Bergen Community College

Student Code of Conduct

Bergen COMMUNITY COLLEGE

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I. Student Code Of Conduct

Bergen Community College, in this *Code* will be referred to as the College, is committed to providing a campus environment that is conducive to academic inquiry in the College tradition. The College is a comprehensive, educational institution that exists to foster inquiry and public discourse. Student members of the College community are expected to abide by certain standards of conduct that form the basis of the Student *Code* of Conduct [this *Code*] and ensure that their visitors do likewise. These standards are embodied within a set of core values that include integrity, fairness, respect, community, and responsibility. 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.

This *Code* is provided to give students a general notice of prohibited conduct. This *Code* has not been designed to set forth an exhaustive list of misconduct, but to establish behavioral guidelines. It is the responsibility of all students to become familiar with this *Code*.

Core Values of Student Conduct at Bergen Community College

- ***Integrity:*** Bergen Community College students exemplify honesty, honor and a respect for the truth in all of their dealings.
- ***Fairness:*** Bergen Community College students are fair, just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unfair, unjust and inequitable behaviors.
- ***Respect:*** Bergen Community College students show positive regard for each other, for property and for the community.
- ***Community:*** Bergen Community College students built 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.

Definitions

- ***Respondent:*** any student who has been accused of an act or misconduct as prohibited by this *Code*
- ***Administrative hearing*** – a meeting held by the Dean of Student Life & Conduct or his/her designee with the Respondent.
- ***Administration or staff*** – any person who currently holds a non-faculty appointment within the College.
- ***Business day*** – any day when the College offices are open for business.
- ***College -*** the College and all of its campuses, divisions and programs.
- ***College 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 him/her in hearings or conferences conducted in accordance with this *Code*.
- ***College grounds or premises*** – 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, authorized or supervised by the College.
- ***Complainant*** – the initiator of the complaint alleging an act or misconduct which may constitute a violation of this *Code*.

- ***Hearing Panel*** – a group that is comprised of no less than three nor more than five members of the Community Standards Review Board.
- ***Community Standards Review Board*** – a group of not less than ten nor more than twenty members of the College community who are appointed by the Coordinator of Student Conduct or such other person as designated by the Vice President of Student Affairs, which members of the group shall be appointed to a hearing panel to hear conduct referrals relating to alleged violations of the Student *Code* of Conduct, except for alleged violations of the Standards of Academic Integrity.
- ***Member of the Community Standards Review Board*** – a student or employee of the College that has applied for, been trained by the Dean of Student Life & Conduct , or such other person designated by the Vice President of Student Affairs, to hear conduct referrals relating to alleged violations of the Student *Code* of Conduct.
- ***Chief Conduct Officer*** – the Dean of Student Life & Conduct or such other person as the Vice President of Student Affairs may designate.
- ***Conduct Referral*** – all incidents are entered through Maxient, the College Conduct web based software System. Reports can be completed online through the Office of Student Conduct webpage or in person at the Office of Public Safety , L-154. The incident report includes a description of alleged misconduct and all information pertaining to the event.
- ***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.
- ***Student*** – all persons taking courses at the College, full-time, part-time and non-degree pursuing undergraduate, professional studies, or continuing education, without regard to the physical location of the course, including off-campus sites or through distance learning. Persons who are not officially enrolled for a particular term, but who have a continuing relationship with the College are considered students.
- ***Student Conduct Conference*** – a meeting held by the Dean of Student Life & Conduct and/or his designee with the Respondent forty-eight (48) hours prior to the Respondent student's scheduled hearing before the Community Standards Review Board to outline the hearing process.
- ***Student Organization*** – a College-recognized group of Bergen students meeting the criteria for group registration or recognition established by the Office of Student Life.
- ***Victim*** – a member of the College community who alleges that he/she has suffered personal harm or injury as an alleged violation(s) of this *Code*.

II. Authority

The Board of Trustees at Bergen Community College has adopted by appropriate resolution the terms and provisions of this *Code* of Student Conduct and, by the adoption of this *Code* of Student Conduct, has empowered the employees and Boards 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. This *Code* may be applied to conduct that takes place during the time a person is enrolled as a student, including during intra-semester breaks and between semesters. Further, this *Code* applies to members of the College community as defined, whose host may be held accountable for the misconduct of their guests. Sanctions for violations by visitors and guests may include but not be limited to a warning, Campus-Wide No Trespass and referral to the Department of Public Safety and

Bergen County Police. Visitors to and guests of the College are also protected by this *Code*, and may initiate grievances for violations of this *Code* committed by members of the College community against them. The College may address misconduct that occurs prior to, but is not reported until after, the graduation of the offending student, as long as the misconduct is reported within six months of its occurrence. Otherwise, there is no time limit on reporting of violations of this *Code*, as long as the offending student is still enrolled at the College. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Life and Student Conduct. The Dean of the Office and/or his/her designee is responsible for overseeing processes related to the implementation of this *Code*.

Students at the College are provided annual notification that explains how they may access this *Code* on the College Web site. The printed document is also available in the Office of Student Conduct, (1st Floor of the Pitkin Education Building). Incident reports can be filed with the Office of Public Safety (L-154) and the Office of Student Conduct. Incident reports can also be filed online via Maxient, the College's web based conduct software management system. The link to the online reporting form can be found online under the Office of Student Conduct Process and Policies website. The completed form arrives electronically for the Office of Student Conduct to review. Please note that 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 charged with the responsibility 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. Because 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. Therefore, this *Code* applies to conduct that takes place on the campus, at College-sponsored events, and off campus, when the administration determines that the off campus conduct affects a substantial College interest. A substantial College interest is defined to include:

- Violations of local ordinance, state or federal law, including repeat violations of any local ordinance, state or federal law committed in the municipality where the College is located.
- Actions which may present a danger or threat to the health or safety of him/herself or others.
- Actions which significantly impinge upon the rights, property or achievements of self or others or significantly breach the peace and/or cause social disorder.
- Actions which are detrimental to the educational interests of the College.

