

**The College of New Jersey
Board of Trustees
August 11, 2020
12:30 pm
Via Zoom Webinar**

Minutes of the Public Meeting Agenda

Present: Susanne Svizeny, Chair; Rebecca Ostrov, Vice Chair; Robert Altman; Carl Gibbs; Eleanor Horne; Rosie Hymerling; Brian Markison; Nicollette Simon, Alternate Student Trustee; Allen Silk; Tammy Tibbetts; Treby Williams; Christopher Driscoll, Student Trustee; David Prensky, Faculty Representative to the Board; Lynette Harris, Staff Representative to the Board; Crystel Maldonado, Staff Representative to the Board; Kathryn Foster, President; Heather Fehn, Chief of Staff and Secretary to the Board of Trustees

Not Present: Geralyn Altmiller, Faculty Representative to the Board

I. Announcement of Compliance

Chair Svizeny read the following into the record:

A. *It is hereby announced and recorded that the requirements of the Open Public Meetings Act as to proper notification as to time and place of meeting have been satisfied.*

II. New Business

A. Report of the Executive Committee

1. Resolution Approving a Revised Use of Campus Property Policy – Attachment A

It was moved by Ms. Hymerling, seconded by Mr. Markison, that the resolution be approved. The motion carried unanimously.

B. Report of the Mission Fulfillment Committee

1. The College of New Jersey Board of Trustees Resolution Approving the Interim Sexual Harassment, Misconduct and Discrimination Policy – Attachment B

It was moved by Ms. Hymerling, seconded by Dr. Altman, that the resolution be approved. The motion carried unanimously.

2. The College of New Jersey Board of Trustees Resolution Approving the Revised Student Code of Conduct – Attachment C

It was moved by Ms. Ostrov, seconded by Maj. Gen. Falca Dodson, that the resolution be approved. The motion carried unanimously.

C. Report of the Business and Infrastructure Committee

1. Resolution Approving The College of New Jersey Fiscal Year 2021 GSF/Capital Fee Modification – Attachment D

It was moved by Mr. Silk, seconded by Ms. Horne, that the resolution be approved. The motion carried unanimously.

III. Adjournment

It was moved by Ms. Ostrov, seconded by Mr. Markison, that the resolution be approved. The motion carried unanimously.

Be It

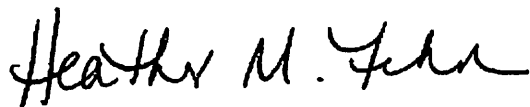
Resolved: That the next public meeting of The College of New Jersey Board of Trustees will be held on Tuesday, October 27, 2020 at a time and location to be announced.

Be It

Further

Resolved: That this meeting be adjourned.

Respectfully Submitted,

A handwritten signature in black ink, reading "Heather M. Fehn". The signature is written in a cursive, flowing style.

Heather M. Fehn
Chief of Staff and
Secretary to the Board of Trustees

**The College of New Jersey
Board of Trustees
Resolution Approving a Revised Use of Campus Property Policy**

- Whereas: The Board of Trustees has the authority to determine policies for the organization, administration and development of the College; and
- Whereas: The College owns, operates, maintains and administers lands, buildings and facilities that it owns, leases or operates (the “Campus”) for use by faculty, students, staff, alumni and invitees; and
- Whereas: The College comprises a diverse community of learners dedicated to free inquiry and open exchange, to excellence in teaching, creativity, scholarship and citizenship, and to the transformational power of education; and
- Whereas: The College acknowledges the vital educational value of constitutionally protected speech, peaceable assembly and expression; and
- Whereas: The College recognizes the need to ensure the safety and security of the Campus and to operate, maintain and administer the Campus in fulfillment of the College’s mission; and
- Whereas: The College has a policy regulating the use of Campus property, which was approved by the Board of Trustees on April 17, 2012 (the “2012 Use of Campus Property Policy”); and
- Whereas: In accordance with the Policy Framework, the College periodically reviews and revises policies; and
- Whereas: The 2012 Use of Campus Property Policy has been reviewed through the College governance process; and
- Whereas: The College has made suggested revisions to the 2012 Use of Campus Property Policy (as amended with such revisions, the “Use of Campus Property Policy”); and
- Whereas: The Vice President for College Advancement and the President have reviewed the Use of Campus Property Policy and recommended its approval; and
- Whereas: The Executive Committee of the Board of Trustees received a presentation on the Use of Campus Property Policy on August 4, 2020, and has recommended its approval by the Board.

Therefore, be it resolved that: The attached Use of Campus Property Policy is hereby approved and replaces and supersedes the 2012 Use of Campus Property Policy; and

Be it further resolved: The President and other officers of the College be and are hereby authorized to take such actions and prepare such documents as may, in their judgment, be necessary or desirable to implement the Use of Campus Property Policy.

Section:	VII.1.7	
Title:	Use of Campus Property Policy	
Effective Date:	August 11, 2020	
Approved By:	Board of Trustees	
Responsible Unit:	College Advancement (609) 771-2393	
Related Documents:	<ul style="list-style-type: none">• Rules and Regulations for the use of Campus Property• Use of Campus Property Map• Application Form	
History:		
<u>Version</u>	<u>Date</u>	<u>Notes</u>
1.2	August 11, 2020	Edited
1.1	April 12, 2018	Edited
1.0	April 17, 2012	New policy; Initial release

I. INTRODUCTION

This policy (the “Use of Campus Property Policy” or “Policy”) of The College of New Jersey (“the College”) applies to the use of lands, buildings and facilities owned, leased or controlled by the College (“Campus Property”) by students, faculty, staff, alumni, and/or members of the general public. This Policy does not apply to the College’s own uses of Campus Property (*e.g.*, assigned classroom use for academic course instruction, on-going Student Affairs programming (*e.g.*, ReCreate Your Night series), or space reserved through the Department of Conference & Event Services) or regular meetings of Registered Student Organizations.

As a state educational institution of New Jersey, the College comprises a diverse community of learners, dedicated to free inquiry and open exchange, to excellence in teaching, creativity, scholarship, and citizenship, and to the transformative power of education. An overriding principle of this Policy is that Campus Property may not be used in a manner that unduly interferes with the safety and security of the campus or the mission of the College. The public character of the College does not grant to individuals or groups an unlimited license to engage in activity that limits, interferes with, or otherwise disrupts the normal activities for and to which Campus Property is intended and dedicated.

The College acknowledges the vital educational value of constitutionally protected speech. This Policy is intended to balance the College's responsibility to fulfill its mission with the interests of College Users and Non-College Users in using Campus Property for purposes of constitutionally protected speech, peaceable assembly or expression. This Policy affords Non-College Users certain prescribed rights to use Campus Property. However, those rights are more limited than those afforded to

College Users. While Campus Property is not available for unlimited use by College Users, the College recognizes that students of the College should generally be accorded the opportunity to utilize Campus Property to the fullest extent practical consistent with applicable law, the mission of the College, and this and other applicable College policies.

II. DEFINITIONS

1. College Users

College Users are Users who are currently enrolled students, faculty, staff, and affiliated groups. Examples of affiliated groups may include, but are not limited to, student clubs, athletic teams, fraternities/sororities, academic societies, and alumni associations.

2. Event

Event shall refer to a single instance of a planned meeting, presentation, function, or other activity.

3. Limited Use Areas

See Sections III.1 and III.4

4. Non-Public Areas

Campus Property that is neither a Public Use Area nor a Limited Use Area is a Non-Public Area. See Sections III.1 and III.5

5. Non-College Users

Non-College Users are any Users who are not identified as College Users.

6. Public Use Areas

See Sections III.1 and III.3

7. Sponsor

The Sponsor is the User responsible for the planning, organization, and facilitation of the use of Campus Property. In certain situations, both College Users and Non-College Users may simultaneously use Campus Property for the purposes of a hosted or joint event. The Sponsor is the User so identified on the

application for permit and/or formal statement of permission granted by the Administrator.

8. Users

Users are individuals, groups or entities that use or seek to use Campus Property.

III. POLICY

1. Campus Property Designation: Administrator: CPUC

a. Campus Property Designation

The President shall designate a property administrator ("Administrator") and a Campus Property Use Committee ("CPUC"). The CPUC shall include representatives selected by the President from the faculty, staff, and student body (after consultation with the Faculty Senate, Staff Senate and Student Government Association, respectively), and from the Office of Academic Affairs, Office of Student Affairs, Office of College Advancement, Office of Facilities Management, and Campus Police Services Department. With due consideration to input from the CPUC, the Administrator shall classify all Campus Property under a uniform system of classification and designate for each such classification the use or uses which, in the Administrator's judgment consistent with this Policy, should be permitted therein. Public Use Areas must be selected with care to meet the requirements of Section III.3. A Public Use Area should be situated in an outdoor natural and traditional gathering place that affords a User an opportunity to see and hear and be seen and heard while permitting safety, security, efficient ingress and egress, and orderly operation. Any classification system adopted must recognize the right of the College to control Campus Property and afford priority to the use of such property for College activities. The Administrator shall classify all Campus Property under the following classification system:

- (1) Public Use Areas,
- (2) Limited Use Areas, or
- (3) Non-Public Areas.

The Administrator shall record the designations for all Campus Property upon a plot or map thereof and shall transmit such plot or map to the President, who shall then approve, amend or reject the designations. Thereafter, the Administrator with due consideration to input from the CPUC may, from time to time, propose amending or revising Campus Property classification

designations and shall transmit to the President in writing proposed amendments or revisions to the designations. All such designations, and proposed amendments and revisions thereof, shall be in full force and effect from the time they are expressly approved by the President.

The Administrator shall assign to the appropriate administrative unit, department, or office the responsibility for the scheduling, management, and related activities for each designated Limited Use Area.

b. Public Inspection of Property Designations

After approval by the President of the plots or maps required by this Policy, or of any written amendments or revisions thereof, the Administrator shall maintain a copy that shall be accessible on a College Webpage and shall also be available for public inspection and copying in the Administrator's office during normal business hours.

c. CPUC

The CPUC will serve to facilitate effective communication between the Administrator and the College community. The CPUC will hold a minimum of one meeting per semester and may convene on an ad hoc basis as needed. The CPUC shall convey the compliments, concerns, and suggestions of the College community to the Administrator. Although the CPUC will not serve as a review board for individual cases, it will monitor the overall volume of complaints about the form and implementation of the Use of Campus Property Policy and provide guidance for suggested improvements.

2. General Restrictions

The Administrator, with due consideration to input from the CPUC, may establish reasonable rules and regulations for the use of Campus Property consistent with this Policy. Any such rules and regulations will be in a written document, which shall be maintained and made accessible on a College Webpage and shall also be made available for public inspection and copying in the Administrator's office during normal business hours. Such rules and regulations shall be based on a due regard for the purpose for which the Campus Property is owned, leased or controlled, or the purpose for which it is established; the safety of those using the property, of College students, faculty, staff, alumni, and of the general public; the prevention of unlawful conduct; the safety and maintenance of Campus Property; the need for and the availability of supervisory personnel; and the maximum number of people who can safely use the Campus Property at one time.

Unless otherwise waived through written notice, the following rules shall apply

for all uses and proposed uses of Campus Property, including speech, peaceable assembly or expression that might otherwise be constitutionally protected. For clarity, these rules shall be applied in accordance with the content and viewpoint neutrality provisions of Section III.6.d below. Any deviation from these rules without written authorization from the Administrator may result in the prohibition, cancellation, or termination of the use and may result in disciplinary action against College Users.

- a. Documents, leaflets, brochures, and the like that are illegal (collectively, “Illegal Materials”) may not be distributed. Illegal Materials include materials that are obscene or defamatory or that infringe copyright or advocate unlawful conduct.
- b. Campus Property must be cleaned up and left in its original condition and may be subject to inspection by a representative of the College after use. Reasonable charges may be assessed against the College User or Non-College User for the costs of clean-up or for the repair of damaged property.
- c. All fire, safety, health, sanitation and any other applicable special regulations are to be obeyed.
- d. The use must not obstruct vehicular, bicycle, pedestrian or other traffic or otherwise interfere with ingress or egress to the College, or to College buildings or facilities, or to College activities or events.
- e. The use must not create safety hazards or pose unreasonable safety or security risks to the User or others.
- f. The use must not interfere with educational activities inside or outside any College building or otherwise prevent the College from fulfilling its mission and achieving its primary purpose of providing an education to its students.
- g. The use must not unduly infringe on the rights of College students, employees or invitees. Moreover, Campus Police Services police officers shall be trained in Standard Operating Procedures [see III.6.b] to assist them in identifying undue infringement.
- h. The use must be in accordance with any other applicable College policies and regulations, ordinances, policies, and laws of Ewing Township, Mercer County, the State of New Jersey, and the United States. Moreover, Campus Police Services police officers shall be trained in Standard Operating Procedures [see III.6.b] to assist them in identifying violations of such applicable policies, regulations, ordinances, and laws.

- i. Any person violating this Policy is subject to an order from Campus Police to leave the College campus. Persons failing to comply with such an order to leave the College campus are subject to arrest for criminal trespass.
- j. Fronting

Fronting occurs when a College User reserves the use of Campus Property on behalf of a Non-College User without the expressed written understanding and permission of the Administrator. A Non-College User may not use Campus Property under the guise that such use is exclusively undertaken by a College User.

Additionally, fronting occurs when a Non-College User is sponsored by a College User for the purpose of gaining advantages for the Non-College User that are typically afforded to College Users and not afforded to Non-College Users. Such advantages may include, but are not limited to, priority scheduling of Limited Use Areas, use of sound amplification devices in Public Use Areas, and waiver of fees.

College Users may only obtain permits for and/or reserve Campus Property for uses in which the College User is directly involved and which serve the legitimate mission and interest of the College User, consistent with the mission of the College and this Policy.

