if a crime is or may be involved, by calling the following numbers:

a. Emergency - 911
b. Office of Public Safety
    i. Paramus Campus (24hrs): Dial "6" or 201.447.7200
    ii. Meadowlands Campus, Lyndhurst: 201.301.1267 – In house, ext. 9600
    iii. Ciarco Learning Center, Hackensack: 201.301.9700
c. Bergen County Sheriff's Office (non-emergency number): 201.336.3500
    i. 10 Main Street, Hackensack, NJ 07601

14. Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to BCC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

15. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith, but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

16. Confidentiality/Privacy

BCC makes every effort to preserve the Parties' privacy. BCC will not share the identity of any individual who has made a Complaint of sex discrimination, sex-based harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination, sex-based harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act ("FERPA") and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.[9,10]

17. Unauthorized Disclosure of Information

Parties and Advisors are prohibited from disclosing information obtained by BCC through the Resolution Process, to the extent that information is the work product of BCC (meaning it has been produced, compiled, or written by BCC for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of BCC Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

18. Emergency Removal/Interim Actions/Leaves

BCC can act to remove a student Respondent accused of sex discrimination, sex-based harassment, or retaliation from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the Behavioral Intervention Team ("BIT") using its standard objective violence risk assessment procedures. Employees are subject to existing procedures for interim actions and leaves.

19. Federal Timely Warning Obligations

BCC must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the BCC community.

BCC will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

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[9] 20 U.S.C. 1232g
[10] 34 C.F.R. § 99

20. Amnesty

The BCC community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to BCC officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the BCC community that Complainants choose to give Notice of misconduct to BCC officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, BCC offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by BCC, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

BCC also maintains an amnesty policy for students in addition to witnesses who offer help to others in need.

B. Employees

Sometimes, employees are hesitant to report sex discrimination, sex-based harassment, or retaliation they have experienced for fear of getting in trouble themselves. BCC may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

21. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. BCC will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.

- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement).
- Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
    - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
    - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

22. Independence and Conflicts of Interest

The Title IX Coordinator and Deputy Coordinators acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Resolution Process Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact BCC's President or designee. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Process Pool member should be raised with the Title IX Coordinator.

23. Revision of this Policy

This Policy succeeds previous policies addressing sex discrimination, sex-based harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for sexual harassment incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. BCC reserves the right to make

changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective August 1, 2024.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE PROHIBITED SEX DISCRIMINATION, SEX-BASED HARASSMENT, AND RETALIATION POLICY (Hereinafter the "Resolution Process")

1. Overview

BCC will act on any Notice, Complaint, or Knowledge of a potential violation of the Policy ("the Policy") that the Title IX Coordinator or any other Mandated Reporter receives by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of sex, sex-based harassment, retaliation, or Other Prohibited Conduct involving students, employees, or third parties.

Unionized/other categorized employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

2. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine BCC's next steps. The Title IX Coordinator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

3. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other BCC policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator may consult with BCC officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

4. Initial Evaluation

The Title IX Coordinator conducts an initial evaluation, typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.[11] The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
    - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether BCC has jurisdiction over the reported conduct, as defined in the Policy.
    - If the conduct is not within BCC jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate BCC office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

Helping a Complainant to Understand Resolution Options

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:

- a supportive and remedial response, and/or
- Informal Resolution, or
- the Hearing Resolution Process described below.

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

[11] If circumstances require, the President or Title IX Coordinator will designate another person to oversee the Resolution Process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

If the Complainant elects for the Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that BCC has jurisdiction, they will route the matter to the appropriate Resolution Process Pool member, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

Title IX Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if BCC cannot ensure equal access without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to initiate a Complaint.
- The Complainant's reasonable safety concerns regarding initiating a Complaint.
- The risk that additional acts of sex discrimination would occur if a Complaint is not initiated.
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is a BCC employee.
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-maker in determining whether sex discrimination occurred.
- Whether BCC could end the alleged sex discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Title IX Coordinator may consult with appropriate BCC employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

5. Dismissal

BCC **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

1) BCC is unable to identify the Respondent after taking reasonable steps to do so
2) BCC no longer enrolls or employs the Respondent
3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
4) BCC determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it. Upon any dismissal, BCC will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, BCC will also notify the Respondent of the dismissal. This dismissal decision is appealable by any party.

6. Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, BCC will:

- Implement dismissal appeal procedures equally for the Parties.
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

1) Procedural irregularity that would change the outcome.
2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.

3) The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

The appeal request should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the request with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties and/or the Title IX Coordinator to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisors, and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension.

7. Emergency Removal of a Student

BCC may emergency remove a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, BCC will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action.

When an emergency removal is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal will be deemed waived.

An emergency removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

8. Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions for interim action are typically applicable instead of the above emergency removal process. Procedures for unionized employees can be found in the respective Collective Bargaining Agreements housed in Human Resources.

9. Counter-Complaints

Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

10. Advisors in the Resolution Process

A. Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.[12]

The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from BCC, BCC will have trained the Advisor and familiarize them with BCC's Resolution Process.

Advisors appointed by the institution cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

As a public entity, BCC fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, BCC will allow the

[12] "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being an Title IX Coordinator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are permitted to have union representation or Advisors in Resolution Process interviews or meetings.

B. Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview.

C. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records BCC shares with them, per the section of this Policy addressing Confidentiality. Advisors will be asked to sign Non-Disclosure Agreements ("NDAs"). BCC may decline to share materials with any Advisor who has not executed the NDA. BCC may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by BCC's confidentiality expectations.

D. Advisor Expectations

BCC generally expects an Advisor to adjust their schedule to allow them to attend BCC meetings/interviews/hearings when planned.

BCC may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

E. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with BCC's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including BCC requiring the

party to use a different Advisor or providing a different BCC-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

11. Resolution Options Overview

This Resolution Process, consisting of Informal Resolution or Hearing Resolution, is BCC's chosen approach to addressing sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct under the Policy. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with BCC Policy.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. BCC will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, BCC will provide the Parties with a NOIA that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume BCC's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information BCC will maintain, and whether and how it could disclose such information for use in its Resolution Process.

BCC offers four categories of Informal Resolution:

1) **Supportive Resolution**. When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.

2) **Educational Conversation**. When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.

3) **Accepted Responsibility**. When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and BCC are agreeable to the resolution terms.

4) **Alternative Resolution**. When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Hearing Resolution Process.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Categories of Informal Resolution

(1) Supportive Resolution

The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to BCC's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not initiate a Complaint.

(2) Educational Conversation

The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

(3) Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and BCC are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of BCC Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate Title IX Coordinator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

(4) Alternative Resolution

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the

Title IX Coordinator or other appropriate BCC officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the

enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, BCC will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

B. Hearing Resolution Process (see Section 21 below)

12. Resolution Process Pool

The Resolution Process relies on a pool of administrators ("the Pool") to carry out the process.[13]

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

B. Pool Member Appointment

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, BCC can also designate permanent roles for individuals in the Pool.

C. Training (see Appendix I for details of training for Pool Members)

13. Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and

[13] External, trained third-party neutral professionals may also be used to serve in Pool roles.

more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to notify the Title IX Coordinator of any conflict of interest the Investigator(s) may have in advance of the interview process
- A statement that BCC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share BCC work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that BCC's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- A link to BCC's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations
- A statement that Parties who are members of a union are entitled to union representation throughout the process

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official BCC records, or emailed to the Parties' BCC-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

14. Resolution Timeline

BCC will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, BCC reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

BCC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. BCC will promptly resume its Resolution Process as soon as feasible. During such a delay, BCC will implement and maintain supportive measures for the Parties as deemed appropriate.

BCC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

BCC will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

15. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-makers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine

whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President.

The Hearing Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

16. Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to BCC's community.

17. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in BCC's investigation and Resolution Process. Student witnesses and witnesses from outside the BCC community cannot be required to participate but are encouraged to cooperate with BCC investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. BCC will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

18. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other.

Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

19. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact that prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

20. Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

BCC may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all relevant evidence.

- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback.

21. Hearing Resolution Process

1. Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.
    - The Parties may make a request to the Title IX Coordinator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
    - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.
    - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet BCC's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that BCC appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.

- During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the pre-hearing meeting or live hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.
- Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.
- All questions during the hearing will be asked by the Decision-maker. Parties and Advisors may suggest questions to be posed by the Decision-maker during the pre-hearing meetings or by submission of written questions in advance of the hearing. The method of submitting suggested follow up questions to the Decision-maker during the hearing will be specified by the Decision-maker.

- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title IX Coordinator that the Decision-maker will review during any sanction determination.
  - Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
  - The Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance**. Parties should contact the Title IX Coordinator at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
  - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title IX Coordinator about possible recusal or removal.
  - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice.
  - The Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.