III. Violations Of The Law and this Code

Violations of local ordinances, state and federal laws are offenses under this *Code* even where those violations are not explicitly prohibited by this *Code*. Where such offenses occur off campus, the College may institute proceedings upon the decision of the Dean of Student Life & Conduct that the conduct affects a substantial interest of the College. The College may institute proceedings against a student charged with violation of federal, state, or local laws without regard to the existence or possibility of civil or criminal legal proceedings. It is the policy of the College to investigate all incidents under this process in a timely manner internally, rather than to delay campus proceedings for external criminal and/or civil proceedings arising from the same misconduct..

This *Code* also applies to acts which constitute violations of the law and this *Code*. Any

action at the College during the pendency of an administrative, civil and/or criminal proceedings arising out of the same or other events shall not be the subject to challenge on the ground that criminal charges are pending, dismissed or reduced. The filing of a complaint with the College does not preclude any member of the College community from seeking civil or criminal redress.

IV. Special Provisions

a. 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.

b. 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 victim of misconduct.

c. False Reports

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.

d. Group 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 a hearing may proceed against the group as joint Respondent students. In any such action, however, determinations will be made with respect to the involvement of each accused individual.

e. Amnesty for Victims

The College encourages the reporting of crimes and violations of this *Code* by victims. Sometimes, victims are hesitant to report to college officials because they fear that they may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to College officials. To encourage reporting, the College pursues a policy of offering victims of severe conduct offenses amnesty from policy violations related to the incident.

f. 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. This applies only to first-time, isolated incidents, and does not excuse or protect those who flagrantly or repeatedly violate college alcohol policies.

g. 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*. The College reserves the right to notify all law enforcement agencies of any breach 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).

h. Notification of Outcomes

The outcome of a hearing is part of the educational record of the Respondent student, and is protected from release under a federal law, FERPA. However, the College observes the legal exceptions as follows:

1. Complainants in sexual misconduct and sexual harassment incidents have an absolute right to be informed of the outcome and sanctions of the hearing, in writing, without condition or limitation.
2. The College may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a College policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The College will also release this information to the complainant in any of these offenses regardless of the outcome.
3. The College may also release notification of outcomes to any employment agency/entity requesting disciplinary records of the student as long as permission has been granted, in writing, by the student who breached the *Code*

i. Defenses

It has become common for students accused of policy violations to try to defend their actions with excuses, 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 he 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.

j. Misconduct Online

Students are advised that behavior online can be the subject to disciplinary action as if such conduct took place face-to-face. Online harassment, bullying, threats or similar conduct, will not be tolerated and any student that violates this policy will be subject to disciplinary action. Students must be aware that social media postings are in the public sphere, and are not private. These postings can subject a student to allegations of conduct violations, if evidence of policy violations is posted online. The College will take action if and when such information is brought to the attention of the College.

V. Standards of Conduct

A. Conduct Demonstrating a Lack of Integrity, Generally

Students are required to exemplify honesty, integrity and a respect for truth in all of their dealings. Behavior that demonstrates a lack of integrity includes, but is not limited to:

1. Acts of dishonesty
   - Furnishing false written or oral information to any College official, faculty member or office;
   - Forgery, alteration, destruction or misuse of any College document, record, timesheets or instrument of identification including but not limited to College and College related material such as academic forms, files, transferring, course registration document, records, identification cards or other documents. Students may also be subject to criminal charges in the event a violation of the policy is found;
   - Tampering with the election of any College registered student organization;

- Causing, condoning, or encouraging the completion of any College record, document or form dishonestly;
- Initiating a false report or warning of fire, explosion, bomb threat, or other emergency; or
- Engaging in deceptive practices such as concealment, distortion of the truth for the purpose of misleading others, duplicity, fraud, or cheating..

2. Knowingly presenting a worthless check or forging a money order in payment to the College or to a member of the College community acting in an official capacity, or failure to make satisfactory arrangement for the settling of accounts with the College.
3. Violations of positions of trust or authority within the community.
4. Misuse or unauthorized use of the College or organizational names and images.
5. Theft, attempted theft, robbery, bribery, extortion, misappropriation of funds or property and/or possession of stolen property, which include, but is not limited to:
   - Knowingly possessing stolen property;
   - Damaging items rented, leased, or placed on the campus at the request of the College;
   - Selling or attempting to sell textbooks unless the seller is the owner of the textbook or has the permission of the owner to do so; or
   - Taking, attempting to take, or keeping items belonging to the College.

B. Conduct Demonstrating a Lack of Academic Integrity

Students are required to exemplify Academic Integrity in all of their dealings and interactions. Bergen Community College is committeed to academic integrity-the honest, fair, and continuing pursuit of knowledge, free from fraud or deception. Students are responsible for their own work. Faculty and academic support services staff will take appropriate measures to discourage academic dishonesty.

Behavior that demonstrates a lapse in Academic Integrity includes, but is not limited to:

1. Use of unauthorized assistance in any academic work, such as:
   - Copies from another student's work;
   - Uses notes, books, electronic devices or other aids of any kind during an exam, when doing so is prohibited; or
   - Steals an exam or possesses a stolen copy of any exam.
2. Giving unauthorized assistance to another student, such as::
   - Completing a graded academic activity or takes an exam for someone else;
   - Giving answers to or shares answers with another student before or during an exam or other graded academic activity; or
   - Sharing answers during an exam by using a system of signals.
3. Fabricating data in support of an academic assignment, such as:
   - Citing sources that do not exist;
   - Citing sources that were not used; or
   - Submitting any academic assignment which contains falsified or fabricated data or results.

*Note: An instructor may establish other guidelines regarding academic integrity consistent with the College policy.

Sanctions Against a Student for a Classroom Violation

- The faculty member must report all incidents to the Chair of the department
- The faculty member, in consultation with the Chair, will determine the course of action

to be followed. This may include:

- Assigning a failing grade on the assignment
- Assigning a lower final course grade
- Failing the student in the course
- Other penalities appropriate to the violation
- The student has the right to appeal the decision of the faculty member by writing to the appropriate Department Head and then to the Academic Vice President.