If a College User sponsors a Non-College User without the expressed understanding and permission of the Administrator, it will be assumed that fronting has occurred. The Administrator reserves the right to deny any permit application, cancel any Event, or otherwise prohibit the use of Campus Property if the Administrator has determined that fronting has occurred.

- k. Periodic Limits

The Administrator may set limits on the number of times Campus Property may be reserved by a Non-College User per time period (*e.g.* year, semester, month, week).

3. Public Use Areas

The College values freedom of speech and peaceable assembly as fundamental rights guaranteed by the U.S. Constitution and as the best means for arriving at truth and mutual understanding. In furtherance of these values, certain portions of Campus Property shall be designated as Public Use Areas to be made available to College Users and Non-College Users as a designated public forum for purposes of constitutionally protected speech, peaceable assembly, and petitioning activities. The availability of Public Use Areas may be subject to restrictions necessary to protect the safety and security of individuals and property and to avoid any interference with the orderly operation and scheduled activities of the College. The use of these areas shall be governed by the following procedures, according to the classification of a given User:

a. Users

1) College Users

College Users, as a part of the College community, are afforded the opportunity to utilize Public Use Areas for purposes of constitutionally protected free speech, peaceable assembly or expression without obtaining formal permission from the College. For purposes of safety and security, however, a College User utilizing a Public Use Area must provide identification when requested to do so by a College official.

2) Non-College Users

Non-College Users who comply with the requirements of this Policy (including, without limitation, the restrictions on time and manner and any rules and regulations adopted by the Administrator) may utilize Public Use Areas for purposes of constitutionally protected speech, peaceable assembly, or expression. Non-College Users utilizing a Public Use Area must provide identification when requested to do so by a College official. Failure to comply with such a request shall constitute a violation of this Policy, and the Non-College User may be subject to an order from Campus Police to leave the College campus. A Non-College User who fails to comply with such an order to leave the College campus may be subject to arrest for criminal trespass.

b. Time Restrictions

Use of each designated Public Use Area is subject to time restrictions (i.e.,

duration and acceptable hours) established by the Administrator in the Administrator's reasonable discretion for the orderly conduct of the operation of the College and set forth in a written document (the "Public Use Area Time Restrictions"), which shall be maintained and made available for public inspection and copying in the Administrator's office during normal business hours.

c. Manner Restrictions

1) Noise Levels

Noise levels must comply with ordinances in both Ewing Township Code § 240-1 *et seq.* and N.J.A.C. Title 7, Chapter 29. With due consideration to input from the CPUC, the Administrator may establish further reasonable noise-related restrictions in a written document (the "Public Use Area Noise Restrictions"), which shall be maintained and made available for public inspection and copying in the Administrator's office during normal business hours. In no event will noise be permitted at a level that disrupts or disturbs the normal use of classrooms, offices or laboratories or any previously scheduled College event or activity or the orderly conduct of the operation of the College.

2) Sound Amplification

Sound amplification devices may not be used by Non-College Users. College Users may use amplification devices only with written permission from the Administrator.

3) Dissemination of Written Materials

Users may distribute without registration or advance approval, written materials that are not Illegal Materials on the condition that such materials are designed for informational and not for commercial purposes and that promptly upon exiting the Public Use Area, the Users remove any discarded or excess materials from Campus Property. Written materials may include, but are not limited to flyers, handbills, brochures, and pamphlets.

4. Limited Use Areas

A number of Campus Property areas have College-prescribed purposes and may be used from time to time by both College and (subject to additional requirements and restrictions) Non-College Users. That is, a venue (*e.g.* Mayo Concert Hall) is often utilized by College Users for academic and College uses; however, Non-College Users who comply with the requirements of this Policy may be afforded the use of these areas pursuant to the priorities below and the procedures described in this Policy.

Use of any Limited Use Area by a Non-College User and certain Administrator-designated Limited Use Areas by a College User must be scheduled with the Administrator or a designee prior to such use. The Administrator shall establish and make available appropriate procedures for the scheduling of Limited Use Areas consistent with this Policy.

a. Priority

Absent any changes or exemptions set forth in writing by the Administrator, the scheduling of Limited Use Areas shall follow certain priorities when a specific Limited Use Area is requested by more than one User for the same time and a scheduling conflict arises. The following order of scheduling priority will be used in order to resolve this conflict:

- 1) The College's own uses of Campus Property (*e.g.* assigned classroom use for academic course instruction) shall have priority over other uses. For the limited purpose of determining priority under this section, the use of Campus Property which the College is obligated to provide pursuant to a contract¹ can be considered the College's own use of Campus Property.
- 2) College Users shall have priority over Non-College Users.
- 3) College Users who are officially sanctioned or funded by the College shall have priority over College Users who are not officially sanctioned or funded by the College.

¹ The contractual obligation could arise by a lease, license or other form of contract between the College and a User. For example, someone might enter into a license agreement with the College for the use of a College tennis court for a specific date and time period. A use of this type (that was already approved in the form of the signed license agreement) would receive scheduling priority over use that had not yet been approved. Such a license agreement would normally be approved by the Athletics Department or Conference and Event Services Department or successor department in consultation with the Administrator or designee only if the Campus Property (the tennis court in this example) had not already been scheduled.

4) Earlier requests shall receive priority over later requests.

Notwithstanding the foregoing scheduling priority criteria, the Administrator may, after considering the scheduling priority criteria as well as the expressed needs and desires of the requesting Users and the suitability of the requested Limited Use Area and other available Limited Use Areas, resolve conflicts by assigning a User the requested Limited Use Area at a date or time other than that requested or by assigning a Limited Use Area other than that requested.

b. Time Restrictions

Use of each designated Limited Use Area is subject to time restrictions (i.e., duration and acceptable hours) established by the Administrator in the Administrator's reasonable discretion for the orderly conduct of the operation of the College and set forth in a written document (the "Limited Use Area Time Restrictions"), which shall be maintained and made available for public inspection and copying in the Administrator's office during normal business hours. The Administrator may impose additional time restrictions on a specific Event.

c. Manner Restrictions

1) Noise

Noise levels must comply with ordinances in both Ewing Township Code § 240-1 *et seq.* and N.J.A.C. Title 7, Chapter 29. With due consideration to input from the CPUC, the Administrator may establish further reasonable noise-related restrictions in a written document (the "Noise Restrictions"), which shall be maintained and made available for public inspection and copying in the Administrator's office during normal business hours. In no event will noise be permitted at a level that disrupts or disturbs the normal use of classrooms, offices or laboratories or any previously scheduled College event or activity or the orderly conduct of the operation of the College.

2) Sound Amplification

The Administrator may establish rules for the use of sound amplification devices in the separate Limited Use Areas, which shall be maintained and made available for public inspection and copying in the Administrator's office during normal business hours.

3) Dissemination of Written Material

Users may distribute, without registration or advance approval, written materials that are not illegal (illegal materials would include materials that are obscene or defamatory or that infringe copyright) on the condition that such materials are designed for informational and not for commercial purposes and that promptly upon exiting the Public Use Area the Users remove any discarded or excess materials from Campus Property. Written materials may include, but are not limited to flyers, handbills, brochures, and pamphlets.

d. Permit Requirements; Applications; Processing of Applications

The Administrator shall identify areas for which permits are required for the use of Campus Property and the activities for which a permit shall be required. The Administrator shall determine whether equipment, license, rental, service, use or other fees shall be required for applications and use; and may require insurance, indemnification agreements, and security deposits as a condition for approval of applications. The Administrator shall promulgate written permit application forms, and establish reasonable rules for processing permit applications. The Administrator may by rule accord priority for Public Use or Limited Use Areas where permits are not otherwise required to persons who have submitted a permit application and received approval for use.

No Event for which a permit is required shall take place without a fully executed, written agreement signed by the User that establishes the time, place, purpose, and all other necessary items pertaining to the Event and has been approved by the Administrator.

The Administrator may, if conditions warrant, waive or reduce time requirements for the submission or processing of applications in order to consider approval for or facilitate the expeditious review of a denial of use.

e. Grounds for Denial of Application or Revocation of Permit for Use of Property

Notice of denial of an application for permit shall clearly set forth in writing the grounds upon which the permit was denied and, where feasible, shall contain a proposal by the College for measures by which the applicant may cure any defects in the application for permit or otherwise procure a permit. Any denial of an application for permit shall be made without consideration of the content or viewpoint of the applicant's constitutionally protected speech, peaceable assembly or expression. An application for permit may be denied

and an issued permit may be revoked on any of the following grounds:

- 1) the application for permit is not fully completed and executed;
- 2) the applicant has not, in a timely way, tendered an application fee, user fee, indemnification agreement, security deposit, or satisfied any other condition reasonably required by the Administrator;
- 3) the application for permit contains a material falsehood or misrepresentation;
- 4) the applicant is legally incompetent to contract (e.g., under eighteen (18) years of age, provided that such age restriction shall not apply to College students);
- 5) the applicant or the person on whose behalf the application for permit was made has on prior occasions damaged Campus Property and has not paid in full for such damage, or has other outstanding and unpaid debts to the College;
- 6) an application for the same time and place has been received, and in accordance with the priority established in this Policy a permit has been or will be granted to that other applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular property or part thereof, in which case the College may propose an alternate place, if available for the same time, or an alternate time, if available for the same place;
- 7) the use or activity intended by the applicant would conflict with planned programs organized and conducted by the College and scheduled for the same time and/or place;
- 8) the proposed use or activity is prohibited by or inconsistent with the classifications and uses of Campus Property or part thereof designated pursuant to Section III.1.a;
- 9) the use or activity intended by the applicant would present an unreasonable risk to the health or safety of the applicant, College students or employees or other Users;

- 10) the use or activity is not appropriate for the requested location of the Campus Property based on considerations such as size, time, and the intended purpose of that location;
 - 11) the use or activity presents an unreasonable risk of substantial damage to the Campus Property;
 - 12) the use or activity intended is prohibited by applicable rules or laws;
 - 13) the applicant has not secured the requisite insurance; the User or Sponsor has on prior occasions made material misrepresentations regarding the nature or scope of the Event or activity previously permitted or has violated the terms of prior permits issued to the applicant;
 - 14) the proposed use or activity would interfere with pedestrian and/or vehicular traffic; the proposed use would unduly infringe on the rights of College students, employees or invitees; or
 - 15) the proposed use would not be in accordance with applicable College policies and regulations, ordinances, policies and laws of Ewing Township, Mercer County, the State of New Jersey and the United States.
- f. Procedures for Review of Denial or Revocation of Permit or Assessment of Damages
- 1) Review by Administrator or designee
 - i. Any applicant who is denied a permit or whose permit is revoked or any permittee who is assessed damages pursuant to this Policy may, within five business days of the service of notice of such determination, file a written appeal of such determination with the Administrator, or in the case of appeals from a determination by the Administrator, with the person designated by the President to hear such appeals (the "Appellate Official").
 - ii. The Appellate Official shall have five business days from the date on which the appeal was filed in which to notify the applicant that he/she has affirmed, modified or reversed the applicable denial, revocation or assessment.

- iii. Such notice shall be deemed served upon the applicant or permittee when it is personally delivered or when it is sent by e-mail or United States mail (with proper postage prepaid) or nationally recognized overnight courier service to the name and address set forth on the application for permit.

2) Form of Appeals

Any appeals filed pursuant to this Policy shall state succinctly the grounds upon which it is asserted that the denial, revocation or assessment should be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of the property supervisor and/or the Administrator, and any other papers material to the determination.

g. Waiver of Requirements

1) Waiver of Permit Requirement or Limitations

Any requirements for or limitation upon a permit or the requirement of a permit may be waived by the President or other designated College officer for Campus Property under the jurisdiction of the officer granting the waiver. Requirements for or limitations on a permit may only be waived in cases where the applicant or the sponsor is a College organizational unit, a recognized employee or student organization, the United States of America, the State of New Jersey, The College of New Jersey Foundation, The College of New Jersey Alumni Association, Trenton State College Corporation, New Jersey Educational Facilities Authority, Mercer County, Ewing Township, or other local governmental unit.

2) Criteria for Waiver

Any consideration of a waiver under this section shall be made in the best interests of the College and without regard to the content or viewpoint of the User (including the applicant or Sponsor).

- h. The College may charge reasonable deposits and/or fees to the Sponsor and/or User for the utilization of a Limited Use Area. Fees may include, but are not limited to, administrative fees, damage fees, rental fees, and support service fees.
- i. The College of New Jersey takes pride in being a place where different points of view can be expressed and heard. In an Event held in a Limited Use Area in which a member of the College community or an invited speaker or performer

(the "Event Presenter") is addressing or performing for an assembled audience, attendees must not unduly interfere with the Event or communication between the Event Presenter and members of the audience. Those seeking to protest such an Event or Event Presenter must do so in a way that respects free speech and allows the Event Presenter to be heard and observed. This prohibition against undue interference does not include all expressions of protest, such as quietly leaving the Event in an orderly manner or displaying signs (without sticks or poles), provided such activities are consistent with the continuation of the Event and the oral and visual communication of its content to the audience.

5. Non-Public Areas

Certain parts of Campus Property are prescribed specific uses which support the College's mission as an institution of higher education and therefore are necessarily unavailable to Non-College Users. These Non-Public Areas include, but are not limited to, all administrative offices, maintenance facilities, residences, and other areas intended primarily to support ongoing College operations.