- **Evidence Provided to Decision-maker and Parties.**
    - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
    - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.[14]

2. Hearing Notice

The Title IX Coordinator will send the Parties a notice of hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

3. Witness Participation

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without the Title IX Coordinator's express permission. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

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[14] Hard-copy materials may be provided upon request to the Title IX Coordinator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the complaint back to the Investigator, and
- The Decision-maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted.
- Remand the Complaint back to the Investigator for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new witness's participation.

4. Pre-Hearing Meetings

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

5. Hearing Procedures

A. Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and the Decision-maker must agree to admit the evidence into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.
The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Complaint back to the Investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

B. Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

C. Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

D. Introductions and Hearing Procedure Explanation

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

E. Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

F. Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then from relevant questions suggested by the Parties through the Decision-maker.

All questions must be either submitted in writing in advance of the hearing or directed toward and asked through the Decision-maker. All questions are subject to a relevance determination before they are asked. The Decision-maker will determine the method by which the Parties may submit suggested follow up questions during the hearing to the Decision-maker for review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

G. Refusal to Submit to Questioning and Inferences

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

H. Hearing Recordings

BCC records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate BCC officials will be permitted to review the recording or review a transcript

of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

6. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is usually five to fifteen (5-15) pages in length and is typically submitted to the Title IX Coordinator within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

7. Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s);
- The Respondent's disciplinary history;
- The need for sanctions/responsive actions to bring an end to the sex discrimination, sex-based harassment, and/or retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, sex-based harassment, and/or retaliation;
- The need to remedy the effects of the sex discrimination, sex-based harassment, and/or retaliation on the Complainant and the community;
- The impact on the Parties;
- The Respondent's acceptance of responsibility; and,

- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

A. Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- **Written Warning**- An official written notice that the student has violated Bergen Community College policies and/or rules and that more severe sanctions will result should the student be involved in other violations while the student is enrolled at the College.
- **Restitution**- Compensation for damage caused to Bergen Community College or any person's property. This could also include the payment of labor costs and expenses when a student fails to return a reserved space (classroom, conference room) to its proper condition. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- **Community Service**- Service assignment requiring an individual to perform services for the community or the College.
- **Loss of Privileges**- The student may be denied specific privileges for a designated period of time.
- **Confiscation of Prohibited Property**- Items whose presence is in violation of Bergen Community College policy/code will be confiscated and become the property of the College. Prohibited items may be returned to the owner at the discretion of the Director of Student Life and Development and/or Public Safety.
- **Behavioral Requirement-** The student may be required to seek academic counseling, personal counseling, substance abuse screening, write a letter of apology, or other actions.
- **Educational Program or Assignment-** Requirement to attend, present, and/or participate in a program or write a research/reflection paper related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- **Probation**- The student may be put on official notice that, should further violations of the BCC policies/codes occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.

- **Eligibility Restriction-** The student is deemed "not in good standing" with Bergen Community College for a specified period of time. Specific limitations or exceptions may be granted by the Director of Student Life and Development, or designee, such as:
    - Ineligibility to hold any leadership role in any student organization recognized by Bergen Community College or hold an elected or appointed office at the College;
    - Ineligibility to represent Bergen Community College to anyone outside the College community in any way, including participating in the study abroad program, attending conferences, or representing BCC at an official function, event, or intercollegiate competition as a player, manager, or student coach.
    - Ineligibility for membership in student organizations and/or participation in activities.
- **Revocation of Driving and Parking Privileges on Campus**- Evidence of reckless or repeated violations of traffic safety or parking regulations on College premises may lead to a revocation of driving and parking privileges on campus.
- **Removal from Class-** A student who is disruptive to the learning environment may be removed or withdrawn from a class or transferred to another section of the course.
- **Suspension**- A student may be separated from Bergen Community College for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. During the suspension period, the student is banned from Bergen Community College property, functions, events, and activities without prior written approval from the Director of Student Life and Development, or designee. This sanction may be enforced with a trespass action as necessary. This sanction will be noted as a Conduct Suspension on the student's official academic record. The suspension assigned shall be clearly dated for a period not less than one semester and not more than two academic years.
- **Facilities Restriction**- Revocation or restriction of privileges for the use of some but not all College facilities.
- **Expulsion**- A student may be permanently separated from Bergen Community College, with the student being banned from College property and the student's presence at any BCC-sponsored activity or event prohibited. Bergen Community College will contact local law enforcement to report a person who has been expelled for trespassing if they are found on College property. This sanction will be noted as a Conduct Expulsion on the student's official academic record.
- **Referral to civil or criminal authorities**
- **Campus-Wide Notice of No Trespass**
- **Other Educational Sanction:** Educational sanctions are meant to help students learn from their experiences. Educational sanctions, such as reflection papers, required attendance at educational programs, letters of apology or other restorative

assignments may be imposed consistent with the nature and severity of the violation(s).

B. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sex discrimination, sex-based harassment, and/or retaliation include, but are not limited to, verbal or written warning, required counseling, training, demotion, reassignment, suspension, and termination.

8. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that BCC is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent BCC is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official BCC records, or emailed to the Parties' BCC-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

9. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from BCC, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, BCC will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, BCC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to BCC in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. The Registrar's Office, Office of Admissions, and the Department of Human Resources may be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to BCC unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with BCC with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, BCC may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex discrimination, sex-based harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to BCC in any capacity. The Registrar's Office, Office of Admissions, and the Department of Human Resources will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with BCC. The records retained by the Title IX Coordinator will reflect that status.

10. Appeal of the Determination

The Title IX Coordinator will designate an Appeal Decision-maker — either a three-member panel, or an individual chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Title IX Coordinator.

A. Appeal Grounds

Appeals are limited to the following grounds:

1) A procedural irregularity that would change the outcome.

2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.
4) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only).

B. Request for Appeal

Any party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

C. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter ("Appeal Outcome") will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which BCC is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent BCC is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official

institutional records, or emailed to the Parties' BCC-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the four (4) available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within two (2) business days of implementation.

11. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the BCC community that are intended to stop the sex discrimination, sex-based harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts

- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies BCC owes the Respondent to ensure no effective denial of educational access.

BCC will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair BCC's ability to provide these services.

12. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Panel or Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from BCC.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

13. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, BCC will maintain records of:

1) Each sex discrimination, sex-based harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
2) Any disciplinary sanctions imposed on the Respondent.

3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to BCC's education program or activity.
4) Any appeal and the result therefrom.
5) Any Informal Resolution and the result therefrom.
6) All materials used to provide training to the Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing BCC's Resolution Process, or who has the authority to modify or terminate supportive measures. BCC will make these training materials available for review upon request.
7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

BCC will also maintain any and all records in accordance with federal and state laws.

14. Accommodations and Support During the Resolution Process

Disability Accommodations

BCC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to BCC's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with the Office of Specialized Services as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

BCC will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

15. Revision of these Procedures

These procedures succeed any previous procedures addressing sex discrimination, sex-based or sexual harassment, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these procedures. BCC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.

APPENDICES

Appendix A: HR 001-004.2023 – Title IX 2020 Regulations
Appendix B: HR 004-001.2018 – Policy Prohibiting Discrimination
Appendix C: Definitions
Appendix D: Statement of Parties Rights
Appendix E: Unethical and Personal Relationships / Nepotism
Appendix F: Title IX Policy Statement
Appendix G: Record Maintenance and Access
Appendix H: Training for Members of the Resolution Process Pool
Appendix I: Pregnancy and Related Conditions and Parenting Student Policy

APPENDIX A: HR 001-004.2023

Title IX Policy (2020 Regulations)

For complaints of events that occurred prior to August 1, 2024.

APPENDIX B: HR 004-001.2018

Policy Prohibiting Discrimination

APPENDIX C: DEFINITIONS

The following definitions apply to the Policy and Resolution Process:

- ***Advisor.*** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.

- ***Title IX Coordinator.*** The person with primary responsibility for overseeing and enforcing the Policy and Resolution Process. As used in these policies and procedures, the "Title IX Coordinator" also includes their designee(s).

- ***Appeal Decision-maker.*** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- ***Complainant.*** A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct under the Policy and who was participating or attempting to participate in BCC's education program or activity at the time of the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.
- ***Complaint.*** An oral or written request to BCC that can objectively be understood as a request for BCC to investigate and make a determination about the alleged Policy violation(s).
- ***Confidential Employee.***
    - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
    - An employee whom BCC has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about sex

discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or

- An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.