C. Failure to Adhere to the College's Code of Fairness

Students are required to honor fairness and strive for fairness in all their dealings and interactions. Behavior that demonstrates a lapse of fairness includes, but is not limited to:

1. Disruption of College operations, including obstruction of teaching, research, administration, other College activities.
2. Obstruction of freedom of movement by community members or visitors.
3. Abuse, interference or failing to comply in the College processes including any hearings under this *Code*;
4. Abuse of the process and procedures of this *Code* as set forth herein:
5. Failure to follow the Student *Code* of Conduct process and procedures including but not limited to:
   - Falsification, distortion, or misrepresentation of information;
   - Failure to provide or the destroying or hiding of information during an investigation of an alleged policy violation;
   - Attempting to discourage an individual's proper participation in, or use of, the Student *Code* of Conduct process and procedures;
   - Harassment (verbal or physical) and/or intimidation of a member of the Judicial Board prior to, during, and/or after a campus conduct proceeding;
   - Failure to comply with the sanction(s) imposed by the judicial board;
   - Failure to respect the dignity and privacy of fellow Bergen Community College members by disclosing confidential information obtained during participation in a conduct board hearing; or
   - Influencing or attempting to influence another person to commit and abuse the Student *Code* of Conduct.

D. Actions Detrimental to the College Community

Students are required to honor and value their community in all their dealings and interactions. Behavior that demonstrates a lack of Community includes, but is not limited to:

1. Damage to or littering the College grounds and/or properties owned or leased by the College or a registered student organizationincluding, but not limited to:
   - Misuse of access privileges to College premises or unauthorized entry to or use of buildings, including trespass;
   - Violating the No Smoking policy;
   - Driving motor vehicles on lawn or grounds without permission;
   - Failure to clean up sidewalk chalk;
   - Failure to maintain an organization's facilities and/or surrounding property; or
   - Vandalism, the causing of damage to the property of another or to the College;
2. Unauthorized entry or use of the College property including the possession, use, or duplication of keys or other methods of controlled access such as ID or access cards or *code*s.

3. Intentional and unauthorized taking of the property of the College or personal property of a member of the College community.
4. 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 is not limited to:
   - Unruly classroom behavior;
   - Obstruction of the free flow of pedestrian or vehicular traffic on College premises or at College sponsored or supervised functions;
   - Participating in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of the College and/or infringes on the rights of other members of the College community; or
   - Leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
5. Inappropriate use of College computing resources as stated in the Policy on Information Technology, including misuse of the College computing facilities, equipment, network, passwords, accounts or information. Students who connect their personal computers to the campus network will be held responsible for any violation of this policy that originates from that computer. Examples of misuse include:
   - Use of computing facilities to send harassing or abusive messages;
   - Use of computing facilities to interfere with the work of other community members;
   - Unauthorized access to a file or personal or group account;
   - Use of computing facilities to interfere with normal operation of the College computer system;
   - Anonymous or forged network news articles or E-mail messages;
   - Disk usage over the allotted limit without prior approval;
   - Unauthorized transfer of a file;
   - Unauthorized use of another individual's identification and password;
   - Making copies of copyrighted computer software when no written authority to copy the software has been granted, or
   - Gambling
6. Constructive or actual possession and/or illegal use of firearms, other potentially dangerous items that may be used as weapons (including, but not limited to BB/pellet guns, slingshots, and sharp edged instruments, such as hatchets when used as weapons) and/or inherently dangerous or explosive materials including fireworks. Boxcutters, if required for class, will be maintained in the classroom by the instructor (as should similarly intended supplies).
7. Having animals on campus except as may be required for a class or as service animals.

E. Actions Exhibiting a Lack of Respect for Fellow Students, Property, Faculty and/or Staff

Students are required to show respect for each other, for property and for the community in all their dealings. Behavior that demonstrates a lack of respect includes, but is not limited to:

1. Assault or attempted assault, which may include hazing, physical abuse or injury of any individual.
2. 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).

3. Discriminatory harassment including speech, actions or conduct which has the effect of depriving a member of the community of educational or employment access, enjoyment, benefits or opportunities.
   - For offensive or annoying behavior to rise to a 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 gender, race, color, religion, age, national origin, ethnicity, disability, veteran's status, sexual orientation, and pregnancy status.
4. Bullying is prohibited at the College. The State of New Jersey defines bullying as: activities of harassment, intimidation, or bullying which includes any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably, perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A..18A:37-15.3 that substantially disrupts or interferes with the orderly operation of the school or the rights of other students.
5. Bullying by electronic communication is also prohibited by the College. The State of New Jersey defines "electronic communication" as a means a communication transmitted by means of any electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager. Violations of this *Code* may result in college suspension, college expulsion, withholding a degree, revocation of admission and/or degree .

State of New Jersey's Anti-Bullying Bill of Rights Act

In compliance with the State of New Jersey's "Anti-Bullying Bill of Rights Act", the College will maintain zero-tolerance towards behavior involving harassment, intimidation, and/or bullying of any kind that is directed to students, members of the College community, and/or visitors. Harassment, intimidation and/or bullying includes but is not limited to any gesture, written, verbal or physical act, or any electronic communication that targets another individual and/or that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on or with college property or at any College sponsored function. A reasonable person should know, under the circumstances, that the above identified behavior will have the effect of physically or emotionally harming a student, staff person or visitor or damaging the student, staff person or visitor's property, or placing a student, staff person or visitor in reasonable fear of physical or emotional harm to his/her person or damage to his/her property; or has the effect of insulting or demeaning any student or group of students, staff person or visitor in such a way as to cause disruption in, or interference with, the orderly operation of the College; or creates a hostile

environment for the student, staff person or visitor at the College; or infringes on the rights of the student, staff person or visitor at the College.