6. Miscellaneous

a. Academic Freedom

The College, as an institution of higher education, has recognized the principle of academic freedom for College faculty members in connection with their College teaching and research. Nothing in this Policy is intended to limit or circumscribe in any way the rights of academic freedom otherwise accorded to the College's faculty.

b. Campus Police

The Campus Police Services Department shall, after consultation with the Administrator and CPUC, develop Standard Operating Procedures for its police officers and security officers charged with enforcement of this Policy. The Campus Police Services Department shall provide to those officers training on this Policy and the Standard Operating Procedures.

c. Severability

If any provision of this Policy or the application thereof to any person or circumstance is held invalid, the remainder of this Policy and the application of such provision to other persons or circumstances shall not be affected

thereby. The College reserves the power to amend or repeal this Policy at any time; and all rights, privileges and immunities conferred by this Policy or by acts done pursuant hereto shall exist subject to such power.

d. Content and Viewpoint Neutrality

All decisions made, requirements established, or other action taken by the Administrator or other designated College officer in the application of this Policy shall be made without consideration of the content or viewpoint of the Sponsor or User's constitutionally protected speech, peaceable assembly or expression. No such decision, requirement or action should be interpreted as an endorsement or rejection by the College of such positions or the holders of such positions. No User shall claim or misleadingly imply such an endorsement by the College.

e. Designees

Whenever an action may be or is required to be taken under this policy by the Administrator or President, the action may be taken respectively by the Administrator's designee or President's designee.

The College of New Jersey
Resolution of the Board of Trustees Approving
the Interim Sexual Harassment, Misconduct and Discrimination Policy

- Whereas: The College of New Jersey, in order to fulfill its mission, has the authority and responsibility to maintain order, protect the community and the rights of its members, and cultivate and sustain a positive living and learning environment; and
- Whereas: The *Sexual Harassment, Misconduct, and Discrimination Policy* (formerly the *Title IX Policy*), established in 2016 and last approved in 2020, is to be reviewed in accordance with federal and state policies and that any substantive changes will be reviewed in accordance with applicable governance policy and procedures; and
- Whereas: The Title IX Final Rule issued from the Department of Education and evolving case law informing best practices around student conduct cases involving Title IX and other issues suggest securing fundamentally fair procedural standards, changes to procedural standards in both the *Sexual Harassment, Misconduct, and Discrimination Policy* and *Student Conduct Code* are necessary to secure the best interest of the College and our students,
- Whereas: The proposed changes to the *Sexual Harassment, Misconduct, and Discrimination Policy* have been developed under direction of the Vice President for Student Affairs, in collaboration with the Office of General Counsel, and reviewed by an outside legal firm,
- Therefore,
Be It
Resolved: That on August 11, 2020 the Board of Trustees of The College of New Jersey hereby approves the attached Interim *Sexual Harassment, Misconduct, and Discrimination Policy* as interim policy while awaiting governance, for implementation upon approval.

August 11, 2020

Section:	XI.1.19	
Title:	Interim Sexual Harassment, Misconduct, & Discrimination Policy	
Effective Date:	[UPDATE ACCORDINGLY]	
Approved By:	Board of Trustees	
Responsible Unit:	Division of Student Affairs (609) 771-2201, sa@tcnj.edu	
Related Documents:	<ul style="list-style-type: none">• Student Conduct Code• Policy Prohibiting Discrimination in the Workplace/ Educational Environment• Procedures for Internal Complaints Alleging Discrimination in the Workplace/ Educational Environment	
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I. INTRODUCTION

The College of New Jersey (“TCNJ” or the “College”), as an institution of higher education and a community dedicated to learning and the advancement of knowledge, expects and requires the behavior of Students, faculty, and staff to be compatible with its high standards of conduct. For the College, this means a firm institutional commitment to protect the community and the rights of its members, and to cultivate and sustain a positive living and learning environment. Thus, the College is committed to fostering an environment where sex and gender-based discrimination, harassment, and misconduct is not tolerated. The College recognizes its responsibility to increase awareness of such misconduct, prevent its occurrence, diligently investigate complaints of misconduct, support students and others who experience sex and gender-based misconduct, and respond fairly and firmly when members of the campus community violate College policy. The College is also committed to supporting students and employees accused of sexual misconduct who go through a resolution process. In addressing issues of sexual misconduct, all members of the College are expected to respect and care for one another in a manner consistent with our deeply held academic and community values.

The *Policy*¹ set out here reflects the College’s commitment to a safe and non-discriminatory educational environment and compliance with Title IX of the Education Amendments of 1972 (“Title IX”), the Violence Against Women Act (“VAWA”), Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), and applicable New Jersey state laws.

In May 2020, the U.S. Department of Education’s Office for Civil Rights issued a Final Rule² under Title IX (“Title IX Final Rule”) for colleges and universities that address sexual assault and other sex-based misconduct.

Title IX prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX’s prohibition on sex discrimination to include various forms of sexual harassment and sexual violence that interfere with a student’s ability to equally access the College’s educational programs and opportunities.

The Title IX Final Rule:

- Defines the meaning of “Sexual Harassment” (including forms of sex-based violence);

¹ The term “Policy” used throughout this document refers to this *Sexual Harassment, Misconduct, & Discrimination Policy*. Additionally, throughout this Policy, the pronouns “they”, “them”, and “their” are used intentionally to be inclusive of those of all genders and gender-identities.

² 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Title IX Final Rule and its extensive Preamble are available here: <https://www2.ed.gov/about/offices/list/ocr/newsroom.html>

- Addresses how institutions **must** respond to reports of misconduct falling within that definition of Sexual Harassment; and
- Mandates a grievance process that institutions **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of Sexual Harassment.

The College remains committed to addressing any violations of its policies, even those not meeting the narrow definition of Sexual Harassment under the Title IX Final Rule. Through this *Policy* the College will be upholding a broad scope of sex and gender related violations referred to as “College Sexual Misconduct”. Some forms of College Sexual Misconduct may also be considered violations of Title IX as defined by the Title IX Final Rule depending on the nature, scope, and jurisdiction of the alleged conduct. Collectively these types of violations are referred to as “Prohibited Conduct”. Given the College’s dedication to addressing all forms of sex and gender-based harassment, misconduct, and discrimination, the College reserves the right to investigate and adjudicate all forms of Prohibited Conduct under this *Policy* regardless of any possible Title IX designation(s). This is further explained below in *Section II, A.: Scope & Jurisdiction*.

The College is committed to creating an inclusive environment and, therefore, Prohibited Conduct can be committed by or against individuals of any sex or gender and can occur between individuals of the same sex/gender or different sexes/genders, regardless of actual or perceived sex, gender, gender identity, gender expression, and/or sexual orientation. The College also recognizes that the legal obligation not to discriminate on the basis of sex in the educational program or activity extends to admission and employment. Under *The College of New Jersey Policy Prohibiting Discrimination in the Workplace/Academic Environment* (“College Discrimination Policy”), forms of employment discrimination or harassment based upon the specific protected categories are prohibited and will not be tolerated.

Behavior by employees that does not fall within the definition of Title IX Sexual Harassment under this *Policy* may be investigated in accordance with the College Discrimination Policy. Please see the [College Discrimination Policy](#) and its related [Procedures for Internal Complaints](#) for additional information.

The elements established in this *Policy* under the Title IX Final Rule have no effect and are not transferable to any other policy of the College for any violation of the *Student Conduct Code*, employment policies, or any civil rights violation except as narrowly defined in this *Policy*. This *Policy* does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

II. POLICY

A. Scope and Jurisdiction

This *Policy* applies to Students, employees (including faculty and staff), Third Parties, and any individuals participating in—or attempting to participate in—the College’s Education Program or Activities, or seeking admission or employment to the College. This *Policy* prohibits Sexual Harassment as defined in the Title IX Final Rule, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking. This *Policy* also prohibits Sexual Harassment as defined in Title VII of the Civil Rights Act of 1964, and other forms of College Sexual Misconduct. Collectively, all forms of conduct included in this *Policy* and accompanying procedures are referred to as “Prohibited Conduct.”³

The term “Education Program or Activities” includes all of the College’s operations, including locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the College. The Title IX Final Rule does not draw a line between on-campus, off-campus, or online conduct, provided the conduct occurred in an Education Program or Activity in the United States. Examples include College-sponsored, College-funded or College-supported study off-campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises.

In keeping with the College’s educational mission and commitment to foster a learning, living, and working environment free from discrimination and harassment, the College will also address through this *Policy* and accompanying procedures: (1) forms of College Sexual Misconduct; (2) Prohibited Conduct that occurs outside the United States, but still within an Education Program or Activity (e.g. College-affiliated study abroad programs); and, (3) under certain circumstances, reports of Prohibited Conduct that occur outside of the Education Program or Activity, but would otherwise constitute a violation of this *Policy*.

B. Prohibited Conduct

In determining whether reported conduct violates this *Policy*, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Prohibited Conduct can be committed by or against individuals of any sex or gender and can occur between individuals of the same sex/gender or different sexes/genders. Prohibited Conduct can occur between strangers or acquaintances, as well as persons involved in intimate, sexual, dating, domestic, or familial relationships. The various forms of Prohibited Conduct are outlined below and those notated by an (*) indicate behaviors to which may also be

³ Capitalized terms within this *Policy* are defined in Appendix A, *Policy Definitions*.

considered Sexual Harassment as defined by the Title IX Final Rule if alleged conduct occurred within scope/jurisdiction of Title IX.

1. Sexual Harassment

Sexual Harassment is a collective term that includes distinct, and sometimes overlapping definitions. The Title IX Final Rule defines Sexual Harassment as conduct on the basis of sex that satisfies one or more of the following:

- a. An employee conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual contact (commonly referred to as "quid pro quo");*
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's Education Program or Activity*;

In addition, consistent with Title VII of the Civil Rights Act of 1964, the New Jersey Law Against Discrimination,⁴ and the recognition that Sexual Harassment may occur in a wider variety of contexts, the College also defines Sexual Harassment to include:

- c. Conduct of a sexual nature or based on gender or sexuality that is severe or pervasive enough to create a Hostile Environment, as defined by a reasonable person under similar circumstances. This may include unwanted, unwelcome, or inappropriate sexual or gender-based activities, or comments.
- d. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made a condition of the conferral of any benefit, or rejection of such advance, request, or conduct implies that a person will suffer adverse consequences from another person in an express or implied position of authority.

2. Sexual Assault⁵

- a. Completed or attempted, Sexual Penetration, however slight, of a person without that person's Effective Consent.⁶ *
- b. The touching of an Intimate Body Part of another person for the purpose of sexual gratification, without that person's Effective Consent.*
- c. (Incest) Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.*

⁴ See the [College Discrimination Policy](#) for specific details.

⁵ As defined in the Violence Against Women Act (VAWA) and the Clery Act.

⁶ See Appendix A for definitions of Effective Consent and if applicable, Incapacitation.

- d. (Statutory Rape) Sexual intercourse with a person who is under the statutory age of consent.*
- e. Any intentional, non-consensual Sexual Contact with an Intimate Body Part of another, or forcing another to have Sexual Contact with an Intimate Body Part of oneself or another, with any object or body part, or any disrobing of another without Effective Consent.

3. **Stalking** ^{7*}

- a. Engaging in a course of conduct directed at a specific person under circumstances that would cause a Reasonable Person to fear for their own safety or the safety of others or suffer substantial emotional distress. “Course of Conduct” means two or more acts of repeatedly maintaining a visual or physical proximity to a person; following, monitoring, observing, surveilling, threatening, or communicating to or about a person directly or through Third Parties, by any action, method, device, or means; interfering with a person’s property; repeatedly committing harassment against a person; or repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of Communication or threats implied by conduct or a combination thereof directed at or toward a person.⁸

4. **Interpersonal Violence**

Interpersonal violence includes any act of violence or threatened act of violence⁹ against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. Any of the other types of Prohibited Conduct described in this *Policy* may also constitute interpersonal violence. Domestic Violence and Dating Violence are forms of interpersonal violence as defined below:

- a. **Domestic Violence:**^{10*} includes any act of violence or threatened act of violence committed by a current or former spouse or intimate partner of the Reporter¹¹; by a person with whom the Reporter shares a child in common; by a person who is cohabitating with, or has cohabitated with, the Reporter as a spouse or intimate partner; by a person similarly situated to a spouse of the Reporter under New

⁷ As defined in the Violence Against Women Act (VAWA) and the Clery Act.

⁸ Stalking includes the concept of cyber-stalking, a particular form of Stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

⁹ This may include, but is not limited to, physical, sexual, emotional, economic, and/or psychological actions or threats of actions that a reasonable person in similar circumstances and with similar identities would find intimidating, terrorizing, or threatening.

¹⁰ As defined in the Violence Against Women Act (VAWA) and the Clery Act.

¹¹ May also referenced as “party” throughout this *Policy*.

Jersey state law; or by any other person against an adult or minor Reporter who is protected from that person's acts under New Jersey state law.¹²

- b. **Dating Violence:**^{13*} includes any act of violence or threatened act of violence committed by a person:
 - i. who is or has been in a social relationship of a romantic or intimate nature with the Reporter; and
 - ii. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 1. The length of the relationship;
 - 2. The type of relationship; and
 - 3. The frequency of interaction between the persons involved in the relationship.

5. Sexual Exploitation

- a. Engaging in voyeurism which may constitute acts including but not limited to listening, watching or taking pictures, videos, or audio recordings of another person in a state of undress without their Effective Consent or of another person engaging in a sexual act without the Effective Consent of all parties;
- b. Unauthorized display, publication, posting, transmission, or other dissemination (including via the Internet) of another in a state of undress or of a sexual nature without the person's Effective Consent. Consent to be recorded does not imply consent for such records to be displayed, published, transmitted, or otherwise disseminated;
- c. An act or acts committed through abuse or exploitation of another person's gender or sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or other non-legitimate purpose without the Effective Consent of the person.
- d. Exposure of one's sexual organs or the display of sexual behavior or contact that would reasonably be offensive to others or be observed by any other non-consenting persons who would be affronted or alarmed.
- e. "Stealththing" which involves intentionally removing a condom without the other person's Effective Consent during sexual activity.
- f. Knowingly exposing another individual to a sexually transmitted infection, disease, or virus without the other individual's knowledge and Effective Consent.