- ***Day.*** A business day when BCC is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- ***Decision-maker.*** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- ***Education Program or Activity.*** Locations, events, or circumstances where BCC exercises substantial control over the context in which the sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that BCC officially recognizes.
- ***Employee.*** A person employed by BCC either full- or part-time, including student employees when acting within the scope of their employment.
- ***Final Determination.*** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- ***Finding.*** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").
- ***Informal Resolution.*** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- ***Investigation Report.*** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- ***Investigator.*** The person(s) authorized by BCC to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- ***Knowledge.*** When BCC receives Notice of conduct that reasonably may constitute sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- ***Mandated Reporter.*** A BCC employee who is obligated by Policy to share Knowledge, Notice, and/or reports of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct with the Title IX Coordinator.[15]
- ***Notice.*** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct.
- ***Parties.*** The Complainant(s) and Respondent(s), collectively.

[15] Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

- ***Pregnancy or Related Conditions.*** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- ***Relevant Evidence.*** Evidence that may aid a Decision-maker in determining whether the alleged sex discrimination, sex-based harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- ***Remedies.*** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to BCC's Education Program and Activity.
- ***Resolution Process.*** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and/or Hearing Resolution.
- ***Respondent.*** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, retaliation for engaging in a protected activity under this Policy, or Other Prohibited Conduct.
- ***Sanction.*** A consequence imposed on a Respondent who is found to have violated this Policy.
- ***Sex.*** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- ***Student.*** Any person who has gained admission.
- ***Title IX Coordinator***. At least one official designated by BCC to ensure ultimate oversight of compliance with Title IX and BCC's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.
- ***Title IX Team.*** The Title IX Coordinator, any deputy coordinators, and any member of the Resolution Process Pool.

APPENDIX D: STATEMENT OF THE PARTIES' RIGHTS

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct, when reported in good faith to Bergen Community College (BCC) officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any BCC public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from BCC's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by BCC officials.
- Have BCC Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without BCC pressure, if Informal Resolution is approved by the Title IX Coordinator.
- Not be discouraged by BCC officials from reporting sex discrimination, sex-based harassment, retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by BCC in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by BCC law enforcement, security, and/or other BCC officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A BCC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
    - Relocating a residential student's housing to a different on-campus location

- Assistance from BCC staff in completing the relocation
- Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
- Transportation assistance
- Visa/immigration assistance
- Arranging to dissolve a housing contract and provide a pro-rated refund
- Rescheduling or adjusting an exam, paper, and/or assignment
- Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options

- Have BCC maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair BCC's ability to provide the supportive measures.
- Receive sufficiently advanced written notice of any BCC meetings or interviews involving another party, when possible.
- Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
- Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
- Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
- Access the relevant evidence obtained and respond to that evidence.
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law, and be given ten (10) business days to review and comment on the evidence.
- The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
- Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- Regular status updates on the investigation and/or Resolution Process.
- Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
- A Decision-making panel that is not single sex in its composition, if a panel is used.
- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings, interviews, and/or hearings that are closed to the public.
- Petition that any BCC representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.

- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the appropriate standard of proof, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any live hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a BCC decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with BCC's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

APPENDIX E: UNETHICAL AND PERSONAL RELATIONSHIPS / NEPOTISM

Expectations Regarding Unethical Relationships

There are inherent risks in any romantic or sexual relationship between persons in unequal positions, such as faculty member-student or supervisor-employee. In reality, these relationships may be less consensual than perceived by the person whose position confers power or authority. Similarly, each of the Parties may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcome conduct may become unwelcome at some point in the relationship.

Even when the Parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. Bergen Community College (BCC) does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with BCC's goals and policies. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must promptly inform their supervisor and/or the Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an applicable relationship existed prior to adoption of this Policy or prior to employment, the duty to notify the appropriate supervisor still pertains.

While no relationships are specifically prohibited by this Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

Bergen Community College Policy on Nepotism and Personal Relationships: HR 008-001.2023

APPENDIX F: TITLE IX POLICY STATEMENT

Bergen Community College (BCC) adheres to all federal, state, and local civil rights laws prohibiting sex discrimination and sex-based harassment in employment and education. BCC does not discriminate in its admissions practices, employment practices, or educational programs or activities on the basis of sex, except as may be permitted by law. As a BCC of federal financial assistance for education activities, BCC is required by Title IX of the Education Amendments of 1972 (Title IX) to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex assigned at birth, sex stereotypes, sex characteristics, gender identity, sexual orientation, and pregnancy or related conditions. Sex discrimination is prohibited under Title IX and by BCC Policy, and it includes sex-based harassment, sexual assault, dating and domestic violence, stalking, quid pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact.

BCC also prohibits retaliation against any person opposing sex discrimination or sex-based harassment or participating in any internal or external investigation or complaint process related to allegations of sex discrimination.

Any BCC faculty member, employee, or student who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, and/or benefits of any member of the BCC community on the basis of sex is in violation of the Policy.

Any person may report sex discrimination (whether or not the person reporting is alleged to have experienced the conduct) in person, by mail, by telephone, by video, or by email, using the contact information listed for the Title IX Coordinator (below). A report may be made at any time (including during non-business hours) by contacting the Human Resources Office.

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. For a complete copy of the Policy or more information, please visit https://bergen.edu/about-us/title-ix/ or contact the Title IX Coordinator.

For sex-based allegations:
Ellianne Gallardo
Associate Director of Employee Relations and Organizational Development
A-316, Pitkin Education Center
HumanResourcesGroup@bergen.edu

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the U.S. Department of Education Office for Civil Rights (OCR), the Department of Justice, the Equal Employment Opportunity Commission, and/or another appropriate federal or state agency.

- **Office for Civil Rights (OCR)**

  400 Maryland Avenue, SW
  Washington, DC 20202-1100
  Customer Service Hotline Number: 800.421.3481
  FAX: 202.453.6012
  TDD#: 877.521.2172
  Email: OCR@ed.gov
  Web: http://www.ed.gov/ocr

- **Assistant Secretary for Civil Rights**
  Office for Civil Rights, National Headquarters
  U.S. Department of Education
  Lyndon Baines Johnson Dept. of Education Building
  400 Maryland Avenue, SW
  Washington, DC 20202-1100
  Telephone: 800-421-3481
  Fax: 202-453-6012; TDD: 800-877-8339
  Email: OCR@ed.gov

Within any Resolution Process related to this Policy, BCC provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with federal and state law.

Short/Blurb Format:

Bergen Community College (BCC) does not discriminate in its employment practices or in its educational programs or activities on the basis of sex. BCC also prohibits retaliation against any person opposing sex discrimination or participating in any internal or external discrimination investigation or complaint process. Reports of misconduct, questions regarding Title IX, and concerns about noncompliance should be directed to the Title IX Coordinator. For a complete copy of the Policy or for more information, please contact the Title IX Coordinator at HumanResourcesGroup@bergen.edu or address any complaints to the Assistant Secretary of Education within the U.S. Department of Education Office for Civil Rights (OCR).

APPENDIX G: RECORD MAINTENANCE AND ACCESS

Scope

This covers records maintained in any medium that are created pursuant to Bergen Community College's Policy and/or the regular business of BCC's Department of Document and Records Management. All such records are considered private or confidential by the Department of Document and Records Management, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to discrimination, harassment, and retaliation. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and/or state law. The Department of Document and Records Management controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records pertaining to the Policy include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges
- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by BCC as part of the Complaint file

Drafts and Working Files: Preliminary drafts and "working files" are not considered records that BCC must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Title IX Coordinator. An example of a "working file" would be the Investigator's notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession

records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from the Department of Document and Records Management or its designees with BCC's legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Department of Document and Records Management or accessible under this Policy unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage

Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by the Department of Document and Records Management. The complete file must be transferred to the Department of Document and Records Management, typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the Department of Document and Records Management. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Department of Document and Records Management during the pendency of an investigation.

The Department of Document and Records Management will store all records created pursuant to the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Department of Document and Records Management.

Title IX Training Materials

BCC will also maintain copies of the slides or other materials from all Title IX training for the Resolution Process Pool members, the Title IX Team, and employees. Trainings occurring prior to August 1, 2024, are posted online at https://bergen.edu/about-us/title-ix/, and trainings occurring after August 1, 2024, are available for review upon request to the Title IX Coordinator.

Record Retention

All records created and maintained pursuant to the Policy will be retained by the Department of Document and Records Management for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Title IX Coordinator may authorize destruction or expungement acting under their own discretion, or in

accordance with a duly executed and binding claim settlement and/or by court or government order.

Record Access

Access to records created pursuant to the Policy or housed in the Department of Document and Records Management is strictly limited to the Title IX Coordinator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to the Department of Document and Records Management records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this Policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant BCC policies and procedures.