> *To report any form of bullying, students must contact the Dean of Student Life and Judicial Affairs immediately. Contact information is available by accessing the online staff directory and/or by visiting the Office of Student Life and Judicial Affairs located in Pitkin Building—A115 in the Paramus Campus.*

5. Hazing, which includes behavior that endangers the mental or physical health of a student as a condition for initial or continued affiliation with any group, regardless of either the lack of intent to endanger the student or the student's own willingness to participate. The expressed or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts and constitute violations of this rule.
6. Domestic Violence which includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim on the basis of an intimate relationship between the two, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
7. Dating Violence means violence committed: (a) by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship will be determined in consideration of the following factors:
   - The length of the relationship;
   - The type of relationship; and
   - The frequency of interaction between the persons involved in the relationship.
8. Stalking which includes engaging in a course of conduct directed toward a specific person that would cause a reasonable person to: (a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress. Stalking is defined as repetitive, menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or c) disregarding the safety of a person's immediate family members or community with the intent of annoying or alarming that person or placing that person in reasonable fear for his/her safety.
9. Sexual misconduct, including:
   A. Sexual Harassment
      - unwelcome, gender-based verbal or physical conduct that is,
      - sufficiently severe, pervasive and objectively offensive so that it,
      - unreasonably interferes with, limits or deprives someone of the ability to participate in or benefit from the College's education program and/or activities, and is
      - based on power differentials (quid pro quo), that creates a hostile environment, or retaliation.
      - *Examples include:* an attempt to coerce an unwilling person into sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence;

intimate partner violence, stalking; gender-based bullying.

B. Non-Consensual Sexual Contact:
- any intentional sexual touching,
- however slight,
- with any object,
- by one person upon another person
- that is without consent and/or by force.
- *Examples include:* Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact of a sexual manner.

C. Non-Consensual Sexual Intercourse
- any sexual intercourse
- however slight,
- with any object,
- by one person upon another person
- that is without consent and/or by force.
- Intercourse includes: Vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

D. Sexual Exploitation
- Occurs when a student takes non-consensual or abusive sexual advantage of,
- Another for his/her own advantage or benefit,
- Or to benefit or advance anyone other than the one being exploited,
- And that behavior does not otherwise constitute one of other sexual misconduct offenses.
- *Examples include:* invasion of sexual privacy; prostituting another student; non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); engaging in voyeurism; knowingly transmitting a sexually transmitted disease or the Human Immunodeficiency Virus to another student; exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; sexually-based stalking and/or bullying may also be forms of sexual exploitation.

E. The Use of Force and Coercion:
- Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want.")
- Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

F. Incapacity of the Victim:
- Sexual activity with someone who one knows to be, or based on the circumstances should reasonably have known to be, mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout),

constitutes a violation of this policy.
- Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction).
- This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at http://www.911rape.org/.
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- Any act of a sexual nature, such as but not limited to,sexual harassment, non-consensual sexual contact and/or intercourse, is not allowed on college premises.
- or any substance used to incapacitate an individual. For information on rape drugs visit: http://www.911rape.org/.

G. Lewd or obscene conduct:
- Public urination
- Sexual acts performed in public
- Surreptitiously taking pictures of another person in a gym, locker room, or restroom
- Streaking
- Possession or distribution of pornographic material
- Possession or distribution of any obscene materials, as defined by the standards of the College community.

H. The Defense of Consent:
- Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Consent is only effective if given by an individual must be of legal age, 18 years or older.
- There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The use of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non –consensual, but non-consensual sexual activity is not by definition forced.

10. Inappropriate conduct, which is disorderly, disruptive, or indecent while on campus or at functions sponsored by, or participated in by, the College.
11. Failure to follow procedures for College events held on or off-campus.
12. Verbal assault or abuse to, 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.

13. Failure or refusal to produce a College identification card upon demand by a security officer or other official of the College acting on his/her official capacity or an officer of the law.
14. Violation of any College policy, rule, or regulation published in hard copy or available electronically on the College website.
15. Smoking in any College building or areas designated as non smoking. Bergen Community College is a smoke free campus.

F. Reckless, Irresponsible and Criminal Conduct

Students are given and required to accept a high level of responsibility as role models in all their dealings. Behavior that demonstrates a lapse of responsibility includes, but is not limited to:

1. Intentionally or recklessly causing a fire which damages the College or personal property, or which causes injury to any member of the community.
2. Failure to follow fire safety procedures.
3. Misusing, damaging or tampering with fire safety equipment.
4. Intentionally or recklessly obstructing a fire exit in any College building.
5. Failure to comply with the directions of College officials and/or failure to identify oneself to these persons when requested to do so.
6. Failure to discourage a known and obvious violation of the College policy or public law; Assisting in violation of the College policies or public laws.
7. The knowing failure of any organized group to exercise preventive measures relative to violations of this *Code* by members.
8. Use, possession, manufacture, sale, purchase, transportation, and/or distribution of alcoholic beverages while on College premises. Use, possession, manufacture, sale, purchase, transportation, and/or distribution of narcotics, or other controlled dangerous substances, as well as drug paraphernalia, and/or abuse of prescription medications and drugs. For the purposes of this *Code*, distribution is determined by the quantity of drugs, means and materials for distribution. Please see the full policy on illicit drugs in The Student Handbook.
9. Operating a business. State property or facilities may not be used for personal profit, sale, and/or solicitation. Use of any facilities is prohibited unless participating in a College sanctioned event. This includes, but is not limited to, the commercialization of rooms or participation in a plan for the use of any space for gambling or to solicit students or patrons for private businesses.
10. Violation of federal, state or local laws.

VI. Statement of the Rights of the Victim

The following is a non-exclusive list of rights that belong to any victim. The following list is intended to supplement any and all other rights that a victim may have at law and is not intended to replace or supercede any legal rights.

- The right to an investigation and resolution of all credible complaints of sexual misconduct made in good faith to College administrators.
- The right to be treated with respect by College officials.
- The right to have the same opportunity to have others present (in support or advisory roles) during a hearing before the judicial board. Please be advised that the Respondent also has this right.
- The right not to be discouraged by College officials from reporting an assault to both

on-campus and off-campus authorities.

- The right to be informed of the outcome and sanction of any hearing before the Judicial Board involving sexual assault, usually within twenty-four (24) hours of the end of the hearing.
- The right to be informed by College officials of options to notify proper law enforcement authorities, including campus and local police and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report an incident at the victim's descretion.
- The right to be notified of available counseling, mental health or student services for survivors of sexual assault, both on campus and in the community.
- The right to receive notification of all reasonably available assistance in changing academic situations after an alleged sexual assault incident, if so requested by the victim (no formal complaint or investigation, campus or criminal, need occur before this option is available).