¹² See, e.g., N.J.S.A. 2C:25-17 et seq. (Prevention of Domestic Violence Act of 1991)

¹³ As defined in the Violence Against Women Act (VAWA) and the Clery Act.

6. Gender-Based Discrimination or Harassment

- a. Gender-based discrimination is adverse treatment of an individual based on gender rather than individual merit. Examples of conduct that can constitute gender discrimination because of gender, gender identity, gender expression (referred to collectively below as “gender”), include but are not limited to:
 - i. Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase) as compared to a similarly situated individual of another gender;
 - ii. Failing or refusing to hire or allow participation by an individual in a College or recognized student organization activity, program, or event on the basis of gender; or
 - iii. Terminating or removing an individual from employment or an educational program on the basis of gender.
- b. Gender-based harassment is harassment of an individual on the basis of their gender or for exhibiting what is perceived as a stereotypical characteristic of their gender or for failing to conform to stereotypical notions of masculinity or femininity, which unreasonably interferes with a person’s education or participation in educational programs or activities, or creates an intimidating, hostile, demeaning, or offensive academic, campus, or living environment. Examples of conduct that can constitute gender-based harassment include but are not limited to:
 - i. Acts of aggression, intimidation, or hostility based on gender or gender stereotyping; or
 - ii. Threats of or actual non-consensual disclosure of a person’s gender identity (i.e. “outing”).

7. Complicity

- a. Aiding or assisting means any act that aids, facilitates, promotes, or encourages the commission of Prohibited Conduct under this *Policy* by another person.

8. Compliance with Directives

- a. Failure to comply with a duly issued directive by an authorized College Official or law enforcement officer. A directive may be considered any written or verbal mandate.
- b. Failure to fully satisfy all the components outlined within a signed Alternative Resolution agreement in the designated time frame.

9. Abuse of College Process

- a. Intentionally making or providing a misleading and/or false statement, information, or report regarding Prohibited Conduct to a College Official;¹⁴
- b. Attempts, whether successful or not, to destroy or conceal information during an investigation of an alleged *Policy* violation; or
- c. Discouraging or attempting to discourage another individual's proper participation in, or use of, a College disciplinary or resolution process.

10. Retaliation

- a. Any adverse action, intimidation, threat, coercion or discrimination against an individual (including Students, employees, and Third Parties) for the purpose of interfering with any right or privilege secured by Title IX or its Final Rule, or because the individual has made a report or Formal Complaint of Prohibited Conduct, been accused of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, hearing, or other resolution process under this *Policy*.¹⁵

11. Defamation

- a. Oral or written publication of a false statement of fact relating to allegations reported to the Office of Title IX & Sexual Misconduct (with or without the submission of a Formal Complaint) that exposes the person about whom it is made to hatred, contempt, or ridicule; subjects that person to loss of the good will and confidence of others; or so Harms that person's reputation as to deter others from associating with that person.¹⁶

C. Title IX Coordinator

The Title IX Coordinator¹⁷ will oversee the College's review, investigation, and resolution of reports of Prohibited Conduct to ensure the College's compliance with Title IX, and related laws and guidance, and the effective implementation of this *Policy*. The Title IX Coordinator will also work in conjunction with the College's Equal Employment Opportunity (EEO) Officer in Title IX matters involving an employee party/ies.

¹⁴ Making a good faith report of Prohibited Conduct that is not substantiated or proven by a preponderance of the evidence shall not constitute 9./Abuse of College Process.

¹⁵ Retaliation also includes such conduct through associates or agents of a Reporter, Respondent, Third Party, or participant in any investigation, proceeding, or resolution process related to this *Policy*.

¹⁶ This does not include the good faith documentation of a possible *Policy* violation or good faith journalistic reporting in the absence of negligence or recklessness.

¹⁷ Any references to the Title IX Coordinator may also include a designee.

The Title IX Coordinator and/or EEO Officer generally are:

- Responsible for oversight of the investigation and resolution of all reports of Prohibited Conduct outlined in this *Policy* involving Students and employees;
- Knowledgeable and trained in applicable College policies and procedures, and relevant state and federal laws;
- Available to advise any individual, including a Reporter, Respondent,¹⁸ or Third Party, about the courses of action available at the College, both informally and formally;
- Available to provide assistance to any College employee regarding how to respond appropriately to a report of Prohibited Conduct;
- Responsible for monitoring compliance with all procedural requirements, recordkeeping, and timeframes outlined in this *Policy*; and
- Responsible for overseeing training, and any reviews of campus climate and culture regarding Sexual Harassment and other forms of Prohibited Conduct outlined in this *Policy*.

See below and on the College's [Title IX & Sexual Misconduct Website](#) for Title IX Coordinator's contact information and additional information/resources.

D. Obligation of Responsible Employees

The College designates certain employees who have administrative or supervisory responsibilities on campus as Responsible Employees. This includes, for example, members of the Board of Trustees, the President, Vice Presidents, Deans, Directors, Coaches, Student Affairs professionals (including Community Advisors), and Advisors to Student groups. This does not include professional staff in Mental Health Services, Anti-Violence Initiatives, Alcohol and Drug Education Program, or TCNJ Center for Integrated Wellness when information is disclosed through a clinical relationship. A list of Responsible Employees can be found on the Title IX & Sexual Misconduct website: <https://titleix.tcnj.edu/responsible-employee/>. Responsible Employees will endeavor to honor a Reporter's request for confidentiality, but must report Prohibited Conduct to the Title IX Coordinator. It is encouraged that Responsible Employees share that they have reported the information to the Title IX Coordinator to the Student or employee who disclosed the alleged Prohibited Conduct. Within 24-hours of receiving the disclosure, the Responsible Employee must share all details about a report of Prohibited Conduct including the known details of the incident (e.g., date, time, location), the names of the parties involved, and a brief description of the incident by telephone, by email, or through

¹⁸ May also referenced as "party" throughout this *Policy*.

the [Online Reporting System](#).¹⁹ Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

E. Annual Security Report/Crime Statistics

The College issues the Annual Security Report (“ASR”) in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”). It is an expectation of the College to ensure our campus community is informed of all incidents that may impact their safety and security. The campus community is encouraged to report all crimes, whether actual, attempted, or suspected, and all emergency situations to the Office of Campus Police Services. All campus security authorities²⁰ are required to report this information to Campus Police Services within 24 hours of being notified.

The College compiles and discloses statistics of reports of the types of crimes specified in the Clery Act for the campus and immediately adjacent areas. In addition, the College publishes the ASR to the Department of Education with statistics of Clery Crimes for the last three years, along with other policy statements addressing campus security and safety.

A formal police report or investigation is not needed in order for a crime to be included in the crime statistics provided in this report. Campus Police Services does not collect victim information unless specifically authorized by the Reporter or directly reported from the Reporter to law enforcement. Additionally, even if personally identifiable information is collected/provided to Campus Police Services, it is not disclosed within the ASR, as only aggregated data is included.

F. Training

The College of New Jersey will provide Students and employees with information regarding the prevention of Prohibited Conduct and the procedure to be followed in filing complaints. Every incoming Student is required to complete online training regarding Prohibited Conduct, prevention and intervention, and how to report incidents related to Sexual Harassment and other forms of Prohibited Conduct. The College will provide all new employees with training on this *Policy* and the related procedures within a reasonable period of time after each new employee’s appointment date. Additionally, the Title IX Coordinator and all other personnel at the College who serve as investigators, decision-makers (i.e. Hearing Administrators and appeal officers), and facilitators of informal resolution processes, will participate in annual training to cover, at a minimum, the following topics:

¹⁹ For full link to reporting form: https://tcnj-advocate.symplicity.com/titleix_report/index.php/pid210803?

²⁰ Campus security authorities are represented by, but not limited to the following offices: Vice President for Administration, Provost/Vice President for Academic Affairs, Vice President for Human Resources, Vice President for Student Affairs, Residential Education and Housing, Accessibility Resource Center (ARC), Student Health Services, Athletics, and Alcohol and other Drug Education Program (ADEP).

- The definition of Sexual Harassment as defined in §106.30 of the Final Title IX Rule, and other forms of behavior that constitute Prohibited Conduct under this *Policy*;
- The scope of the College's Education Program or Activity;
- How to conduct an investigation and grievance process that complies with §106.45 of the Final Title IX Rule;
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- When questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in §106.45;
- How to create an investigative report that fairly summarizes relevant evidence; and
- How to properly utilize any technology utilized while conducting formal administrative hearings.

G. Prevention and Education

Prevention strategies employed by the College include training that focuses on instilling a sense of responsibility in our community members to act when witnessing harmful behavior. This training offered both in person and online, builds confidence and critical skills in our community members to be able to engage in safe intervention strategies for addressing situations. For additional information on prevention and education see [Anti-Violence Initiatives website](#) at and the [Office of Title IX & Sexual Misconduct website](#).

III. PROCEDURAL STANDARDS

A. Reporting Prohibited Conduct

Any person (including Students, employees, and Third Parties) may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the subject of the Prohibited Conduct), to any one or more of the following: Campus Police Services, the Title IX Coordinator, or the College's EEO Officer. These reporting options are not mutually exclusive. Reporting parties may simultaneously pursue a criminal investigation and College disciplinary process. The College will assist Reporters in understanding and assessing their reporting options.

i. Reporting to the Title IX Coordinator or EEO Officer

Reports can be made to the Title IX Coordinator or EEO Officer through a variety of methods, including via the College's online [Title IX & Sexual Misconduct Reporting](#)

[Form](#),²¹ as well as in person, by mail, telephone, or email using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator or EEO Officer receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

Title IX Coordinator	EEO Officer
Chelsea Jacoby, Ed.D Director of Title IX Compliance & Sexual Misconduct Title IX Coordinator Brower Student Center, 2nd Floor 609-771-3112 titleix@tcnj.edu	Kerri Tillet, Esq. Associate Vice President, Diversity & Inclusion Director of EEO and Affirmative Action Brower Student Center, 2nd Floor 609-771-3139 eeo@tcnj.edu

ii. Reporting to Campus Police Services

In all cases of possible Prohibited Conduct, individuals are also encouraged to promptly file a report by contacting Campus Police Services.

Campus Police Services
 (609) 771-2345 or 9-1-1
 Administrative Services Building, Room 104
 Website: tcnjpd.tcnj.edu

The College maintains its own police department, providing law enforcement and security services 24 hours, 7 days a week. Campus Police Services promotes an effective investigation and criminal prosecution, provides Reporters and their families with guidance and support through the criminal process, and educates the campus community on the prevention of criminal sexual offenses.

When reporting an incident of Prohibited Conduct to Campus Police Services, the Reporter has control over their involvement in the criminal process. Campus Police Services ensures that all Reporters have a voice in their process and they will treat all persons with equal care, respect, and dignity and will to the best of their ability, preserve the privacy of all persons involved.

Preservation of Evidence: The College recognizes that making the decision to report Prohibited Conduct often takes time. Nevertheless, pending the decision to report, reporting parties are strongly encouraged to take immediate steps to preserve all

²¹ Full link to report Prohibited Conduct- https://tcnj-advocate.symphlicity.com/titleix_report/index.php/pid680248?

evidence that is relevant to a future report of Prohibited Conduct, a protective order, or an investigation by law enforcement, by the College, or both. If interested in filing a criminal complaint or having relevant evidence collected, Reporters are encouraged to contact Campus Police Services. Collecting relevant evidence may include the following:

- A forensic sexual assault examination (within five days following an assault, but the sooner the better is recommended). Campus Police Services, if requested, will transport the Reporter to the local hospital for the examination and can help arrange a victim advocate be present during the exam;
- Tests for alcohol and other Drug levels (for potential use in determining capacity for Effective Consent);
- Any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Electronic exchanges (e.g., text messages, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
- Photographs (including photographs stored on smartphones and other devices); and
- Voicemail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation. Electronic and photographic evidence may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts or may simply be lost to the passage of time.

The collection of any of the information above from Campus Police Services does not start a criminal investigation without the active and willing participation of the Reporter.

iii. **Protective Orders**

Where an allegation of Prohibited Conduct is reported to the Police, it may be possible to obtain a court-ordered emergency or preliminary protective order. These protective orders may be issued if a judge or magistrate finds that there is an immediate threat to the health or safety of the Reporter. Later, after a full hearing, the court may agree to issue a “permanent” protective order in appropriate cases. Protective orders are separate and distinct from “No Contact Directives” issued specifically by the College. Protective orders may be obtained only from a court of law and are enforceable anywhere in the United States; their violation may result in criminal charges. In contrast, a No Contact Directives is an official College directive that serves as notice to an individual that they must not have physical contact with or

proximity to, or direct verbal, electronic, or written Communication with another individual or group, nor shall they coordinate indirect Communications with the other individual or group through a Third Party. A No Contact Directive may be obtained from the Office of Title IX & Sexual Misconduct or the Office of Student Conduct & Off-Campus Services and are enforceable through the College. The Office of Title IX & Sexual Misconduct can also arrange and/or attend a meeting with Campus Police Services, who can explain the process for seeking a protective order and can escort a Student or employee to the appropriate office in order to initiate a petition seeking a protective order.

iv. Joint Investigation

An investigation conducted by Campus Police Services is a separate investigation from the disciplinary investigation conducted by the Office of Title IX & Sexual Misconduct and described below. These investigations may proceed on parallel paths and involve different legal obligations under federal or state law.

Campus Police Services and the Title IX Coordinator will work cooperatively to ensure that the Reporter's allegation of Prohibited Conduct is treated seriously and that they are treated with dignity. Their collaboration is essential to a sensitive investigation which requires obtaining, securing, and maintaining information for a potential criminal prosecution and/or College's disciplinary process for alleged Prohibited Conduct.