Student Parties may request access to their complaint file. BCC will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, materials may be shared with the Parties using secure file transmission software. The Department of Document and Records Management will watermark any such file with the watermark identifying the role of the person in the process (e.g., Complainant, Respondent, Decision-maker; Complainant's Advisor) before sharing.

BCC will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

Record Security

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from floods, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be securely stored in the Office of Public Safety, Department of Document and Records Management, or another appropriate secure location. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of all physical evidence will be retained with the Complaint file.

Record Expungement and More

Further information about Document and Records Management at BCC can be found at https://bergen.edu/faculty-staff/information-technology/recordsmanagementservices/

APPENDIX H: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL

All Investigators, Decision-makers, and other persons who are responsible for implementing Bergen Community College's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- The role of the Title IX Coordinator
- The scope of BCC's Policy
- BCC's Resolution Process
- How to conduct a sex discrimination resolution process consistently, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants
- Any technology to be used at a live hearing
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

- Training for Informal Resolution facilitators on the rules and practices associated with BCC's Informal Resolution process
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- BCC's obligations under Title IX
- How to apply definitions used by BCC with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX

APPENDIX I: PREGNANCY AND RELATED CONDITIONS AND PARENTING STUDENT POLICY

Non-Discrimination Statement

Bergen Community College (BCC) does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). BCC prohibits members of the BCC community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

Definitions

- ***Familial Status.*** The configuration of one's family or one's role in a family.
- ***Marital Status.*** The state of being married or unmarried.
- ***Parental Status.*** The status of a person who, with respect to another person who is under the age of 18,[16] is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- ***Pregnancy and Related Conditions.*** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.[17]
- ***Reasonable Modifications.*** Individualized modifications to BCC's policies, practices, or procedures that do not fundamentally alter BCC's education program or activity.

Information Sharing Requirements

Any BCC employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Title IX Coordinator's contact information and communicate that the Coordinator can help take specific actions to prevent discrimination and ensure equal access to BCC's education program and activity. If the employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the

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[16] Or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability.

[17] "[T]he Department interprets 'termination of pregnancy' to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

employee is not required to provide the student with the Title IX Coordinator's contact information.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of BCC's obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

Reasonable Modifications for Students

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to BCC's education program and activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment

- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and BCC's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with the Office of Specialized Services to ensure the student receives reasonable accommodations for their disability as required by law.

Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

The certified level of physical ability or health is necessary for participation;
The institution requires such certification of all students participating; and
The information obtained is not used as a basis for pregnancy-related discrimination.

Lactation Space Access

BCC provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Lactation spaces are located in the following locations:

Pitkin Education Center/Main Campus: Health Services, Room HS-100

Ciarco Learning Center: Room CLC-127

Bergen at the Meadowlands Campus: Room 141

Lactation Room Use Arrangement and Accommodations
Contact Health Services to arrange use of the rooms at healthservices@bergen.edu
or 201-447-9257.

Each lactation room provides a private space where lactating mothers are welcome to pump or nurse.

Most spaces have a comfortable chair, a small table, and an electrical outlet. We do our best to keep this information up to date, but occasionally, information changes without our knowledge. Please contact us with any updates at healthservices@bergen.edu

Leaves of Absence

Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity.

To the extent possible, BCC will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students' scholarships, fellowships, or similar BCC-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar BCC-supported funding by exercising their rights under this policy.

The Student Services Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Deputy Coordinator (for students) at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Coordinator will assist the student in completing any necessary paperwork.

Employees

Information on employment leave can be found here: https://bergen.edu/faculty-staff/human-resources/

If an employee, including a student-employee, is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

Student Parents

Students with child caretaking/parenting responsibilities who wish to remain engaged in their coursework while adjusting their academic responsibilities because of the birth or adoption of a child or placement of a foster child may request an academic modification period during the first month from the time the child entered the home. Extensions may be granted when additional time is required by medical necessity or extraordinary caretaking/parenting responsibilities.

During the modification period, the student's academic requirements will be adjusted and deadlines postponed as appropriate, in collaboration among the Office of Specialized Services, the student's academic advisor, and the appropriate academic department(s).

Students seeking a period of modified academic responsibilities may consult with their academic advisor or with the Office of Specialized Services to determine appropriate academic adjustment requests. The Office of Specialized Services will communicate all requests under this policy to students' academic advisors and coordinate adjustment-related efforts with the advisors unless the student specifically requests that their advisors be excluded.

Students are encouraged to work with their advisors and faculty members to reschedule course assignments, lab hours, examinations, or other requirements, and/or to reduce their overall course load, as appropriate, once authorization is received from the Office of Specialized Services.

If, for any reason, caretaking/parenting students are not able to work with their advisors/faculty members to obtain appropriate modifications, students should alert Office of Specialized Services as soon as possible, and the office will help facilitate needed accommodations and modifications.

In timed degree, certification, or credentialing programs, students who seek modifications upon the birth or placement of their child will be allowed an extension of up to three (3) months to prepare for and take preliminary and qualifying examinations, and an extension of up to six (6) months toward normative time to degree while in candidacy, to the extent those deadlines are controlled by BCC. Longer extensions may be granted in extenuating circumstances.

Students can request modified academic responsibilities under this Policy regardless of whether they elect to take a leave of absence.

While receiving academic modifications, students will remain registered and retain benefits accordingly.

Policy Dissemination and Training

A copy of this policy will be made available to faculty and employees in annually required training and posted on the BCC website. BCC will alert all new students about this policy and the location of this policy as part of orientation. The Office of Human Resources will make educational materials available to all members of the BCC community to promote compliance with this policy and familiarity with its procedures.

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BOARD OF TRUSTEES ACTION E/SA 8
Approval Date: August 6, 2024

Resolution:
To approve the attached Policy: Veteran and Military Affiliated Students

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony J. Trump, Vice President of Student Affairs

Action Requested
Approval of the Veteran and Military Affiliated Students Policy (attached).

Justification
To comply with U.S. Code Title 38; U.S. Code; N.J.S.A. 18A:62-4.2; N.J.P.L. 2001, Chapter 9; and N.J.P.L. 2001, Chapter 427, Bergen Community College is adopting the attached policy to support Veteran and Military Affiliated students. The Policy memorializes already existing Bergen Community College procedures for academic monitoring, questions regarding benefits, mobilization of students to active duty during a term including how to handle academic credits and tuition refunds, and a Military Student Bill of Rights. The language in the procedures for this Policy ensures compliance with findings from a voluntary Department of Defense Audit and reflects U.S. and State laws.

Bergen Community College
Board of Trustees
Section: STU

Policy #: XXX-XXX.2024

Effective Date: Fall 2024

Responsible Official: Vice President of Student Affairs

Veteran and Military Affiliated Students

Policy Statement:

Bergen Community College is committed to supporting the academic success of active military personnel, veterans and their dependents in accordance with the rules of U.S. Code Title 38; U.S. Code; N.J.S.A. 18A:62-4.2; N.J.P.L. 2001, Chapter 9; and N.J.P.L. 2001, Chapter 427.

Who Should Read This Policy:

Any student who is currently enrolled in US Military Service and/or any faculty member whose student may be affected by military leave.

Procedure:

I. Academic Monitoring

A student receiving VA educational assistance is required to maintain satisfactory progress and conduct according to standards set by the institution. During and at the close of each semester, the School Certifying Official, in coordination with the Veteran's Liaison in Financial Aid and Academic Advising, will:

1. Review grades and transcripts of all VA benefit recipients to determine academic progress;
2. Categorize "D", "F", "W", and "I" grades;
3. Send inquiries to professors who assigned substandard grades;
4. Counsel student and reiterate the availability of the tutorial assistance program; and
5. Adjust credit hours on 1099b forms when applicable and forward to VARO.