  Accommodations may include but are not limited to:
  - Change of an on-campus student to a different on-campus location;
  - Assistance from College support staff in completing the relocation;
  - Rescheduling of exams or term papers;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary leave;
  - Alternative course completion options.
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing.
- The right ***not*** to have any complaint of sexual assault mediated (as opposed to adjudicated).
- The right to make a victim-impact statement at the Student Conduct Hearing and to have that statement considered by the Community Standards Review Board during determinations.
- The right to a campus no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others.
- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by campus law enforcement.
- The right to appeal a determination of the Community Standards Review Board in accordance with the standards for appeal established by the College.
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least forty-eight (48) hours prior to the hearing.
- The right to be informed of the names of all witnesses who will be called to give testimony, within forty-eight (48) hours of the hearing, except in cases where a witness' identity will not be revealed to the respondent for compelling safety reasons (this does not include the name of the victim/complainant, which will always be revealed).
- The right to preservation of privacy, to the extent possible and allowed by law.
- The right to a hearing closed to the public.
- The right to petition that any member of the Community Standards Review Board be removed on the basis of demonstrated bias.
- The right to bring a victim advocate or advisor to all phases of the investigation and Student Conduct Hearing.
- The right to the assistance of an advisor of his/her choice. The advisor may not be an

attorney, a member of the student's family or anyone outside the College community. The advisor does not address the Community Standards Review Board or speak for the student at any time during the hearing. The advisor and student may confer during the hearing. The advisor's role is to assist the student in understanding and clearly responding to the committee's questions and in making the points related to his/her case. The advisor also may assist the student in preparing his/her opening statement for the hearing. The advisor's intended role should not be solely moral support.

- The right to give testimony in a hearing before the Community Standards Review Board by means other than being in the same room with the Respondent.
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses.
- The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint.
- The right to have the College compel the presence of student, faculty and staff witnesses, and the opportunity (if desired) to ask questions, directly or indirectly, of witnesses (including the respondent), and the right to challenge documentary evidence.
- The right to be present for all testimony given and evidence presented before the conduct body.
- The right to a hearing panel comprised of representatives of both genders.
- The right to have the College policies and procedures followed without material deviation.
- The right to be informed in advance of any public release of information regarding the complaint.
- The right not to have released to the public any personally identifiable information about the complainant, without his or her consent.

VII. Statement of the Rights of the Victim of Sexual Assault (in accordance with the Campus SaVE Act of 2014)

NEW JERSEY CAMPUS
SEXUAL ASSAULT VICTIM'S
BILL OF RIGHTS
(PURSUANT TO P.L. 1994 CHAPTER 160)

A College or University in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the College community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault and non-consensual sexual contact, respect for the individual and human dignity are of paramount importance.

The State of New Jersey recognizes that the impact of violence on its victims and the surrounding community can be severe and long lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to ensure that the needs of victims are met and that the Colleges in New Jersey create and maintain communities that support human dignity.

Bill of Rights

The following rights shall be afforded to victims of sexual assault that occur:

- On College Campus, and
- Where the victim or alleged perpetrator is a student of the College, and/or
- When the victim is a student involved in an off-campus sexual assault

1. The right to be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy.

2. The right to have any allegations of sexual assault treated seriously; the right to be treated with dignity.

3. The right to be free from any suggestions that victims are responsible for the commission of crimes against them.

4. The right to be free from any pressure from campus personnel to:
   - Report crimes if the victim does not wish to do so
   - Report crimes as lesser offenses than the victim perceives the crime to be
   - Refrain from reporting crimes
   - Refrain from reporting crimes to avoid unwanted personal publicity.

5. The right to be notified of existing campus and community based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reporting to campus or civil authorities.

6. The right to have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling.

7. The right to be informed of and assisted in exercising:
   - Any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy
   - Any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

8. The right to be afforded the same access to student conduct procedures as the Respondent.

9. The right to be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed to the respondent.

10. The right to be notified of the outcome of the sexual assault disciplinary proceeding against the respondent.

11. The right to require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailant(s).

12. The right to be notified of the options for and provided assistance in changing academic situations if such changes are reasonably available.

Legal Rights

13. The right to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported
14. The right to receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities
15. The right to receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault

What actions can be taken following sexual assault?

- **Medical**
  If a sexual assault occurs, it is advisable not to bathe, shower, douche, change clothing, eat, drink, smoke, or urinate immediately. It is advisable to seek a medical examination quickly to collect evidence, should the victim wish to take legal action presently or in the future. Immediate medical attention is also important for physical injuries, sexually transmitted diseases and pregnancy.

  It is also advisable to have an HIV test done separately from the medical exam, at an HIV Testing site, where HIV tests are done confidentially, anonymously, and free of charge.

- **Emotional**
  Counseling can be obtained to help the victim to deal with the emotions and to regain a feeling of control over one's life.

- **Legal/Disciplinary**
  Criminal charges can be filed through the municipality where the assault occurred. A College complaint invoking the *Code* can be filled with the Office of Judicial Affairs. Both criminal and college processes may be used simultaneously.

In order for the victim to regain a feeling of control over her/his life, it is very important that the victim make the decisions about reporting, medical attention, and counseling. Bergen Community College is committed to making information available so that students can make informed decisions. Talking with someone about the assault does not commit the student to further actions.

Information About Title IX

Title IX is a portion of the Educational Amendments of 1972 (and it's implementing regulation at 34 C.F.R. Part 106). Title IX is a federal law which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The College does not deny or restrict a student or employee from participating in a program on the basis of sex or gender. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking. Title IX applies to students, staff, faculty, visitors (including minors) and business vendors at the College. Title IX applies to sex discrimination and/or sexual violence which occurs on campus, at College-sponsored events and programs held off-campus and protects against behavior or conduct that may adversely affect the educational environment for members of the College.

The College's Title IX Coordinator is Dr. Naydeen Gonzalez-De Jesus, Vice President of Student Affairs, Pitkin Education Building, Room A-310, ext. 1577.