Campus Police Services and the Title IX Coordinator will advise Reporters of existing and available Supportive Measures. The Reporter will promptly be advised that it is their right to have any allegation of Prohibited Conduct investigated by Campus Police Services. There will be full and prompt cooperation and assistance of campus authorities in notifying Campus Police Services. This will be in addition to any campus disciplinary proceedings which may take place. The Reporter will be advised of the outcome of any criminal or disciplinary proceeding which may take place.

Campus Police Services and the Title IX Coordinator will work cooperatively to take reasonable and necessary action to prevent further unwanted contact of Reporters and Respondents including notifying the Reporter and Respondent (as applicable) of options for No Contact Directives, housing re-location, and other Supportive Measures deemed appropriate and reasonable. Campus Police Services will coordinate with state, county, and municipal agencies to develop and implement domestic violence and sexual violence training programs, and continue to effectively work with front line officers to enhance training on the proper handling of these types of crimes.

Campus Police Services will initiate a criminal investigation into all potential crimes including, but not limited to, Sexual Assault, Dating Violence, Domestic Violence, and Stalking offenses reported to Campus Police Services by the Reporter. Any Sexual Assault, Dating Violence, Domestic Violence, or Stalking offense which comes to the attention of Student Affairs will be reported to Campus Police Services as a Clery reportable offense prior to the initiation of any administrative investigation. However, in most cases, officers from Campus Police Services will not contact the Reporter or initiate a criminal investigation without the consent of the Reporter.

v. Privacy and Confidentiality

The College is committed to protecting the privacy of all individuals involved in a report of any violation of the *Policy*. All employees who are involved in the response to Prohibited Conduct, including the Title IX Coordinator, Deputy Title IX Coordinators and Investigator(s), receive specific training about respecting and safeguarding private information. During all interactions, College staff will make every effort to protect the privacy and identity of individuals to the extent possible, with exceptions as permitted by the Family Educational Rights and Privacy Act (FERPA), required by law, or as necessary to provide Supportive Measures and conduct a College resolution process (if applicable).

Privacy and confidentiality have two distinct meanings under this *Policy*.

Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those employees, or other relevant parties and their respective Advisors who “need to know” in order to assist in the active review, investigation, or resolution of the report filed. While not bound by confidentiality, these individuals are expected to be discreet and respect the privacy of all individuals involved in the process.

Confidentiality means that information shared by an individual with designated confidential resources outlined in this *Policy* cannot be revealed to any other individual without the express permission of the individual. These resources are prohibited from sharing confidential information with others unless there is an imminent threat of Harm to self or others, a suspicion of child abuse, or by order of a court of law.

The Title IX Coordinator is responsible for assessing whether requests by a Reporter to keep their identity confidential to anyone, including the person who allegedly committed the Prohibited Conduct, can be granted. While such a request may limit the College’s ability to investigate and respond to the report, the Title IX Coordinator, in consultation with Campus Police Services, Office of Anti-Violence Initiatives, and other relevant College administrators (as appropriate), will take into

account the College's commitment to provide a safe and non-discriminatory environment for all Students and employees, and will honor the request whenever possible.

Information gathered during a Prohibited Conduct investigation may be shared with the Office of Student Conduct & Off-campus Services. Information gathered during a Student Conduct investigation may be shared with the Office of Title IX & Sexual Misconduct for the purposes of ongoing investigations and/or administrative hearings.

vi. **Confidential Resources**

The College believes it is important that Students and employees are aware of opportunities for support and assistance. Available confidential resources are listed below. Reporting any allegations of Prohibited Conduct to any of the listed resources will not result in an investigation without the consent of the Student or employee sharing the information, but on-campus resources may report the crime to Campus Police Services with no identifying information for inclusion in the College's ASR.

On-Campus Confidential Resources (available Monday-Friday 8:30-4:30pm)

Office of Anti-Violence Initiatives (AVI)

(609) 771-2272

<http://oavi.pages.tcnj.edu/>

Forcina Hall 308

Mental Health Services (MHS)

(609) 771-2247

<http://www.mhs.tcnj.edu/>

Eickhoff Hall 107

Student Health Services (SHS)

(609) 771-2483

<http://health.pages.tcnj.edu/>

Eickhoff Hall 107

Off-Campus Resources

Employee Assistance Program

(800) 527-0035

<https://hr.tcnj.edu/benefits/princeton-healthcare-system-employee-assistance-program-eap/>

Off-Campus Resources (Available 24 Hours)

Capital Health System (Hospital)

(609)-394-6000
750 Brunswick Avenue Trenton, NJ 08638
<http://www.capitalhealth.org/>

Womanspace, Inc.
(609) 394-0136
1530 Brunswick Avenue
Lawrenceville, NJ 08648
<http://www.womanspace.org/>

Mercer County Domestic Violence & Sexual Assault Hotline
(609) 394-9000

NJ Statewide Domestic Violence Hotline
(800) 572-SAFE

National Hotlines (Available 24 Hours)
Domestic Violence (800) 799-SAFE
Sexual Assault (800) 656-HOPE

For a description of the resources above or for more off-campus resources please visit the [Resources](#) page on the Office of Title IX & Sexual Misconduct website.

The confidentiality of information provided to these sources is protected by law and individuals' personal information will not be disclosed without the Student's or employee's permission.

vii. **Amnesty**

The College's highest priority is the physical and mental health, safety, and well-being of individual Students and the campus community. An element of promoting safety is providing clear, responsible methods of reporting and addressing incidents of Prohibited Conduct. Therefore, in order to remove potential barriers to reporting Prohibited Conduct, the College may not charge a Student with violating any Prohibited Conduct or Violation of Expectations for Student Conduct (*Student Conduct Code*) regarding alcohol or other Drugs if that Student reports such conduct within a complaint of possible Prohibited Conduct.

Recognized Student Organizations may qualify for amnesty if a member(s) of that organization reports alleged Prohibited Conduct to the Office of Title IX & Sexual Misconduct in good faith and within a reasonable timeframe of learning about the alleged behavior.

B. Procedure Following Receipt of Actual Knowledge

i. **Initial Assessment**

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will conduct a preliminary inquiry of the facts to determine whether the College must take any other action, beyond those described in the outreach and Supportive Measures sections below, in response to the reported conduct, including whether the Title IX Coordinator must initiate a Formal Complaint and investigation. The Title IX Coordinator will first determine whether the reported conduct falls within the scope and jurisdiction of the *Policy*, and more specifically, within the jurisdiction of the Title IX Final Rule.

Based on reasonably available information at the time of intake, the Title IX Coordinator's inquiry will include assessing whether:

1. The reported conduct occurred within the College's Education Program or Activity, which includes:
 - a. Locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct is reported to have occurred; or
 - b. Conduct that occurred in a building owned or controlled by a student organization that is officially recognized by the College;
2. The reported conduct occurred in the United States; and,
3. The facts set forth by the report, if substantiated, would constitute a violation of Prohibited Conduct, under this *Policy* and/or the [College Discrimination Policy](#) based on facts and circumstances of the information.

Additionally, the assessment will aim to identify what Policy/ies and procedures are most appropriate to use to respond to the reported allegations. The specific procedures for assessing, reviewing and resolving Prohibited Conduct depend upon the nature of the Respondent's relationship to the College, and when a Respondent is an employee, on the type of Prohibited Conduct alleged.

1. **The Respondent is a Student:** Where the facts set forth in the report would constitute Prohibited Conduct as defined by this *Policy*, regardless of whether the conduct occurred in the United States or in the Educational Program or Activity, the College will follow the procedures outlined within this *Policy*.
2. **The Respondent is an Employee:** Where the facts set forth in the report are made against a non-Student employee, the Title IX Coordinator will assess whether the allegations fall within the jurisdiction of the Title IX Final Rule. Where the allegations do fall within the jurisdiction of the Title IX Final Rule and a Formal Complaint is filed, the College will follow the procedures

outlined with this *Policy*. Where the allegations do not fall within the jurisdiction of the Title IX Final Rule, the College will dismiss the allegations in the Formal Complaint related to Sexual Harassment as defined in the Title IX Final Rule. If there are multiple allegations, the College will evaluate each violation individually to determine whether the procedures in the *Policy* are followed or the allegation(s) are dismissed. Any dismissal shall be for purposes of Title IX only and would not preclude the College from addressing the allegations of Prohibited Conduct under the [College Discrimination Policy](#).

3. **The Respondent is both a Student and an Employee:** The Office of Title IX & Sexual Misconduct will determine whether Student or employee Procedures apply based upon the facts and circumstances, and whether those circumstances relate more closely to the Respondent's status as a Student or an employee.
4. **The Respondent is a Third Party:** The College will act to eliminate the harassment, address the behavior, and remedy its effect by providing Supportive Measures to Students or employees who have been impacted by the alleged behavior.

When the College receives a report of behavior that could violate this *Policy* as well as other College policies, the College will determine which policy/ies and procedures apply and whether action will be taken under this *Policy* exclusively, or under multiple policies and/or procedures. In the event that at the time of a report or the conclusion of an investigation it becomes apparent that the alleged conduct, if true, would not constitute Prohibited Conduct, the matter may be adjudicated under another applicable policy or procedure.

Further, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In this initial assessment, the Title IX Coordinator will assess the nature and circumstances of the report and allegations to identify/determine:

- If any personally identifiable information exists;
- Any immediate physical safety and emotional well-being of the Reporter or other campus community members, and address as appropriate;
- Whether the information may constitute Prohibited Conduct outlined in this *Policy*;
- Assess for evidence of a pattern or other similar conduct by the Respondent;
- Possible resolution options that may be available, if any;

- Whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations; and
- The ages of the Reporter and the Respondent, if known, and, if either party is a minor (under 18 years old), take all necessary actions based upon the facts and circumstances of the case, including contacting the appropriate child protective service agency, if required by law.

ii. **Intake Process**

Any person may submit information to the Office of Title IX & Sexual Misconduct regarding alleged Prohibited Conduct. After receiving a report of possible Prohibited Conduct committed by a Student or employee, the Title IX Coordinator or other delegated Official with Authority will promptly contact the Reporter, if one is identified or identifiable, to (1) discuss the availability of Supportive Measures; (2) ask about the Reporter's wishes with respect to Supportive Measures; (3) explain that Supportive Measures are available with or without the filing of a Formal Complaint; and (4) explain how to file a Formal Complaint.

The Office of Title IX & Sexual Misconduct will also provide the Reporter with a written explanation of their rights, available resources, options, and other important *Policy* information, including the following:

- Available support and assistance through College and community resources, including the Reporter's option to seek Supportive Measures regardless of whether they choose to participate in a College or law enforcement investigation;
- The Reporter's right to seek medical treatment, and the importance of obtaining and preserving forensic and other evidence;
- The process for filing a Formal Complaint;
- The College's resolution options, including the Formal Grievance Process and Alternative Resolution Process (if applicable);
- The right to an Advisor of the Reporter's choosing who may be, but is not required to be, an attorney;
- The Reporter's right to contact law enforcement, have a criminal investigation conducted, and/or seek a protective order;
- The College's prohibition against Retaliation against the Reporter, the Respondent, the witnesses, and the reporting parties, how to report acts of Retaliation, and that the College will take prompt action if/when Retaliation is reported;

- Access to the College's *Sexual Harassment, Misconduct, & Discrimination Policy* for reference and the [*College Discrimination Policy*](#), if applicable.

If a Formal Complaint is signed, the Office of Title IX & Sexual Misconduct will ensure the Respondent is informed of the following in writing:

- Notice of the allegations potentially constituting Prohibited Conduct, including the identities of the parties (if known); the date and location of the alleged incident (if known); potential *Policy* violations; that a determination regarding responsibility will be made only at the conclusion of a hearing (if a hearing is applicable); and that the Respondent is presumed not responsible for the alleged Prohibited Conduct prior to the determination;
- The opportunity to discuss with the Title IX Coordinator the Respondent's resources, rights, and options;
- The right to an Advisor of the Respondent's choosing who may be, but is not required to be, an attorney;
- The College and community resources, the right to seek appropriate and available protective and Supportive Measures, and how to request such measures;
- The College's prohibition against Retaliation against the Reporter, the Respondent, the witnesses, and the reporting parties, how to report acts of Retaliation, and that the College will take prompt action if/when Retaliation is reported;
- Access to the College's *Sexual Harassment, Misconduct, & Discrimination Policy* for reference and the [*College Discrimination Policy*](#), if applicable.

Both the Reporter and the Respondent (if a Formal Complaint is signed) are afforded the opportunity to further discuss their resources, rights, and options with the Title IX Coordinator.

Should any individual believe they may require and/or benefit from any Reasonable Accommodation(s) to effectively meet with Title IX & Sexual Misconduct staff and/or participate in the College's resolution options, they are encouraged to contact the Accessibility Resource Center ("ARC") directly at 609-771-3199. Reasonable Accommodation(s) are individualized and accord with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992 (as amended). All requests must be made in advance and the Title IX & Sexual Misconduct staff will consider any Reasonable Accommodation(s) recommended by the ARC for persons who are both registered with the ARC and are participating in any meeting or proceeding through the Office of Title IX & Sexual Misconduct.

iii. **Supportive Measures**

Supportive Measures are individualized services, accommodations, and other assistance that the College offers to any Students or employees and may be put in place without fee or charge. Supportive Measures are designed to restore or preserve equal access to the College's Programs and Activities, protect the safety of all parties and the College's educational environment, and/or deter Prohibited Conduct, without being punitive or disciplinary in nature or unreasonably burdening the other party.

Supportive Measures are available regardless of whether the matter is reported to the College for the purpose of initiating a proceeding under this *Policy* and before, after, and regardless of whether a Formal Complaint is filed. A Reporter who requests Supportive Measures has the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. The College will also implement Supportive Measures for Respondents as requested and appropriate.