II. Questions regarding Benefits

The Certifying Official is available to assist the student who is experiencing problems in the following areas:

- Educational benefits

- Non-receipt of monetary assistance benefits
- Payment inquiries
- Amount received questions

III. Mobilization to Active Military Duty, Academic Credit, and Tuition Refunds

Bergen Community College is committed to supporting its students who are called to active-duty service. If activated, students must e-mail orders to the School Certifying Official to assist in transition from BCC to active duty. Pursuant to N.J.S.A. 18A:62-4.2, a student at BCC who is unable to complete a course because the student is called to partial or full mobilization for State or Federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States shall be entitled to the options set forth in this policy with respect to the student's grade for the course and the availability of refunds.

a. A student who has completed at least eight weeks of attendance in a course may choose to:
    1. Receive a letter grade; or
    2. Receive a grade of pass or fail; or
    3. Receive a grade of incomplete; or
    4. Withdraw from the course.

b. A student who has completed less than eight weeks of attendance in a course may choose to:
    1. Receive a grade of incomplete; or
    2. Withdraw from the course.

c. A letter grade or a grade of pass shall only be awarded if, in the opinion of the faculty member teaching the course, the student has completed sufficient work and there is sufficient evidence of progress toward meeting the requirements of the course to justify the grade.

d. A grade of incomplete shall remain valid for a period of one (1) year after the student returns to BCC.

e. A student who chooses to accept a grade of pass or fail may, within one year after returning to BCC, receive a letter grade for the course by completing the work required for the course, in which case the letter grade shall replace the pass or fail grade as the student's grade for the course.

f. A student who chooses to withdraw from a course shall receive a full refund of tuition and fee attributable to that course.

g. Any refund payable to a student who is a financial aid recipient shall be subject to the applicable State and federal regulations regarding refunds.

h. Any withdrawal or incomplete recorded on the student's transcript will include a note which ascribes the reason for said grade to being mobilized for service in the National Guard or a Reserve Component of the Armed Forces of the United States.

IV. Military Student Bill of Rights

Bergen Community College believes that all military students have basic rights to satisfactory college marketing, admissions, and student services practices, including the right to:

- Accurate information about a school's programs, requirements, accreditation, and their potential impact on course transferability.

- Access basic college/university information and fees without disclosure of student personal information.
- Education planning and career guidance without high-pressure registration and enrollment efforts from institutions.
- A clear and complete explanation of course/program enrollment procedures and all resulting financial obligations.
- Explore, without coercion, all financial aid options before signing up for student loans or other financial assistance.
- Accurate scholarship information free of misleading 'scholarship' offers based on military tuition assistance.
- Appropriate academic screening and course placement based on student readiness.
- Appropriate, accessible academic and student support services.
- Clearly defined institutional "drop/add" and withdrawal policies and procedures, including information about the impact of military duties (e.g. mobilization, activation, temporary duty assignments) on their academic standing and financial responsibilities.
- Clearly defined grievance/appeals processes.

Related Documents/Policies:

N/A

Policy History: (adopted/amended)

Adopted:
Amended:

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BOARD OF TRUSTEES ACTION I1
Approval Date: August 6, 2024

Resolution
To approve the Travel, Mileage, and Other Reimbursable Expenses for College Personnel Policy.

Submitted By
Dr. Eric M. Friedman, President
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Ms. Stephanie Weise, Director, Purchasing and Services

Action Requested
To approve the Travel, Mileage, and Other Reimbursable Expenses for College Personnel Policy.

Justification

See attached policy.

Bergen Community College
Board of Trustees
Section: FIN

Policy #: FIN: 013-001: 2024

Effective Date: August 6, 2024

Responsible Official:
Chief Financial Officer

Travel, Mileage, and other Reimbursable Expenses for College Personnel

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Policy Statement:
Members of the College community are reimbursed for reasonable, approved travel expenses incurred when conducting College business. Reimbursable travel expenses include costs associated with attending meetings, conferences, conventions, seminars, workshops, field trips, athletic and other College events, as well as travel between Bergen Community College campus locations.

Reason for Policy: To establish guidelines for the reimbursement of travel-related expenses for approved College business. This policy addresses the nature and types of expenses that qualify for reimbursement, the approval and documentation requirements, the method(s) of payment, and examples of expenses that do not qualify for reimbursement by Bergen Community College (the College).

Who Should Read This Policy:
Any employee, trustee, or external persons who are authorized to travel on behalf of the College, and/or those who process and approve travel-related financial transactions.

The Policy Statement:
This policy ensures that expenses incurred for approved business travel are fairly and equitably reimbursed, that such expenses are consistently reported, recorded, and reimbursed, and that all applicable federal, state, and local policies and regulations are adhered to.

These procedures apply to all travel activities regardless of the source of funds. Travel funded by an institutional grant, or the Bergen Community College Foundation is subject to the requirements outlined in this policy. Whenever a funding agency (grant, foundation, other) mandates more restrictive provisions, the more restrictive requirements will govern funds that are expended from those sources. Travel expenses that are funded by an institutional grant must comply with allowable cost requirements of the funding agency, and these expenses must be reviewed and approved by the Office of Grants Administration.

Expenditures incurred for official College business travel are reimbursable in accordance with the travel guidelines documented in this policy. Exceptions to the travel requirements detailed in this policy must be approved by the Department Vice President, Chief Financial Officer (CFO) and/or the President.

All business travel on behalf of the College must be preapproved by the traveler's supervisor or designated executive approver. Approval for business travel is required for expenses that the College remits payment directly to the vendor or to the authorized traveler. Approval must be secured from the appropriate Executive Team member in advance using the Pre-Travel Authorization/Off Campus Participation Form whenever the estimated travel expenses exceed $100, or the trip includes an overnight stay. Travelers are expected to use the most fiscally responsible mode of transportation where practical, and reservations should be made as early as possible to take advantage of advance purchase discounts/pricing. Air and rail travel arrangements **should** be made through the College's designated travel vendor whenever feasible. Contact the Purchasing Department for assistance as needed making travel arrangements. **Compliance with the requirements of this policy is the responsibility of the individual traveling on College business and the individual approving such travel expenses.**

If a traveler includes personal travel before, during, or after their approved business travel, reimbursement will be appropriate only for the periods during which official College business is conducted. Reimbursable expenses will correspond with a roundtrip to the designated location of the official business. Additional transportation, lodging, meals, or other travel expenses incurred for personal travel are the responsibility of the traveler and should be paid with the traveler's personal credit card or other payment method(s).

I. Authorization

All same-day or overnight travel for conferences, conventions, workshops, seminars, and other official business require prior written approval via a Pre-Travel Authorization/Off-Campus Participation Form. Students, faculty, and staff require approval from the traveler's supervisor, the cost center manager where the expenses will be charged, and the applicable Executive Team member. Travel authorization must be obtained and approved prior to departure.

Travel expenses totaling $100 or less do not require a Pre-Travel Authorization/Off-Campus Participation Form. This exemption occurs for travel that includes only mileage, parking, tolls, and/or small expenses. The traveler's immediate supervisor must nonetheless be aware and authorize such expenses prior to the expenditures, and the supervisor must also approve the expense report (Payment Request Form) that is submitted for request reimbursement. The approval attests to the appropriateness of the travel for College purposes, that travel requirements are being adhered to, and that budget funding is available to cover the travel expenses.

II. Allowable Expenses

Reimbursable travel expenses are limited to costs that are related to conducting official business on behalf of the College. Questions or concerns about these travel guidelines, should be directed to the Purchasing Department. Examples of reimbursable travel expenses include the following:

- Air and rail travel
- Hotel/Lodging
- Car rental (when not traveling by personal car)
- Personal car usage mileage allowance
- Tolls and parking when traveling by personal or rental car
- Taxi, Uber or other ground transportation (when not traveling by personal car)
- Per diem meal allowance
- Gratuities for meals, luggage handling, parking, car service
- Registration fees for conventions, conferences, seminars, workshops, and other approved events

Air and Rail Travel

Arrangements for air and rail travel should be made in the most economical and direct travel routes where possible. Travelers should be cautious when purchasing specially discounted airfares such as non-refundable and advance purchase fares. Specially discounted tickets, for example with air travel, are generally non-transferable, and in most cases, must be used within one year of the original travel date. Unexpected changes to travel plans may create issues and impact your ability to use the ticket(s) if not used on the dates and times originally reserved.

If a traveler opts to utilize rail transportation instead of air transportation, the traveler must request the most cost-effective available fare that is both reasonable and consistent with the purpose of the trip. If the rail fare exceeds the cost of the prevailing airfare to the same destination, then prior written approval must be obtained from the appropriate Vice President.

All air and rail travel arrangements **should** be made via the College's designated travel vendor. Using the designated travel vendor allows for direct billing to the College rather than using a corporate credit card, a personal credit card, or other personal means of payment. Travelers on College business should avoid making travel arrangements outside the designated travel vendor where possible. Travel-related expenses should not be paid for using a personal credit card where feasible. Information about the College's designated travel vendor and how to make travel arrangements through this vendor can be obtained through the Purchasing Department.

The traveler must book economy/coach airfares. Additional costs that result from upgrades are the responsibility of the traveler and will not be reimbursed by the College. Exceptions to this requirement must be approved in advance by the appropriate department head or supervisor.

Travel with Family Members or Companions

The College is not responsible for costs or incidentals involving family members or travel companions. The Traveler can book their Family members travel associated with the employee with the travel company but are responsible for paying for their portion of the trip with a personal credit card. The costs associated with family members or companions on an employee's business trip are not reimbursable by the College.