VIII. Statement of the Rights of the Respondent

- The right to be present at the hearing.
- The right to be informed of the supporting documents against him or her.
- The right to have adequate opportunity to rebut the documentation.
- The right to present documentation on his or her behalf.
- The right to bring to the hearing a maximum of three witnesses who directly observed the incident. Written, signed and dated statements from any additional witnesses will be accepted in advance of the hearing.
- The right to the assistance of an advisor of his or her choice. The advisor may not be an attorney, a member of the student's family or anyone outside the College community. The advisor does not address the hearing panel or speak for the student at any time during the hearing. The advisor and student may confer during the hearing. The advisor's role is to assist the student in understanding and clearly responding to the committee's questions and in making the points related to his or her case. The advisor also may assist the student in preparing his or her opening statement for the hearing. The advisor's intended role should not be solely moral support.
- The Hearing Panel must conduct the hearing in an impartial manner that shall not be unduly restricted by the legal rules of procedure, evidence and/or discovery.
- If two or more individuals are involved within the same complaint, individual hearings must be permitted when requested by the student.
- If the respondent desires, he or she may submit a written, signed and dated personal statement in advance of the hearing.

IX. Procedures Under this Code

1. Filing A Complaint

A complaint against a student for violations of this *Code* may be made in writing by anyone who feels this *Code* has been violated. A complaint should be made as soon as possible following the incident. A Complaint Form is available in the Public Safety Office. The complainant should include as much detail of the alleged violation as possible and to the degree possible include specific references to that part of this *Code* that pertains to the complaint.

Complaints can also be made online via Maxient, a web based conduct software management system. Once a incident is reported via Maxient the Office of Student Conduct receives the complaint electronically and will contact the involved parties to set up a meeting. Please note that if any information is left blank on the reporting form i.e. reporting student's name, and/or contact information the Office of Student Conduct may not be able to fully investigate the complaint. Information regarding Maxient can be found on the Office of Student Conduct web page and a link to the reporting form is
https://publicdocs.maxient.com/reportingform.php?BergenCC&layout_id=1

The Student *Code* of Conduct process is different from criminal and civil court proceedings. Procedures and rights in proceedings under this *Code* are conducted with fairness to all, but do not include the same process afforded by the Courts.

The complaint should include:

- Complainant's name, address and telephone number.
- The name of the person who is accused with 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.

2. Initial Investigation

Upon receipt of a complaint or College police report, the Dean of Student Life & Conduct will inquire as to the circumstances surrounding the event in question to determine whether there are sufficient grounds to believe that a violation of this *Code* occurred. The Dean of Student Life & Conduct or designee will schedule conferences and obtain a written statement from the complainant, respondent, witnesses and/or other persons directly involved in the incident.

- Based upon the sufficiency of the complaint or report filed, the Dean of Student Life & Judicial Affairs or designee may investigate the circumstances surrounding the incident in question and determine whether it warrants an administrative hearing with the Dean of Student Life & Judicial Affairs and/or his designee, a hearing before the judicial board or referral to the appropriate student conduct process within the College. If the Dean of Student Life & Judicial Affairs determines the complaint does not warrant further action, the matter will be closed. Such determinations are appropriate where the complained conduct does not violate this *Code*, and/or when there is insufficient evidence to support a reasonable belief that this *Code* has been violated.
- **Interim Suspension** – Pending the completion of the Dean's investigation and subsequent hearing process, the Dean of Student Life & Judicial Affairs is authorized to place an accused student on interim suspension for reasons related to his or her physical or emotional safety and well-being, to protect the integrity of the investigation, pending the outcome of a psychological or medical assessment and/or for reasons relating to the safety and well-being of students, faculty, staff, or College property. In some cases, the accused student may be permitted to attend classes but be suspended from all other campus activities. This determination will be made by the Dean of Student Life & Judicial Affairs and/or his designee based upon his/her knowledge of the potential threat posed by the accused student's presence on campus. Whenever such action is taken, a hearing before the judicial board will be convened within ten (10) business days, unless an extension is agreed upon. The hearing process is outlined below. At the time of an interim suspension, a Temporary Campus-Wide Notice of No Trespass may be issued. These documents identify campus locations and events as off limits to the accused student until further notice.

  Subject to the availability of the respondent, the Dean of Student Life & Judicial Affairs or designee will conduct a pre judicial hearing conference prior to imposing an interim suspension. If the student is not available, an interim suspension may be imposed for the safety and security of the student or others until such time the accused student becomes available. At the pre judicial hearing conference, the accused student will be given the opportunity to demonstrate to the Dean of Student Life & Judicial Affairs or designee a compelling reason (e.g. mistaken

identity) why he/she should not be interim suspended pending a hearing before the judicial board.

- **No-Contact Order** – The Dean of Student Life & Judicial Affairs may impose a limited or 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, e-mail, instant message or telephone. Friends and relatives are also prohibited from contact on behalf of either party.
- ***Notification*** – If the Dean of Student Life & Judicial Affairs or designee determines there is reasonable cause to believe that a violation of this *Code* has occurred, the accused student will be notified in writing upon receipt of the complaint. The notification time may be longer if necessary to complete the investigation. This written notice will include:
  - The complaint identifying sections of this *Code* at issue and sanctions that may result;
  - A copy of this *Code* and procedures applicable to the complaint;
  - A request that the accused student provide a written explanation of the incident (if no prior statement was obtained); A directive to contact the Office of Judicial Affairs to schedule a Student Conference.
- **Student Conduct Conference –** The Student Conduct Conference will be administered as follows:
  A. The Dean of Student Life & Conduct or his/her designee will conduct a pre-hearing conference ("Student Conduct Conference") with the respondent.
  B. At the Student Conduct Conference the Respondent will:
     - Be informed of the information provided to date by the complainant and other persons;
     - Be given an opportunity to raise questions and discuss the information;
     - Be given the opportunity to admit the allegations and accept responsibility for the violation(s);
     - Be given the opportunity to deny the allegations;
     - Be informed of the process and possible remedies and sanctions that may result.