Supportive Measures may include, but are not limited to, the following to the extent reasonably available and appropriate:

For Students:

- Academic measures, such as, assistance in transferring to another section of a course, assistance in requesting withdrawal or an incomplete grade in a particular course, leaves of absence or withdrawal from the College, or assistance requesting alternate methods of completing coursework;
- Housing measures, such as requiring a Student to relocate College housing assignment pending the outcome of a conduct investigation or proceeding. This may also include facilitating changes from an on-campus housing location to alternate housing, and assistance in exploring alternative housing off-campus.
- Employment measures, such as, arranging for alternate College employment, different work shifts, etc.;
- Arranging a meeting with the Office of Title IX & Sexual Misconduct and/or Campus Police Services to discuss or report alleged violations of Prohibited Conduct;
- Arranging a meeting with the Office of Anti-Violence Initiatives and/or Campus Police Services to discuss safety planning;
- Arranging access to counseling and/or medical services and assistance in setting up initial appointments;
- Transportation or parking accommodations;
- Restorative practices, which would include voluntary participation in a discussion by trained facilitators with any persons or departments Harmed and development of a shared agreement of how to correct the Harm;

- Any other measure that may be arranged by the College (to the extent reasonably available) to ensure the safety and well-being of a Student and/or the College community affected by the Prohibited Conduct; and
- Implementation of a No Contact Directive.

For Employees:

- Employment accommodations, such as temporary assignment, if appropriate, to other work duties and responsibilities, or other work locations, or other work groups/teams or alternative supervision/management;
- Arranging a meeting with the Office of Title IX & Sexual Misconduct, EEO, and/or Campus Police Services to discuss or report Prohibited Conduct;
- Arranging a meeting with Campus Police Services to discuss safety planning;
- Arranging access to counseling and/or medical services and assistance in setting up initial appointments;
- Transportation or parking accommodations; and
- Any other measures that may be arranged by the College (to the extent reasonably available) to ensure the safety and well-being of an employee who has been affected by a Title IX Sexual Harassment outlined within this *Policy*.

iv. **Interim Measures**

Based on the information received, the Title IX Coordinator and/or other appropriate College administrators may undertake an individualized safety and risk analysis to determine whether interim action(s) are necessary to stop or prevent any further harassment from occurring. Reports of Prohibited Conduct outlined within this *Policy* may require interim measures be implemented to protect the safety and well-being of the Reporter or the Respondent and/or the campus community with or without an investigative and adjudicative process pending. These measures may include the following to the extent reasonably available and appropriate:

1. **Emergency Removal.** The College retains the authority to remove a Respondent from any of the College's programs or activities on an emergency basis where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any Student, employee, self, or other individual arising from the allegations of Prohibited Conduct justifies a removal. Should the College determine that a threat to the health and/or safety of the campus community exists, an emergency removal may be applied for the Respondent.

Emergency removal involves the immediate separation of a Student from the College. The Dean of Students²² will oversee the individual safety and risk assessment and reserves the right to remove a Respondent with or without a grievance process pending in the event that an emergency basis is warranted. Through the duration of the emergency removal, the Student may be restricted from College property and may be required to provide prior notice and receive approval from the Title IX Coordinator or other appropriate administrator for the purpose of conducting College business. An emergency removal will be imposed only in exceptional circumstances to ensure the health, safety or welfare of members of the College or College property or to ensure the Student's own safety and welfare. Should the College determine that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Prohibited Conduct justifies removal, the Dean of Students will provide the Respondent with immediate notice in writing, along with details surrounding the opportunity and process to challenge the removal within five (5) business days. The Respondent can submit information in writing related to the health and safety concerns outlined in the emergency removal letter and provide rationale for why they believe the decision is unwarranted based on the circumstances. The Dean of Students will consider this information and provide the Respondent a response within a reasonable time frame.

An emergency removal under 106.44(c) of the Final Title IX Rule (which the College also follows in cases of non-Title IX Prohibited Conduct) is not a substitute for reaching a determination as to a Respondent's responsibility for the alleged Prohibited Conduct; rather it is for the purpose of addressing imminent threats posed to any person's physical health or safety arising out of the Prohibited Conduct allegations. Therefore, no permanent change in Student status or disciplinary sanctions will be applied to the Respondent without first completing a Formal Grievance process. However, the College reserves the right to implement Supportive Measures in conjunction with the emergency removal, such as a relocation or removal from housing, academic space, or College property on a temporary basis, as long as it does not punish, discipline, or unreasonably burden the Respondent.

In situations where a Respondent has been removed on an emergency basis and a Formal Complaint has been signed, or the circumstances warrant the Title IX Coordinator to sign a Formal Complaint, the College will make a good faith effort to expedite the Formal Grievance Process within a reasonable period of

²² ²² Any references to the Dean of Students may also include a designee.

time after the imposition of the emergency removal to offer a formal administrative hearing in as timely a manner as possible.

Cases involving emergency removal based on allegations reported to the Office of Title IX & Sexual Misconduct may be forwarded to the College's Behavior Intervention Team (BIT) for further assessment of threat to self or others under the *Involuntary Health or Safety Withdrawal Policy*.

If the Respondent is a Third Party, Campus Police Services may request that the individual be banned from the TCNJ campus community.

2. **Administrative Leave.** Following the receipt of a Formal Complaint alleging Title IX Sexual Harassment, the College retains the authority under §106.44(d) of the Final Title IX Rule to place a non-Student employee Respondent on administrative leave pending the completion of a College resolution process. Procedures surrounding the implementation of administrative leave will be consistent with those outlined in the [*College Discrimination Policy*](#).
3. **Interim termination of housing.** Immediate removal and prohibition of a Student from College housing by the Title IX Coordinator pending an investigation or adjudication. Through the duration of the termination of housing the Student will be restricted from entering all residential floors in College buildings.
4. **Administrative hold.** An administrative hold may be placed on a Student's account upon application of formal charges under this *Policy* by a designated College official and pending a completion of the College's Formal Grievance Process. The College reserves the right to withhold the release of a Respondent's official College transcripts and/or diploma, and conferral of a degree until a final decision has been rendered. The awarding of a degree from the College is contingent not only on the completion of academic requirements but also on full compliance with the College's regulations throughout the Student's entire time enrolled, including the period between the completion of academic requirements and graduation. If an administrative hold is put in place pending completion of the grievance process, the Respondent will be notified of the hold and be advised how to raise an objection to the hold or request the modification to or lifting of the hold. The imposition of sanctions during the appellate process and the status of the Student shall not change until the Appeals Officer issues a final decision. The administrative hold will remain in place until lifted by the Office of Title IX & Sexual Misconduct or other designated College official with authority to do so.
5. **Behavior Support Plan.** This plan serves as an agreement of understanding between the Student and the College of the Student's duty to meet the College's

behavioral expectations. By participating in this plan, the Student acknowledges a commitment to working with a College administrator to establish support(s) and resource(s) on campus with the intention of mitigating disruptive behaviors.

C. Formal Complaints

A “Formal Complaint” means a document – including an electronic submission - filed by a Reporter alleging Prohibited Conduct against a Respondent and requesting initiation of a resolution process through the College under this *Policy*.

i. Filing of a Formal Complaint

The Formal Complaint must describe the facts alleged and include a signature or other indication that the Reporter is the person filing the Formal Complaint, or signed by the Title IX Coordinator. A Formal Complaint may be filed by a Reporter during the initial intake process when meeting with the Title IX Coordinator, or at another time thereafter either in person or electronically. The filing of a Formal Complaint is not required to receive Supportive Measures.

The Reporter reserves the right to withdraw a Formal Complaint at any time by submitting the request to the Title IX Coordinator in writing. The Title IX Coordinator will consider that request, while also weighing the necessity to maintain safety of the campus community. Depending on the facts and nature of the allegations, the College may still be compelled to continue the associated investigation and/or Student Conduct or EEO process.

Further, in order to protect the community, the College reserves the right to take action in response to any incident that comes to its attention, and, in some circumstances, the College may be obligated to investigate and adjudicate serious incidents even when the Reporter would prefer otherwise. In circumstances such as these, the Title IX Coordinator also has the discretion to file a Formal Complaint on behalf of the College. The College endeavors to respect the wishes of a Complainant to not pursue a Formal Complaint, to not be identified and/or to not participate in the process. Where possible, the College attempts to address complaints in accordance with the Reporter’s wishes. However, the College may not always be able to do so, and may also be limited in its ability to address incidents of Prohibited Conduct without full participation by a Reporter.

In evaluating the appropriate manner of resolution, including whether the Title IX Coordinator will file a Formal Complaint in the absence of a Formal Complaint by the Reporter, the Title IX Coordinator will consider factors including, but not limited to:

- Whether there is a perceived risk that the Respondent may have a propensity to commit acts prohibited by this *Policy*;
- Whether there have been other reports about the same Respondent;
- Whether the Respondent has a history of arrests or records from the community or a prior institution indicating a history of Prohibited Conduct;
- Whether the Respondent has threatened future physical acts of Prohibited Conduct (including behaviors governed by the College outside of this *Policy*) against the Reporter or others;
- Whether the alleged Prohibited Conduct was committed by multiple parties;
- Whether circumstances suggest there is an increased risk of future acts of Prohibited Conduct under similar circumstances (e.g., whether the report reveals a pattern of perpetration, such as via the illicit use of Drugs or alcohol, at a given location or by a particular group);
- Whether the alleged Prohibited Conduct was perpetrated with a Weapon;
- Whether specific circumstances afford or prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations therein;
- Whether the alleged conduct would constitute criminal conduct under the New Jersey criminal code (such as involvement of a minor); and
- Whether the College possesses other means to obtain relevant information (e.g., security cameras, information known to College personnel, or physical evidence).

The assessment of whether a Formal Complaint must be initiated will be concluded within a reasonably prompt time frame from the receipt of the report. If upon assessment the Title IX Coordinator determines the College has Actual Knowledge of alleged Prohibited Conduct and signing a Formal Complaint on behalf of the College is necessary, the Title IX Coordinator will sign the Formal Complaint and inform the Reporter of this decision to move forward in writing. The Reporter need not participate in the process further but will receive all notices issued under this *Policy* and process. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not signing on behalf of the Reporter, but rather on behalf of the College and does not assume the role of Reporter or otherwise a party, and must still comply with their regulatory duties.

The College also reserves the right to consolidate Formal Complaints alleging Prohibited Conduct against more than one Respondent, or by more than one Reporter against one or more Respondents, or by one party against the other party,

where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

ii. **Dismissal of a Formal Complaint**

At any time during the handling of a Formal Complaint, the Title IX Coordinator may dismiss the complaint, in whole or in part, for the purposes of Title IX or at their discretion. Upon receipt of a Formal Complaint, the information gathered will be continuously assessed to determine whether a Mandatory or Discretionary dismissal is warranted. The types of dismissals and the grounds, processes, and rights associated with each are detailed below.

1. **Types of Dismissals**

- a. ***Mandatory Dismissals.*** The Title IX Coordinator will determine whether the conduct alleged in the complaint falls within the scope of this *Policy* and the associated definitions of Prohibited Conduct. The Title IX Final Rule requires the Title IX Coordinator to dismiss some or all of the allegations in the Formal Complaint if the conduct alleged in the Formal Complaint:

- i. would not constitute Sexual Harassment as defined in *Section II, F.: Prohibited Conduct* of this *Policy*, even if proved;
- ii. did not occur in the College's Education Program or Activity;
- iii. did not occur against a person in the United States; or
- iv. if at the time of filing a Formal Complaint, a Reporter is not participating in or attempting to participate in the Education Program or Activity of the College with which the Formal Complaint is filed.

If any of the above criteria are met, the College must dismiss the Formal Complaint with regard to that conduct for purposes of Sexual Harassment under Title IX. However, where the allegations in the Formal Complaint include other forms of Prohibited Conduct within this *Policy*, the conduct occurs outside of the United States, or the conduct is not within the College's Education Program or Activity (but still within the scope of conduct regulated by the College), these procedures will still apply and the remaining allegations may proceed through a College resolution process set forth below.

- b. ***Discretionary Dismissals.*** The Title IX Final Rule grants the Title IX Coordinator discretion to dismiss a Formal Complaint brought under this *Policy*, or any specific allegations therein, at any time during the investigation or hearing, if:

- i. a Reporter notifies the Title IX Coordinator in writing that the Reporter would like to withdraw the Formal Complaint or any allegations therein;
 - ii. the Respondent is no longer enrolled or employed by the College; or
 - iii. specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations therein.
2. **Associated Dismissal Procedures.** Upon a dismissal, whether mandatory or discretionary, the College will promptly send written notice of the dismissal and rationale for the decision simultaneously to both the Reporter and the Respondent via email. It is the responsibility of parties to maintain and regularly check their TCNJ email accounts. If a Formal Complaint is dismissed for one of the above reasons, each party (referring to the Reporter and Respondent) may appeal that dismissal using the process described in *Section III, F.: Appeals* of this *Policy*. Supportive Measures may still be implemented for parties, as appropriate, even if a Formal Complaint has been dismissed.

D. College Resolution Options

The College recognizes that there is not one universal resolution process that best meets the needs of our Students, employees, and campus community. To adequately address reports of Prohibited Conduct two different procedural processes are outlined. The Formal Grievance Process is the College's default resolution option. To utilize the Alternative Resolution Process in lieu of the Formal Grievance Process there must be agreement by both the Reporter and the Student Respondent, and there must be approval by the College. Employee Respondents may be eligible for the Alternative Resolution Process with the consent of the employee Reporter and at the discretion of the College. The College retains the right at any time to utilize the Formal Grievance Process as the most appropriate procedural process. Details regarding the processes for each of the resolution options are outlined below, and associated flowcharts can be found in the appendix section of this *Policy*.