Travel Arrangements

The Traveler (or designee) should contact the College's designated travel vendor and provide the details of their travel plans.

Within 24 hours of setting the itinerary the following MUST be done.

- The travel vendor will email the itinerary to the Traveler (or designee) and the Purchasing Department.
- The Traveler (or designee) must enter a requisition in the Colleague system, one line for the cost of the flight/rail and one line for any processing fees. The Travel Approvers (department head, Executive Team where applicable) should approve the requisition as soon as possible and the Traveler/department should notify the Purchasing Department via email. The requisition number and traveler's name should always be included in the "Subject" line.
- The Purchasing Department will create a purchase order and contact the travel vendor with the purchase order number to finalize the reservation. Once processed, the travel vendor will send a confirmation email to the Traveler (or designee), the Purchasing Department and the Accounts Payable Department. If the requisition is not created and approved within 24 hours, the traveler (or designee) will need to contact the travel vendor and rebook the flight or rail reservation.

The Traveler should direct questions, issues, and/or suggestions to the travel vendor or the Purchasing Department.

Hotel/Lodging

When a traveler attends a business meeting, conference, seminar, convention, or workshop event which requires overnight accommodations, the traveler shall be reimbursed based on a predetermined daily hotel rate. This predetermined daily rate is consistent with the Federal Government's Per Diem rate which can be found at: https://www.gsa.gov/travel/plan-book/per-diem-rates. If the daily hotel rate is above the per diem rate, preapproval is required prior to booking at the higher rate. The total reimbursable hotel cost is therefore based on the per diem daily hotel rate per night times the number of nights. Costs to upgrade rooms to luxury and upscale categories shall not be reimbursed. If a traveler decides to lodge in a private residence with family or friends while traveling on business, no reimbursement shall be made to the traveler for lodging costs. All reimbursable hotel costs must have a payment receipt with a detailed list of line-item expenses associated with the stay.

In some instances, hotels may require payment via a credit card. Under these circumstances, this expense is paid by the traveler via a corporate card or a personal credit card, and the College reimburses the cost of the stay upon submission of a payment request with supporting documentation. However, it is the traveler's responsibility to inquire if the hotel requires or accepts a check prior to their stay. When checks are accepted by the hotel, the traveler must enquire how far in advance of the event the check must be delivered. In this case, the traveler must enter a requisition in the Colleague system before the date of the stay to have a check sent by the College to the hotel prior to the required date. Check sent in advance by the College will cover the room rate and taxes for the duration of the traveler's stay. Allowable incidental expenses will not be prepaid by the College as the traveler is responsible for payment and subsequently requesting reimbursement. If the hotel does not accept payment by College

check and the traveler is not able to use a personal credit card, the traveler should discuss this with his/her supervisor and/or Vice President.

For one-day business events at not involving air or rail travel, reimbursement for lodging shall be allowed if the event begins prior to 9:00 a.m. and is impractical for the traveler to travel to the location during the morning. Under these circumstances, reimbursement shall be allowed in accordance with the guidelines set forth in this policy.

If a scheduled trip is cancelled, it is the traveler's responsibility to cancel any air, rail, rental car and/or hotel room reservations as soon as possible to avoid late cancellation fees. Expense incurred for hotel cancellations shall not be reimbursed unless the reason for the cancellation was beyond the traveler's control. If the cancellation was due to a family or work emergency, the incident must be documented, approved by the division's Vice President, and forwarded to the Chief Financial Officer for review and approval of the cancellation expense.

Car Rental

Travelers are encouraged to use local transportation (for example, cab, Uber) where possible. Car rental, including all gasoline and insurance costs connected with the car rental is reimbursable when this is required and more cost effective than other forms of ground transportation. The cost for a car rental may not exceed the actual per-day cost of a mid-size vehicle unless four or more employees are traveling. In this instance, a full-size car may be rented. Travelers should purchase liability insurance and Collision Damage Waiver for the rental vehicle only if the travelers credit card does not provide insurance coverage. This cost will be reimbursed.

Personal Car Usage (Reimbursed Mileage)

When a personal vehicle is used for business travel, the traveler will be reimbursed at the most current mileage rate approved by the Board of Trustees (BOT) at the time the individual travels. The BOT approved rate is generally based on the rate mandated by the Internal Revenue Service. The prevailing mileage rate as approved by the BOT can be found at: https://www.irs.gov/tax-professionals/standard-mileage-rates , parking and toll expenses incurred by the traveler are also reimbursed. When a traveler uses his/her personal car, the cost of taxis, Ubers, rental cars, or other forms of ground transportation will not also be reimbursed for transportation to and/or from the event.

Reimbursable mileage refers to miles incurred for business purposes. The total miles must exceed the normal commuting miles from a traveler's residence to his/her work location at the College. Mileage shall be calculated from the College or traveler's home, whichever is the shorter distance to the business destination. If travel occurs on a non-workday, mileage shall be calculated from the traveler's home. Reimbursed mileage includes the cost of gas, charging stations, and wear and tear on the car, but does not include tolls or parking which are separately reimbursed.

The traveler's automobile insurance will serve as the primary insurance in case of accidents- and related expenses when personal vehicles are used for business travel. Employees on official business for the College are considered employees during the entire period of the business trip. Employees therefore maintain the benefits afforded by the College's insurance coverage, including worker's compensation,

during the period of the trip.

Tolls and Parking

The traveler is reimbursed for tolls and parking expenses incurred when traveling by personal car or rental car. However, when the business trip requires air or rail travel, the traveler is not reimbursed for tolls and parking to or from the location of the event. Parking expenses and tolls may be paid by the traveler via E-Z Pass for tolls, corporate credit card, personal credit card, cash, or other payment method. Receipts are required for all parking and toll expenses to support reimbursement.

Taxi, Uber, and Other Car Service

Taxi, Uber, or other car service charges are permitted from the College or from home to/from the airport or train station. The traveler should use the most economical means of transportation to/from the airport or train station. Hotel shuttle buses or airport/rail ground transportation to/from the hotel should be used where feasible. Taxi, Uber, or other car service should be used and will be reimbursed when more practical. For example, taxi, Uber, or other car service should be used when visiting multiple locations during a business trip. These expenses are paid by the traveler and reimbursed by the College where allowed. Receipts must be obtained to support the expenses related to these transportation methods.

Meals (Per Diem Meal Allowance)

Meals are reimbursed up to the per diem daily rate of $80.00, including tax and gratuity. Thus, any amounts incurred each day which exceeds the per diem daily rate will not be reimbursed. If the traveler incurs less than $80/day, the actual amount incurred will be reimbursed. If a meal(s) is included in a registration/conference fee, or if paid for by someone else, the traveler will not be reimbursed. Itemized receipts of what was ordered for each meal must be submitted. Alcohol is not allowed and thus any alcohol ordered will not be reimbursed. Meals are paid by the traveler on his/her personal credit card.

Gratuities

A maximum gratuity of up to 15% is allowed for other services where a gratuity is in order. Receipts should be provided in support of such payments. This expense is paid by the traveler and reimbursed up to the maximum percentage allowed.

Registration Fees

Registration fees for conventions, conferences, seminars, workshops, or official meetings are reimbursable. An original receipt for the registration fee or a copy of the registration form must be submitted. This expense can either be paid by the College or by the traveler. The traveler must submit a purchase requisition in the Colleague system for the College to submit payment prior to the event's start date. The Purchasing Department will then issue a purchase order to the event sponsor. Most event sponsors accept a purchase order to secure a spot at the event and will invoice the traveler/College. The Accounts Payable Department will then remit payment by check. It is the traveler's responsibility to

inquire how far in advance of the event the sponsor require payment. Event registration should be planned and made in advance, when possible, to take advantage of "early bird" discounts.

III. Meetings with External Individuals or New Employees

Meetings or other events which include meals in conjunction with the employment of new personnel or meetings with consultants, legislators, or other outside parties are reimbursable. This includes meetings and events when traveling on College business or when conducting business at the College. The following guidelines apply:

- Requests for meetings and events which include meals require authorization as defined in this policy prior to incurring the expenses.
- Reimbursement is limited to those in attendance that are part of the College business meeting or event.
- The per diem meal rate will prevail.
- Exceptions require approval of the President and/or Chief Financial Officer.
- Original detailed receipts must be provided when submitting the expense for reimbursement.

IV. Group Travel

Group travel consists of multiple individuals (i.e., faculty, staff, and/or students) traveling to a destination for a common business purpose such as training meetings, field trips, and athletic events. The individual planning the group travel is responsible for ensuring that the travel arrangements are consistent with the guidelines outlined in this policy.