  C. As a result of the Student Conduct Conference, the Dean of Student Life & Conduct or his/her designee may:
     - Dismiss the complaint;
     - Refer the complaint to the Health and Wellness Office for personal counseling for appropriate follow up including mediation with the complainant;
     - Refer the complaint to the appropriate administrative process within the College;
     - Resolve the complaint informally or impose a remedy and/or sanction that does not warrant suspension or expulsion;
     - If the accused student does not agree with the decision made at the Student Conduct Conference, the student has the right to appeal the decision to the next level administrator within three (3) business days of receipt of the decision letter. The appeal process will be given in writing at the time of the decision letter.
     - Determine that a hearing before the judicial board is appropriate. The Dean of Student Life & Judicial Affairs may then refer the matter for a Hearing within ten (10) business days.

3. Student Conduct Hearing

otification of a hearing before the Community Standards Review Board will be provided by the Dean of Student Life & Conduct or his/her designee to the complainant and the Respondent student by regular mail to the student's address of record, and student's official email address @me.bergen.edu account. Delivery is considered to be confirmed when it is sent to the student's account. It is the responsibility of the student to check his/her College email.

The notice will include:

- The name of the complainant;
- The nature of the complaint, including the specific *code* sections alleged to have been violated, applicable conduct procedures and the sanctions that may result;
- The time and place of the hearing. All hearings before the judicial board will be scheduled during regular business hours. (9 a.m. – 5 p.m.);
- Notice of the right to have witnesses. It is the responsibility of the complainant and the respondent **to contact his/her witnesses** and arrange for their participation. All student witnesses are required to complete and sign a Family Rights and Privacy Act (FERPA) form. No less than forty-eight (48) hours prior to the hearing, the complainant and Respondentstudent must provide a list of witness names and a statement of their witness' anticipated testimony if a prior statement has not been given to the Dean;
- Notice of the right to have an advisor. (The advisor may not be a witness at the hearing or otherwise participate in the hearing.);
- Notice of the right to present relevant information;
- The names of others who will be present at the hearing (if known), including the names of the hearing officers;
- Notice that a Document File compiled by the Office of Student Conduct with statements from the complainant, respondent and witnesses and any other documentary information will be available to the respondent, the complainant and their advisors for review at least three (3) days prior to the Student Conduct Hearing. An appointment is required to review the Document File. Copies may be made available upon specific request. .

Students should note that disciplinary action may be taken, and sanctions may be imposed, if they fail to attend the Student Conduct Conference or any subsequent hearing. Students who fail to appear after being provided with notice will be deemed to have **pled not responsible to the pending charges**.

A student may submit a written request setting forth good cause to postpone the hearing. Except in emergency situations, no written request for a postponement will be considered unless received at least three (3) business days before the hearing.

Members of the Community Standards Review Board

Hearings before the hearing board for violations of this *Code* will be conducted by a trained member(s) of the College faculty, staff, or consultant designated by the Office of Student Conduct.

Conduct Of The Hearing

The hearing panel shall consist of not less than three (3) nor more than five (5) members of the Conduct Board, which panel shall listen to the proofs presented by the Chief Conduct Officer, any documentation submitted by the Chief Conduct Officer, and shall

hear the testimony of witnesses, including, but not limited to, the respondent. After hearing all of the necessary testimony and reviewing all of the necessary documents, the hearing panel shall determine whether the respondent is responsible for the charged violation. If the hearing panel determines that the Respondent is responsible for the charged violations, then the Chief Conduct Officer shall advise the hearing panel of the appropriate sanctions that should be imposed upon the student. The hearing panel shall then determine what sanctions should be imposed after hearing presentation from the Chief Conduct Officer. If the hearing panel finds the rspondent is not liable for the charged conduct the matter shall be closed.

The hearing will be closed to all members of the campus and outside community except for those directly involved with the complaint. The complainant or victim and the Respondent each have the right to be assisted by an advisor of their choice who is not a witness in the complaint. If the victim of the alleged act of misconduct is not the complainant, the Hearing Officer may also allow the victim to attend. An advisor may be present to advise only and may not participate. Advisors who interfere with the proceedings can be excused by the hearing officer. Only persons involved in the hearing process will be permitted in the vicinity of the hearing.

An audio recording of the hearing, but not the closed deliberations of the Judicial Board, will ordinarily be made and kept by the Office of Student Conduct. If the recording is not made for any reason, the decision of the Hearing Panel will include a summary of the testimony and shall be sufficiently detailed to permit review by the Dean of Student Life & Conduct.

It is expected that participants and advisors will respect the dignity and privacy of each member of the College Community and keep private that which transpires during the hearing, in accordance with federal law.
Student witnesses, when called by the College on behalf of the Complainant, the Respondent, or the College, are required to participate in the hearing process.

The hearing process will be conducted in the following manner:

1. All participants and advisors will be introduced to the Board Chair.
2. The Chief Conduct Officer will recite the complaint against the student and all *code* sections alleged to have been violated.
3. The Respondent will state whether he/she is responsible, not responsible for the Respndent conduct or not or whether he/she is responsible with an explanation for the alleged misconduct. Responsible with an explanation means the student admits to the cunduct but believes there were circumstances that should be taken into consideration by the hearing panel in the determination of the merits of this complaint.
4. Statements regarding their respective positions may be given by the complainant and the respondent. The hearing panel may place reasonable time limitations on these statements.
5. The College reserves the right to assign a representative of the Office of Student Conduct to present the complaint against the respondent.
6. Relevant records, documents, and written statements may be accepted and considered by the hearing panel. The rules of evidence applicable to the courts do not apply to these proceedings.
7. The Complainant and the Respondent may be present throughout the entirety of the

proceeding, except for the deliberation phase. The Complainant, the Respondent and the Office of Student Conduct representative will be able to present witnesses, who will be subject to cross examination. Witnesses will be asked to affirm that their testimony is truthful and may be subject to charges of intentionally providing false information to the College. Witnesses will be asked to remain until the end of the hearing in the event they must be called back for clarification of their testimony. In the event that a witness is unavailable, a signed statement from the witness may be admitted. Any such statements will be shared with the parties prior to the hearing, and the Respondent student will be given full opportunity to respond to the written statement at the hearing.