Recordings will not be permitted during any resolution process that falls under this *Policy* with exception of the formal administrative hearing (see below for details).

Should any individual believe they may require and/or benefit from any Reasonable Accommodation(s) to effectively meet with Title IX & Sexual Misconduct staff and/or participate in the College's resolution options, they are encouraged to contact the Accessibility Resource Center ("ARC") directly at 609-771-3199. Reasonable Accommodation(s) are individualized and accord with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992 (as amended). All requests

must be made in advance and the Title IX & Sexual Misconduct staff will consider any Reasonable Accommodation(s) recommended by the ARC for persons who are both registered with the ARC and are participating in any meeting or proceeding through the Office of Title IX & Sexual Misconduct.

i. Formal Grievance Process

1. **General overview of resolution option.** Once an initial report is received, the Title IX Coordinator will meet with the Reporter to review their option to file a Formal Complaint, along with the process to do so, and discuss available Supportive Measures. Should the Reporter sign a Formal Complaint and request to proceed with the Formal Grievance process, the Title IX Coordinator will notify the Respondent of the allegations against them in writing. The Title IX Coordinator will then assign an Investigator(s) to the case who will follow the proper investigative protocols/procedures. In the event that the Formal Complaint is not dismissed pursuant to the Dismissal of a Formal Complaint section above, the case will move to a formal administrative hearing.
2. **Core Principles.** The investigation process, including a hearing where warranted, incorporates the following core principles, rights, and responsibilities:
 - i. *Presumption of good faith reporting.* The College presumes that reports of Prohibited Conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this *Policy* or that there is insufficient evidence to conclude that the incident occurred as reported does not mean that the report was made in bad faith.
 - ii. *Participation by the parties and witnesses is voluntary.* Reporters, Respondents, or witnesses may choose to participate or decline to participate in the investigation process. However, even if a Reporter or a Respondent declines to participate, the College may deem it necessary to continue to investigate the allegations.
 - iii. *Expectation of Reporter, Respondent, and Witnesses.* The Reporter, Respondent, witnesses, and others sharing information with the Investigator(s) or the Hearing Administrator are expected to provide all relevant and truthful information and to do so at their earliest opportunity to facilitate prompt resolution. A party or witness who elects to participate in the process is expected, although not compelled, to participate in all aspects of the process (e.g., a witness who chooses to participate is expected to make themselves available for an interview and hearing if requested to do so).

- iv. *Advisors.* The College has a long-standing practice of requiring students who wish to participate in the process to do so directly and not through an advocate or representative. Students participating as a Reporter or Respondent in this process may be accompanied by an Advisor of their choice to any meetings, investigation preparations, hearing proceedings, and/or any appeal processes to which they are required or are eligible to attend. The College will not intentionally schedule meetings or hearings on dates where the Advisors of choice are not available, provided that the Advisors act reasonably in providing their availability and work collegially to find dates and times with mutual availability. Except where explicitly stated by this *Policy*, Advisors of choice shall not participate directly in the process. For more information on Advisors refer to Appendix A and *Section III, D.: College Resolution Options, xi. Advisors* of this *Policy*.
- v. *Prior or subsequent conduct of the Respondent.* Prior or subsequent conduct of the Respondent will never be considered to establish responsibility for Prohibited Conduct, but may be considered for other purposes, such as determining pattern, knowledge, or a Respondent's intent for engaging in alleged conduct. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a *Policy* violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of whether pattern evidence may be relevant will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. The Investigator(s) or Hearing Administrator will determine the relevance of this information and both the Reporter and Respondent will be informed via inclusion of such information in the preliminary report or outcome determination if evidence of prior or subsequent conduct is deemed relevant.
- vi. *Prior sexual behavior.* Prior sexual behavior, including prior sexual contact between a Reporter and a Respondent, will never be used to prove character or reputation. Moreover, evidence related to the prior sexual behavior of or between the parties is generally not relevant to the determination of a *Policy* violation and will be considered only in limited circumstances.
- vii. *Witnesses.* Both parties have equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory

evidence throughout the investigation and hearing, if applicable. Any attempt to threaten, intimidate, or otherwise improperly influence the testimony of a witness may result in disciplinary action.

- viii. *Presumption of innocence.* Throughout the investigation and the duration of a formal hearing, the Respondent is presumed to be not in violation of a *Policy* violation unless a preponderance of the evidence supports a finding that the Respondent violated the *Policy*. Investigator(s) and decision-makers will also avoid making credibility determinations based on a person's status as a Reporter, Respondent, or witness.
- ix. *Burden of Proof.* The burden of proof (preponderance of evidence), and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the individual parties.

3. Investigative Protocols/Procedures

- i. **Notice of Investigation and Notice of Interviews.** Both the Respondent and the Reporter will be informed in writing of the initiation of an investigation into the allegations, which will include, but is not limited to: the identities of the parties (if known); the date and location of the alleged incident (if known); potential *Policy* violations; a presumption that the Respondent has not violated the *Policy*; and other information as set forth above in the "Intake Process" section. Such notice will be provided with sufficient time for the parties to prepare for their scheduled interviews for statement collection with the Investigator(s). All subsequent follow up interviews or meetings (if needed) with the Reporter and Respondent will be relayed through written notice of the date, time, location, and purpose in an effort to provide enough time to prepare for the interview.

If, during the investigation, additional information is disclosed that may constitute additional Prohibited Conduct under the *Policy*, both parties will be informed accordingly in writing and will have an opportunity to respond to those allegations consistent with these procedures.

- ii. **Evidence Collection.** For all investigations there will be one or more trained Investigator(s)²³ designated to gather evidence who must be free from any conflict of interest and bias. A staff member from the Office of Title IX & Sexual Misconduct or designee will be the lead Investigator and coordinate meetings with the Reporter, Respondent, and any other relevant individuals, including fact and expert witnesses, in a reasonably

²³ The College may retain the right to use external investigators to resolve complaints and will notify both the Reporter and Respondent prior to this decision.

prompt timeframe. Both parties will be interviewed and asked to share any information they have regarding the incident, as well as all relevant documentation (i.e. text messages, emails, photographs, other documents, etc.), and identify any witnesses who may provide information pertinent to the allegations in the Formal Complaint. Investigator(s) will also interview relevant witnesses identified by the parties and/or the College. The investigator has the discretion not to interview a witness if based on the available information there is no indication that the witness possesses relevant evidence, or if the evidence provided would be cumulative.

Both parties may also request Investigator(s) interview witnesses identified as experts of a particular subject matter. If either party wishes to provide expert testimony or evidence, they are solely responsible for securing attendance of any expert witness at a hearing, and for the costs or fees associated with any expert report or testimony. If the Investigator(s) determines that expertise on a topic will assist the Hearing Administrator in making a determination(s), the Investigator(s) may include in the investigative record medical, forensic, technological, or other expert testimony and materials (such as writings and recordings) that the Investigator(s) deems relevant and reliable. However, the College will not consider polygraph results.

In the event that the Investigator(s) consults an expert, the Investigator(s) will determine what, if any, expert testimony and materials will be included in the investigation report and the expert's identity will be shared with both parties so that they may also have the opportunity to identify any risk of possible conflicts or bias for assessment by Investigator(s).

Following the interview(s) with each party and any identified witness(es), each will be provided a draft summary of their own statement or key relevant information therefrom so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. Any resulting feedback provided during this review may be attached or otherwise incorporated into the preliminary investigation report to the extent deemed relevant by the Investigator(s).

Although the College is responsible for gathering readily available evidence sufficient to reach a determination regarding responsibility, all parties and witnesses are expected to share any relevant information and/or any information that is requested by the Investigator(s), and to do so as early in the process as possible or upon request. The Hearing Administrator may consider refusal to provide information when judging credibility of witnesses.

iii. **Preliminary Investigation Report.** Only information directly related to the allegation(s) provided by the Reporter, Respondent, witnesses, or gathered from another source will be considered by the Investigator(s) and they have the sole discretion in determining whether witnesses and/or relevant documentation provided relate to the Prohibited Conduct. Witnesses and information are relevant to a Prohibited Conduct investigation if they help to show that an allegation of Prohibited Conduct is more or less likely to be true. Therefore, after the Reporter and Respondent have had the opportunity to comment on their own statement and to identify witnesses and other potential information, and the Investigator(s) has completed interviews and the gathering of evidence, all evidence directly related to the allegations in the Formal Complaint obtained as part of the investigation will be shared with the parties for their review and comment through a preliminary investigation report.

The preliminary report, prepared by the Investigator(s) will include, as applicable, the Reporter's statement, the Respondent's statement, each witness' statement and a summary of any other information the Investigator(s) in their discretion deems relevant.

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained throughout the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to the conclusion of the investigation. This provides each party the opportunity to review the information the Investigator(s) has collected and respond to evidence deemed irrelevant or not directly related to the allegations.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations in the Formal Complaint. It will include any:

- Evidence that is relevant, even if that evidence is not ultimately relied upon by the College in making a determination regarding responsibility;
- Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

Evidence that is deemed irrelevant, and would not be included in the inspection and review period, consists of the following:

- Evidence about the Reporter’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Reporter; or
 - They concern specific incidents of the Reporter’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party’s medical, psychological, and/or similar records unless the party has given voluntary, written consent.

Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator(s) to be directly related to the allegations in the Formal Complaint, rather than relevant, will be separated out from the investigation report and organized in a separate document.

Review and Response to Preliminary Report. Through an electronic format, the Investigator(s) will provide the parties and their respective Advisors, if any, with (1) the preliminary report along with any supplemental media, (such as video recordings to the extent possible), and (2) all evidence directly related to the allegations in the Formal Complaint that was obtained as part of the investigation.

In accordance with the Family Educational Rights and Privacy Act (“FERPA”), the Investigator(s) will redact names and other identifying information of other students from the report and related materials, except to the extent that doing so would interfere with the parties’ rights under this *Policy*. If supplemental media is unable to be shared electronically, Investigator(s) will make the content available for individual review at a prearranged time.

Additionally, prior to gaining access to the available evidence, the parties and their respective Advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Formal Grievance Process (see Appendix D).

The parties and their respective Advisor will have ten (10) calendar days to inspect and review the evidence and submit a written response via email to the Investigator(s). The parties should use this time to submit to the Investigator(s) any comments, feedback, additional documents, evidence,

requests for additional investigative steps, names of additional witnesses, or any other information they deem relevant. Additionally, arguments for the inclusion/exclusion of evidence in the preliminary investigation report should also be included as necessary in parties' responses.

- iv. **Final Investigation Report.** Following the ten-day (10) review period, Investigator(s) will then shift evidence between the investigation report and directly related evidence document at their discretion based on party feedback, undertake any additional investigative steps as needed (as determined by the Investigator(s)) and issue a final investigation report. The final investigation report will fairly summarize all relevant information received throughout the investigation, such as interview summaries, witness statements, supplemental media, and include both inculpatory and exculpatory evidence.

Review and Response to Final Report. The parties will have another ten (10) calendar days to inspect and review the final investigation report and submit a written response to the Investigator(s). The Reporter and Respondent also have an opportunity to submit information or concerns regarding any conflict of interest and/or bias with the investigators for the consideration of the Hearing Administrator, if applicable. The Investigator(s) will consider the submitted information and may revise the investigation report and/or directly related evidence document based on the responses received. Any information provided in the parties' responses that are not included in the finalized investigation report due to not being deemed relevant by Investigator(s), can be raised during the live hearing. A copy of the finalized investigation report and the directly related evidence document will be shared with both parties, their respective Advisors (if applicable), and the Hearing Administrator (if applicable). Any evidence subject to inspection and review will be available at any formal administrative hearing, including for purposes of cross-examination.

- v. **Ongoing Assessment.** If at any time during the handling of a Formal Complaint of Prohibited Conduct, the Title IX Coordinator determines that:
 - The conduct alleged in the Formal Complaint would not constitute Title IX Misconduct if proved;
 - The conduct alleged in the Formal Complaint did not occur in a College Program or Activity; or

- The conduct alleged in the Formal Complaint did not occur against a person in the United States.

The Title IX Coordinator reserves the right to dismiss the Formal Complaint, in partial or full, at any time during the investigation if it becomes apparent, even if substantiated and believed to be true, would not constitute Prohibited Conduct as defined in this *Policy* or could not have occurred (see discretionary dismissals in *Section III, C.: Formal Complaints*). In that event, the parties will be notified in writing that the allegations of Title IX Sexual Harassment must be dismissed and the reason for dismissal. If the behavior at issue would still, as alleged, constitute a form of Prohibited Conduct under this *Policy*, this dismissal for Title IX purposes may have no practical effect on the College's investigation and the allegations of Prohibited Conduct may continue to be addressed under these Procedures. If a Formal Complaint of Title IX Sexual Harassment is dismissed for one of the above reasons, the parties may appeal that dismissal using the process described in *Section III, F.: Appeals*.

- vi. **Additional Considerations.** If at the conclusion of an investigation it is determined that a dismissal is warranted but there may be violations of the *Student Conduct Code*, the Investigator(s) may transfer the case to the Office of Student Conduct & Off-Campus Services for further investigation and/or adjudication. If the Title IX Coordinator determines that there are Violations of Expectations outlined in the *Student Conduct Code* that directly relate to a violation of this *Policy*, the Title IX Coordinator in consultation with the Director of Student Conduct may decide to adjudicate all charges through this *Policy*'s grievance process.