Each Cost Center Manager must authorize group travel. Travelers in the group must pay for their own expenses and submit a Travel Reimbursement Request Form for reimbursement. In certain circumstances (i.e., student groups) it may not be feasible for everyone to pay their own expenses. In these cases, expenses may be grouped and paid by one individual and submitted for reimbursement. Supporting receipts are required and must be submitted with the reimbursement request.

V. Receipt/Documentation Requirements

Valid receipts/documentation must be provided in support of expenses claimed for reimbursement. Receipts/documentation should include the date of the purchase, vendor's name, location, itemized list with corresponding unit cost, and total cost. The following should be provided:

- **Air/Rail Travel** - Itemized airline/flight or railway ticket or valid receipt that identifies the trip details including price and proof of payment.
- **Hotel** – itemized invoice/folio showing all room, taxes, and incidental expenses, and proof of payment.
- **Car rental** – rental agreement and/or receipt including proof of payment.
- **Mileage allowance when using personal car** - MapQuest or Google Maps for mileage verification to/from the business trip.
- **Tolls** - receipt showing the name of the bridge, tunnel, or turnpike; date incurred; and amount (E-Z pass statement will suffice if receipt not available)

- **Parking** – receipt showing the date, parking location, amount, and proof of payment.
- **Ground Transportation (tax, Uber, bus, shuttle)** – receipt with the date, vendor, amount, and proof of payment.
- **Meals** – receipt showing date incurred/purchased, vendor name, location, itemized list of food and beverage with corresponding unit cost, total cost, gratuity, and proof of payment. Any alcohol purchased will not be reimbursed.
- **Registration Fees** – original receipt or copy of registration form with proof of payment.
- **Activities** associated with the meeting/event – Conference tours.

VI. Required Travel Request and Reimbursement Forms

The following pre and post travel forms are required when planning business travel and when claiming expenses for reimbursement. These forms should be submitted to the Accounts Payable Department with the required information and approvals as indicated in them.

1. **Pre-Travel Forms**
   - **Pre-Travel Authorization/Off-Campus Participation Form** – This form is used to request initial approval for the business travel which includes details of the business trip, estimated expenses to be incurred, budget coding information, and approvals. If multiple sources will fund the travel (e.g., grants, department operating budget, etc.) each budget code must be provided, and the appropriate approvals included. Forms will be linked once policy is approved.
2. **Post-Travel Forms**
   - **Travel Reimbursement Request Form** – This form is used to claim reimbursement all expenses incurred by the traveler where applicable for hotel/lodging (if not paid by the College), car rental, personal car reimbursed mileage, tolls, parking, per diem meal allowance, gratuities, and registration fees (if not paid by the College). Most of these items will be paid by the traveler on his/her personal credit card. All required receipts/documentation must be submitted with this form. The traveler will not be reimbursed for any expense(s) until the required receipts/documentation is provided. Air or rail fare should not be included in this form, as such arrangements should be made through the College's preferred travel vendor which will direct bill the College. The traveler should submit this form requesting reimbursement within thirty (30) business days of the trip end date. A post travel memo explaining your trip will be required and submitted to your supervisor. Forms will be linked once policy is approved.

VII. Non-Reimbursable Expenses

Expenses that are **not** reimbursable by the College include, but are not limited to the following:

- Alcoholic beverages
- Laundry services – washing, dry cleaning, pressing, and other apparel cleaning services.

- Activities - Golf, sporting events, museum visits, concerts, and other entertainment events)
- In-room or in-flight movies
- Health club facilities
- Personal gifts
- Minibar refreshments
- Parking fines or traffic tickets
- Shoeshine
- Car wash
- Spouse/relative/companion travel costs
- Ticket fare upgrades
- Excess or lost baggage charges
- Cancellation and flight change fees for non-business or non-emergency reasons

VIII. Unanticipated Business Expenses

If the traveler incurs unanticipated expenses that exceed either the approved travel request and/or the approved rates, a written justification must be attached to the Travel Reimbursement Request Form. Reimbursement for these expenses is subject to review and approval by the division's Vice President and by the Chief Financial Officer.

IX. Submission and Reimbursement of Expenses to Traveler

Travel expenses should be submitted for reimbursement within 30 days of the completion of the business travel. Allowable travel expenses not paid with College issued funds will be reimbursed to the traveler upon submission of an approved Travel Reimbursement Request Form with all required receipts to the Accounts Payable Department. Travelers can expect payment within thirty (30) business days of receipt of appropriate documentation by the Accounts Payable Department.

Related Documents/Policies:

Travel Policy for Board Members

Policy History: (adopted/amended)

Adopted: February 1, 1995
Amended: April 5, 2006, December 5, 2007, February 6, 2008, November 1, 2017, August 6, 2024

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BOARD OF TRUSTEES ACTION P1
Approval Date: August 6, 2024

Resolution
To approve the specified personnel separations.

Submitted By
Dr. Eric M. Friedman, President
Mr. David Borzotta, Associate Vice President of Safety and Security
Mr. Nathaniel Saviet, Vice President of Facilities
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To accept the separation of the following individuals:

	Name	Reason	Position/Department/Division/Unit	Effective Date
1.	Mizael Cruz	Resignation	Custodian/Facilities/Support	05/31/2024 (retroactive)
2.	Christopher Gosda	Resignation	Custodian/Facilities/Support	06/17/2024 (retroactive)
3.	Carolina Diaz Santos	Resignation	Officer/Public Safety/Support	07/13/2024 (retroactive)
4.	Mirian Rodas Vicuna	Resignation	Custodian/Facilities/Support	07/17/2024 (retroactive)

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BOARD OF TRUSTEES ACTION P2
Approval Date: August 6, 2024

Resolution
To approve the appointments of the specified Confidential and Grant-funded personnel.

Submitted By
Dr. Eric M. Friedman, President
Ms. Cinzia D'Iorio, Vice President of Continuing Education and Workforce Development
Mr. Wilton Thomas-Hooke, Chief Financial Officer
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Ms. Suzanne Wetzel, Vice President of External Affairs
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To approve the appointments of the following individuals to the vacant positions and annual salaries:

	Name	Position/Division	Unit	Salary (pro-rated)	Effective Date
1.	Ellianne Gallardo	Vice President of Human Resources and Organizational Development/Human Resources	Executive	$135,000.00	08/07/2024
2.	Anthony Pecchinenda	Director of Student Financial Services/Finance	Executive	$118,000.00	08/26/2024
3.	Carmen Cruz-Torres	Associate Dean of Nursing/ Academic Affairs	Confidential	$110,000.00	08/07/2024
4.	Julianne Dunich	Associate Dean of Continuing Education/Continuing Education and Workforce Development	Confidential	$78,000.00	08/19/2024
5.	Kandice Bowles	Scholarship and Alumni Relations Coordinator/BCC Foundation	Confidential	$58,000.00	07/16/2024 (retroactive)
6.	Miral Patel	Foundation Accountant/BCC Foundation	Confidential	$80,000.00	08/19/2024
7.	Michael Vivenzio	Coordinator of Adjunct Administration/Academic Affairs	Confidential	$82,000.00	08/07/2024
8.	Andrea Nemeth	Project Director, NJ Healthworks/ Continuing Education and Workforce Development	Grant	$102,733.44	7/15/24-7/30/2024 (retroactive)

Justification
1.-7. To fill budgeted vacant positions through successful search processes pending completion of background checks and references. These positions are at-will.
8. To extend the end date for additional work needed to close the NJ Healthworks grant.

Charge to:
College Operating Funds and Grant Fund Account Numbers in accordance with the list below:

1. 10-01-126100-601110
2. 10-01-140600-601110
3. 10-03-352000-601110
4. 10-03-391008-601110
5. 10-01-196100-601110
6. 10-01-196100-601110
7. 10-01-126200-601110
8. 50-03-590000-601110

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BOARD OF TRUSTEES ACTION P3
Approval Date: August 6, 2024

Resolution
To approve the appointment of the Academic Chair/Faculty for the Business Department.

Submitted By
Dr. Eric M. Friedman, President
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Ms Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To appoint the individual listed below to the position of Academic Chair at the stipend and release time shown for the period August 7, 2024 - June 30, 2025.

ACADEMIC CHAIR

Name	Department//Division	Annual Stipend (prorated)	Annual Release Time (prorated)
Vincent Louis	Business/ Business and Social Sciences	$6,000.00	22 credit hours

Justification
To appoint the Academic Department Chair in accordance with the agreement with the BCCFA.

Charge To: College Operating Funds
Account Number: 10-03-396100-601153

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BOARD OF TRUSTEES ACTION P4
Approval Date: August 6, 2024

Resolution
To approve the appointments of the specified Faculty personnel.