8. Witnesses will appear separately and will leave the hearing room after their testimony is completed. Witnesses are not permitted to leave the vicinity of the hearing room until permission has been granted by the Chief Conduct Officer, and are instructed not to communicate with other witnesses outside the hearing during the proceedings.
9. All parties may question each other and the witnesses, and the Chief Conduct Officer or other member of the hearing panel may direct questions as appropriate to any participant. The Complainant and the Respondent may present concluding remarks. The hearing panel may place reasonable time limitations on these statements.
10. At the conclusion of the hearing the Chief Conduct Officer will advise the Complainant and the Respondent that the hearing panel's determination will be given in writing to the appropriate parties within ten (10) business days.
11. After the hearing, the Hearing panel will retire for closed deliberations. The hearing panel's deliberations will not be recorded or transcribed. The hearing panel's determination will be based upon an evaluation of the information presented and a decision as to whether this *Code* was more likely than not to have been violated. The determination of the hearing panel concerning each charge will be supported by a brief written summary of its findings. This written summary will be placed in the case file and made available to the parties.
12. Once the determination of the hearing panel has been made, the Complainant will not be notified of the outcome of the hearing EXCEPT in cases of violence or sexual misconduct.
13. For each violation, the hearing officer will impose an appropriate remedy and/or sanction. The Respondent's prior student conduct record will be a factor in determining the appropriate sanction(s), if necessary.
14. The Dean of Student Life & Conduct or his/her designee may implement changes to these proceedings as needed that do not jeopardize the material fairness owed to the parties to any complaint.

Remedies And Sanctions

A. The following remedies and sanctions may be imposed when respondents have been found responsible for violation of this *Code*. In addition, other remedies and sanctions may be fashioned at the discretion of the hearing officer:
   1. ***Written Warning***- to the offender that the conduct must stop and any continuation may be a basis for more severe action.
   2. ***Probation***- Notice that further violation of this *Code* may result in expulsion. Also, the decision may place some additional restrictions on membership in student organizations and/or participation in activities or may establish special restitution and service requirements.
   3. ***Suspension***- revocation of the privilege of attending the College and using its

facilities for a period of not less than one semester and not more than two academic years.
4. ***Facilities Restriction***- Revocation or restriction of privileges for the use of some but not all College facilities
5. ***Expulsion***- Permanent termination of student status and rights to be present on College property and attend/participate in College-sponsored events
6. ***Referral to civil or criminal authorities.***

Any of the following may accompany a remedy and sanction.
1. ***Restitution*** requiring individuals to restore or replace within a specified time, property which has been damaged, defaced, lost or stolen.
2 ***Service assignment*** requiring an individual to perform services for the community or the College
3. ***Referral*** to appropriate psychological or psychiatric service for evaluation, mandated assessment, or other special help.
4. ***Fines*** for drug and alcohol violations as outlined in the Student Handbook.
5. ***Campus-Wide Notice of No Trespass*** will accompany a sanction of suspension or expulsion from the College.
6. ***Campus-Wide No Contact Order***: The Dean may impose 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 Campus-Wide No-Contact Order outlining to all parties the expected behavior including face to face contact, correspondence, e-mail, instant message or telephone. Friends and relatives are also not permitted to have any contact on behalf of either party.

B. Underage students found in violation of the College's Alcohol Policy and/or sanctioned for the possession or distribution of illegal drugs will be subject to the College parental notification policy. (See FERPA Policies and Procedures in the Student Handbook). In addition, the College reserves the right, in accordance with the Family Education Rights and Privacy Act of 1974 (FERPA), to make public notification of the final results of certain student conduct actions (See FERPA Policy in The Guide). Such notification may include the name of the student offender and the type of violation, but will not disclose the names of any other students who were involved as victims or witnesses without their consent.

4. Appeal Procedures
Procedures to Appeal the Hearing Panel's Determination

A. Where the Respondent is found responsible for a violation of this *Code* that may lead to a sanction less serious than suspension or expulsion, the student can appeal in writing to the Vice President of Student Affairs or his/her designee within three (3) business days of receipt of the hearing panel's determination. The student will have the right to request a final review based on any of the following grounds:
   1. A sanction that is substantially disproportionate to the severity of the violation.
   2. A material deviation from written procedures that jeopardized the fairness of the process.
   3. A demonstrable bias by a member(s) of the hearing panel.
   4. New information, unavailable at the time of the hearing, that could be outcome determinative.

B. In the case of suspension or expulsion, the student can appeal in writing to the Vice President of Student Affairs or his/her designee within three (3) business days of the

receipt of the hearing panel's determination.

C. In the case of suspension or expulsion, the student will not be permitted to be on campus or attend classes pending the outcome of the appeal unless implementation of the sanction is delayed by the Vice President of Student Affairs and/or his/her designee due to extraordinary circumstances.

Appeal Of Suspension/Expulsion To The Vice President of Student Affairs

The request for review of an appeal will be considered by the Vice President of Student Affairs or his/her designee to determine whether grounds for an appeal exist. The student will have the right to request an appeal based on any of the following grounds:

1. A sanction that is (substantially) disproportionate to the severity of the violation.
2. A material deviation from written procedures that jeopardized the fairness of the process.
3. A demonstrable bias by a member(s) of the board.
4. New information, unavailable at the time of the hearing, that could be outcome determinative.

Standard of Review for Appeals

1. The Vice President of Student Affairs or his/her designee will review the written request for an appeal within five (5) business days of receipt to determine whether there is sufficient basis to grant an appeal. If so, he/she will proceed to hear the appeal, or return the complaint to the original hearing body for reconsideration or rehearing in light of the basis for the appeal.
2. If the Vice President of Student Affairs and/or his designee determines that there is not a sufficient basis to change the decision of the hearing officer, the student will be notified in writing within five (5) business days.
3. Appeals are deferential to the original hearing determination, and are not intended as a rehearing. If the Vice President of Student Affairs or his/her designee hears the appeal, he/she may determine that there is a sufficient basis to change the determination of the hearing panel if there is clear error or compelling justification, only. If so, he/she may reverse, sustain or modify the decision, or change the sanction. Normally, appeals involve a review of the hearing record and appeal request. At the discretion of the Vice President of Student Affairs or his/her designee, the parties, witnesses or written documentation may be interviewed/reviewed as necessary to assure fairness.
4. The decision of the Vice President of Student Affairs and/or his/her designee will be final.

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