Submitted By
Dr. Eric M. Friedman, President
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To approve the appointments of the following individuals to the vacant positions and annual salaries:

	Name	Position/Division	Unit	Salary (pro-rated)	Effective Date
1.	Lisa Duddy	Associate Professor, Dental Hygiene/Health Professions	Faculty	$80,384.00	09/01/2024
2.	Jiyoun Park	Associate Instructor, Diagnostic Medical Sonography/Health Professions	Faculty	$60,799.00	09/01/2024
3.	Ariana Lopez	Assistant Professor, Criminal Justice/Business and Social Sciences	Faculty	$69,165.00	09/01/2024

Justification
1.-3. To fill budgeted vacant positions through successful search processes pending completion of background checks and references.

Charge to:
College Operating Funds in accordance with the list below:
1. 10-03-354002-601120
2. 10-03-354003-601120
3. 10-03-396000-601120

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BOARD OF TRUSTEES ACTION P5
Approval Date: August 6, 2024

Resolution
Approve: To approve Leave of Absence

Submitted By
Dr. Eric M. Friedman, President
Mr. Nathaniel Saviet, Vice President of Facilities
Dr. Andrew Tomko, Vice President of Academic Affairs and Provost
Dr. Anthony Trump, Vice President of Student Affairs
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To approve the Leaves of Absence, without pay, for the following individuals from the positions listed below, effective dates as indicated:

	Name	Position/Division/Bargaining Unit	Effective Dates (retroactive)
1.	Daniel Diaz	Maintenance Repairperson/Facilities/ Support	01/02/2024 – 07/01/2024 (revised returned date)
2.	Donna Puleo	College Nurse/Student Affairs/NA	05/31/2024-06/10/2024 FMLA unpaid with benefits
3.	Jerome Jones	Custodian/Facilities/Support	07/04/2024 – TBD unpaid with no benefits
4.	Darlene Tomlinson	Group Teacher, Child Development Center/Academic Affairs/Grant	07/11/2024 – 09/23/2024 FMLA unpaid with benefits
5.	Monica Crespo	Assistant Professor, Student Support Services/Student Affairs/Faculty	07/01/2024-07/09/2024 FMLA unpaid with benefits
6.	Jessica Peacock	Assistant Professor, Counseling Center/Student Affairs/Faculty	06/12/2024 -TBD unpaid with no benefits

Justification
1. Military Leave
2.-5. Medical Leave
6. Maternity Leave

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BOARD OF TRUSTEES ACTION P6
Approval Date: August 6, 2024

Resolution
To approve the appointments of the specified Support personnel.

Submitted By
Dr. Eric M. Friedman, President
Mr. Nathaniel Saviet, Vice President of Facilities
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To approve the appointment of the following individuals to the vacant position and annual salary indicated below:

	Name	Position/Division	Unit	Salary (pro-rated)	Effective Date
1.	Adel Botros	Custodian/Facilities	Support	$33,999.00	08/16/2024
2.	Riley Felton	Custodian/Facilities	Support	$33,999.00	08/16/2024
3.	Gloria Zhinin	Custodian/Facilities	Support	$33,999.00	08/16/2024

Justification

#1.-3. To fill budgeted vacant positions through successful search processes pending completion of background checks and references.

Charge to:
College Operating Funds in accordance with the list below:
1.-3.10-06-620100-601135

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BOARD OF TRUSTEES ACTION P7
Approval Date: August 6, 2024

Resolution
Appointment: To approve the appointment of the specified personnel to a stipend position.

Submitted By
Dr. Eric M. Friedman, President
Dr. Anthony Trump, Vice President of Student Affairs
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To approve the appointment of the following individuals to a budgeted stipend position at the amount indicated:

	Name	Position	Stipend	Effective Dates (retroactive)
1.	Sara Beck	Head Softball Coach	$8,000.00	07/01/2024-06/30/2025
2.	Anthony Bowles	Head Women's Soccer Coach	$8,000.00	07/01/2024-06/30/2025
3.	Chris DiSanto	Head Wrestling Coach	$8,500.00	07/01/2024-06/30/2025
4.	Janet Elder	Head Volleyball Coach	$7,000.00	07/01/2024-06/30/2025
5.	Phil Germakian	Head Cross Country Coach	$7,000.00	07/01/2024-06/30/2025
6.	Phil Germakian	Head Track and Field Coach	$7,000.00	07/01/2024-06/30/2025
7.	Nick Grasso	Head Baseball Coach	$8,000.00	07/01/2024-06/30/2025
8.	Sebastian Luna	Assistant Women's Soccer Coach	$3,500.00	07/01/2024-06/30/2025
9.	Rey Miller	Assistant Wrestling Coach	$4,500.00	07/01/2024-06/30/2025
10.	Sean Pekarsky	Head Women's Basketball Coach	$9,000.00	07/01/2024-06/30/2025
11.	Sebastian Rojas	Assistant Men's Soccer Coach	$4,000.00	07/01/2024-06/30/2025
12.	Phil Ross	Assistant Track Coach	$3,500.00	07/01/2024-06/30/2025
13.	Jonathan Sanchez	Head Men's Soccer Coach	$8,000.00	07/01/2024-06/30/2025
14.	Lesley Megan Vanderbeck	Assistant Volleyball Coach	$3,500.00	07/01/2024-06/30/2025

Justification
To fill vacant assistant coach and head coach positions, the above-mentioned stipend is seasonal. The hiring of the coaches is contingent on Bergen Community College approving a fall, winter or spring athletic season.

Charge to: College Operating Funds Account Numbers in accordance with the list below:

1.-14. 60-09-910000-601161

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PLACEHOLDER

BOARD OF TRUSTEES ACTION P8
Approval Date: August 6, 2024

Resolution
To approve the promotion of the following individual.

Submitted By
Dr. Eric M. Friedman, President
Ms. Suzanne Wetzel, Vice President of External Affairs
Ms. Ellianne Gallardo, Associate Director of Employee Relations and Organizational Development

Action Requested
To approve the promotion of the following individual to the position and annual salary indicated below:

Name	Position/Division	Unit	Salary (prorated)	Effective Date
TBD	Scheduling and Facilities Planner/External Affairs	Professional	TBD	TBD

Justification
To appoint this individual to the position and title indicated as part of the changing scope and level of responsibilities.

Charge to: College Operating Funds
Account Number: 10-01-148200-601110

Bergen
COMMUNITY COLLEGE
400 Paramus Road, Paramus, New Jersey 07652
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BOARD OF TRUSTEES ACTION P9
Approval Date: August 6, 2024

Resolution
To approve the stipend of the following individual.

Submitted By
Dr. Eric M. Friedman, President
Mr. Wilton Thomas-Hooke, Chief Financial Officer

Action Requested
To approve a monthly stipend for the following individual for assuming additional responsibilities in the Human Resources Department:

Name	Position/Department	Monthly Stipend	Unit	Effective Date
Ellianne Gallardo	Associate Director of Employee Relations and Organizational Development/Human Resources	$1,200.00	Confidential	03/11/2024 – 08/05/2024 (retroactive)

Justification
To perform certain duties associated with the Human Resources division until the completion of the College search process for the Vice President of Human Resources and Organizational Development.

Charge to: College Operating Funds
Account Number: 10-01-126100-601110

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BOARD OF TRUSTEES ACTION S/F 1
Approval Date: August 6, 2024

Resolution
To award the preparation of contract drawings and specifications for the NextGen Hydroponics Lab in existing SA-Wing Vestibule Project to RSC Architects.

Submitted By
Dr. Eric Friedman, President
Mr. Nathaniel Saviet, Vice President Facilities
Mr. Wilton Thomas-Hooke, Chief Financial Officer

Action Requested
Authorization to pay $18,700.00, including direct costs, for preparation of contract drawings and specifications for NextGen Hydroponics Lab in existing SA-Wing Vestibule Project.

Justification
College has received a grant from United States Department of Agriculture (USDA) for the development of a Hydroponics program, which requires a hydroponics lab to support the goals and objectives of the Hydroponics program being developed by the College, and to meet the requirements of the grant.

Proposals Received

RSC Architects	$18,700.00 including Direct Costs
H2M Architects & Engineers	$25,850.00 including Direct Costs
Acari & Iovino Architects	$28,500.00 including Direct Costs

Professional Services are exempt from bidding in accordance with County College Contracts Law 18A:64A-25.5 (1) The Request for Qualifications for Architecture Services was advertised in accordance with the New Jersey P.L. 2004, Chapter 19 "Pay to Play" Law, and conforms to a 'Fair and Open Process."

Charge to:	Grant
Account Number:	5004570700-607777
Amount:	$18,700.00