4. **Formal Administrative Hearing Protocols & Procedures**

- i. **General overview.** A formal hearing is an administrative process that reflects the College's obligation to provide a positive and healthy living/learning environment for all members of our academic community. The hearing is not intended to be a repeat of the investigation, rather it is an opportunity to gather and evaluate relevant information to determine whether the Respondent's actions violated provisions of this *Policy*, and afford all parties due process protections, including the right to present evidence and witnesses at a live hearing before an impartial decision maker.
- ii. **Pre-hearing Meeting.** The Reporter and Respondent will meet separately with the Title IX Coordinator to plan for the hearing and to identify their Advisor (who may also attend the pre-hearing meeting); to review the

Formal Complaint; to describe the procedures to be followed at the hearing; to identify the names of the witnesses that will be asked to appear; to discuss any technology that will be used at the hearing and how to operate such technology; and to answer any other questions or share information prior to the hearing. The Title IX Coordinator also will discuss the time allotted for the hearing and any time limitations. The Title IX Coordinator will provide all relevant and significant information to the parties at the pre-hearing meeting. If either party does not attend the pre-hearing meeting, the Title IX Coordinator will determine whether and how that absence affects the ability of the College to move forward with the hearing, as well as the hearing schedule.

- iii. **Hearing Administrator.** The following describes the role of the Hearing Administrator within the described grievance process:
- The Hearing Administrator is any person hired and/or trained by the College who is designated by the Office of Title IX & Sexual Misconduct to conduct a formal administrative hearing. The Hearing Administrator will have the authority and responsibility of overseeing the formal administrative hearing and objectively evaluating all relevant evidence (both inculpatory and exculpatory) to make an independent determination of responsibility. The Hearing Administrator may be assisted by an Advisor, who may be a member of the Office of General Counsel or another attorney retained by the College.
 - No Hearing Administrator will also have served as the Title IX Coordinator, Title IX Investigator, or Advisor to any party in the case, nor may any Hearing Administrator serve as the appeals officer in the case.
 - The Hearing Administrator will be free of any conflicts of interest or bias in favor of or against Reporters or Respondents generally, or in favor or against the parties to the particular case.
 - The Hearing Administrator will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Reporters, and any technology to be used at the hearing.
 - The Hearing Administrator is responsible for maintaining an orderly, fair, and respectful hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person(s).

The Hearing Administrator will be informed of the identities of the parties so that they can identify any conflict of interest to the Title IX Coordinator. At the discretion of the Title IX Coordinator, an alternate Hearing Administrator may be assigned. The parties will be notified of the identity of the selected Hearing Administrator in advance of the hearing, and parties may, within three (3) calendar days of such notice, object to the Hearing Administrator by providing a written statement as to why the party believes that the Hearing Administrator has a conflict of interest or bias that would impact their ability to objectively evaluate the relevant information and make a decision regarding responsibility. The Title IX Coordinator will make decisions regarding such objections and the appointment of alternate Hearing Administrators, as necessary. If a potential conflict of interest is discovered outside of the three (3) days, it is within the discretion of the Title IX Coordinator to appoint an alternate Hearing Administrator.

- iv. **Private hearing.** A hearing is conducted in private. The Reporter, Respondent, the person bringing the complaint on behalf of the College, and Advisor(s) are allowed to attend the entire portion of the hearing at which information is received with the exception of deliberations. Admission of any other person to the hearing shall be at the discretion of the Hearing Administrator.
- v. **Joint hearing.** In cases involving more than one Respondent, the Hearing Administrator may permit the hearing concerning each party to be conducted either separately or jointly.
- vi. **Record of the hearing.** Recordings by parties or witnesses will not be permitted during any phase of the College Formal Grievance process. There will be a single record, such as a digital audio recording, of all formal hearings (excluding deliberations), which will be made by and be the property of the College. Following the hearing, a copy of the recording will be made available to the Reporter or Respondent upon written request. Prior to obtaining access to any evidence, the parties and their Advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the formal grievance proceeding. Once signed, this Agreement may not be withdrawn.
- vii. **Physical structure of the hearing.** As a default, the College will offer a live hearing with the parties located in separate rooms within the same building with technology enabling the Hearing Administrator and the parties to simultaneously see and hear the party or the witness answering

questions in real time. At the College's discretion, the entire live hearing may also be conducted virtually, with technology enabling all participants (Hearing Administrator, parties, Advisors, and witnesses) to see and hear one another in real time.

viii. **Hearing Procedures.** All formal administrative hearings conducted under this grievance process will be conducted as follows, and specific details regarding these procedural components are further outlined in sections below:

1. The Hearing Administrator will open and establish rules and expectations for the live hearing;
2. The Reporter and Respondent will each be given the opportunity to provide opening statements;
3. The Hearing Administrator will ask questions of the parties and fact and expert witnesses (if applicable);
4. The Reporter and Respondent will be given the opportunity for live cross-examination of parties and fact and expert witnesses (through their Advisor) (as applicable) after the Hearing Administrator conducts their initial round of questioning. During the parties' cross-examination, the Hearing Administrator will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions and any time necessary in order to enforce the established Rules of Decorum.
5. After examination of all parties and witnesses is complete, the parties will each be given the opportunity to provide closing statements and the Hearing Administrator may ask any final questions of parties at the Hearing Administrator's discretion;
6. The hearing will adjourn, and the Hearing Administrator will objectively evaluate the relevant information and independently make a decision regarding responsibility of the Respondent;
7. The hearing will reconvene once the Hearing Administrator has made their decision, and the Hearing Administrator will notify the parties of the outcome;
8. If the Hearing Administrator finds the Respondent in-violation of Prohibited Conduct outlined in this *Policy*, the Reporter will have the opportunity to present an impact statement and the Respondent will have the opportunity to share a character statement on their own behalf and have character witnesses present statements either

in writing or in-person at the hearing. Both parties will also have the opportunity to make recommendations for sanctioning. If the Hearing Administrator finds the Respondent not in-violation of Prohibited Conduct outlined in this *Policy*, the hearing concludes after the Hearing Administrator has announced their decision.

9. Upon the conclusion of the hearing, parties will be notified that they will receive a written decision letter through the Advocate-Symplicity system outlining the decision, any sanctions or remedies imposed on the Respondent (if found in-violation), and the rationale for the decision and any sanctions imposed (if applicable).
- ix. **Procedural questions.** All procedural questions are subject to the final decision of the Hearing Administrator.
- x. **Hearing decorum.** See Appendix C for details on the College's Rules of Decorum for formal administrative hearings. All parties, witnesses, and Advisors are required to adhere to the stated Rules of Decorum.
- xi. **Advisors.** Each party may have an Advisor of their choice present at the hearing. The Advisor does not participate in the hearing except for the limited purpose of conducting cross-examination on behalf of the Reporter or Respondent. Advisors may be, but are not required to be, attorneys. Parties must inform the Investigator(s) of any Advisor of choice who will accompany them to the hearing within five (5) calendar days of receiving notice of the hearing, so that it is known whether or not there is a need to arrange for the presence of a College-provided Advisor. If a party does not have an Advisor of their choice present at a hearing, the College will, without fee or charge to the party, provide an Advisor of the College's choice, for the sole and limited purpose of conducting cross-examination on behalf of that party. During a formal administrative hearing, a party may request to consult with their Advisor at any point in a non-disruptive manner. However, the Advisor may not represent or otherwise speak for the party they are supporting except during the cross-examination portion of hearing. All parties and their Advisors shall be subject to the College's Rules of Decorum, and may be removed from a hearing or other proceeding upon violation of those Rules (see Appendix C).
- xii. **Relevant Questioning & Cross-examination.** The Hearing Administrator reserves the right to ask questions of all parties and witnesses who participate in the hearing. Once the Hearing Administrator has concluded asking all relevant questions, each party's Advisor is permitted to ask the other party and any witnesses any relevant questions and follow-up

questions, including those challenging credibility, subject to the Hearing Administrator's control and rules regarding relevance. Such questioning must be conducted directly, orally, and in real time by the party's Advisor and never by a Reporter or Respondent personally.

Before any party or witness(es) answers a cross-examination question, the Hearing Administrator must first determine whether the question is relevant. Questions posed through cross-examination will only be permitted if they are deemed relevant to the allegation(s) in question. If the Hearing Administrator deems a question irrelevant, they will provide their explanation for excluding that question. The basic test for relevance is whether the question posed is probative on the question of responsibility. In determining whether a question is relevant, the focus is on whether the evidence is pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true. While an Advisor may offer explanation as to the relevance of a question, a Hearing Administrator has the final discretion over the determination of relevance and their determination is not subject to challenge during a hearing but may be raised as a procedural error on appeal.

Questions and evidence about the Reporter's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Reporter's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Reporter, concern specific incidents of the Reporter's prior sexual behavior with respect to the Respondent and are offered to prove Effective Consent or due process would otherwise require such questions and evidence under applicable laws.

Information protected under a legally recognized privilege (e.g., privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), are not considered unless the information is relevant and the person holding the privilege has waived the privilege.

Where one party does not appear and that party's Advisor of choice does not appear, a recipient-provided advisor *must* still cross-examine the other, appearing party "on behalf of" the non-appearing party, resulting in the consideration of the appearing party's statements but not the non-appearing party's statements.

- xiii. **Additional information.** New information, relevant records, exhibits, and written statements (including Student impact statements and/or character

statements during the sanction phase) may be accepted as information for consideration at the discretion of the Hearing Administrator.

- xiv. **Decline to provide information.** All parties and witnesses have the right to decline to provide any written or oral statements, submit to cross-examination during a hearing, or provide any information on their behalf. In any of these circumstances, the Hearing Administrator cannot draw any inferences about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.
- xv. **Consideration of information.** At the deliberation portion of the hearing, the extent to which information can be considered by the Hearing Administrator will be dependent on the type of Prohibited Conduct charged and the geographic location (jurisdiction) of the conduct.

1. *Title IX Sexual Harassment Allegations Only.*

- a. If a party or witness elects to not participate in the live hearing, or participates in the hearing but declines to be subject to cross-examination, the Hearing Administrator may not rely on any statement of the non-participating party or witness in reaching a determination regarding responsibility. This limitation does not apply to a party or witness's refusal to answer questions posed by the Hearing Administrator.
- b. If a party does not submit to cross-examination, the Hearing Administrator cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but the Hearing Administrator may still reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.

2. *Allegations of BOTH Title IX & Non-Title IX Prohibited Conduct.*

For hearings that aim to address Prohibited Conduct that falls both within and outside of Title IX jurisdiction the consideration of information by the Hearing Administrator will be bifurcated. Upon deliberation:

- a. For allegations of Title IX Sexual Harassment - See *Title IX Sexual Harassment Only* above.
- b. For allegations of Non-Title IX Prohibited Conduct (including College Sexual Misconduct) - The Hearing Administrator has the discretion to consider any information provided in the final

investigation report that the Hearing Administrator finds reliable and credible.

3. *Non-Title IX Prohibited Conduct Allegations Only.*

- a. For hearings that involve only Prohibited Conduct that falls outside of Title IX jurisdiction (including College Sexual Misconduct), there are no limitations surrounding the information the Hearing Administrator may consider when determining a finding. The Hearing Administrator has the discretion to consider any information provided in the final investigation report that the Hearing Administrator finds reliable and credible.
- xvi. **Basis for decision.** The Hearing Administrator's determination shall be made on the preponderance of evidence standard, which uses the basis of whether it is more likely than not that the Respondent engaged in Prohibited Conduct, and therefore violated terms outlined within this *Policy*. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Prohibited Conduct proceedings. Prior determinations made or sanctions imposed under these procedural standards will not be subject to change because criminal charges arising out of the same facts giving rise to violation of this *Policy* are later dismissed, reduced, or resolved in favor of the criminal law defendant.
 - xvii. **Decision in absentia.** If a Respondent, with notice, does not appear for a hearing, the Hearing Administrator may postpone the hearing or hear the information in support of the charges in the Respondent's absence and will make a decision on the information available for consideration at the time. However, the Hearing Administrator is prohibited from drawing an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions.
 - xviii. **Written Notice of Sanction(s)/Outcome(s).** The Reporter and Respondent will simultaneously receive the written hearing decision letter, which includes: a) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination; b) Findings of fact supporting the determination; c) Conclusions regarding the application of the College's relevant policies to the facts; d) A statement of, and rationale for, the result as to each allegation, including: any disciplinary sanctions the College imposes on the Respondent; and whether remedies designed to restore or preserve equal access to the

College's Education Program or Activity will be provided by the College to the Reporter; and e) information regarding the appeal process, including permissible grounds for appeal.

5. **Timeframe for Formal Grievance Process.** The timeframe for the Formal Grievance process begins with the filing of a Formal Complaint. The Formal Grievance process will be concluded within a reasonably prompt manner, and the College will make every effort to not exceed ninety (90) business days after the filing of the Formal Complaint, provided that the process may be extended for a good reason, including but not limited to the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Should the Reporter or Respondent need a reasonable extension, without undue delay, a written request must be submitted to the Investigator(s) for consideration.

ii. **Alternative Resolution**

1. **General overview.** Alternative Resolution is a voluntary process within The College of New Jersey's *Sexual Harassment, Misconduct, & Discrimination Policy* that allows a Respondent in a Prohibited Conduct case to accept responsibility for their behavior and/or potential Harm. By fully participating in this process the Respondent will not be charged with a violation of College *Policy*. The Alternative Resolution process is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Reporter and Respondent while still maintaining the safety of the overall campus community.

Restorative processes encompass a philosophical approach that embraces the reparation of Harm, healing of trauma, reconciliation of interpersonal conflict, and reintegration of people who have been marginalized through participatory learning and improved decision-making skills. Rather than focusing on what policies have been violated, restorative processes instead identify who has been Harmed and what actions are necessary to repair the Harm.

2. **Required Elements for Participation.** The Alternative Resolution process will only be used at the Reporter's request after the submission of a Formal Complaint, upon the agreement of both the Reporter and Respondent, and under the direction of the Office of Title IX & Sexual Misconduct. A request to utilize the Alternative Resolution process can be made at any time during an investigation prior to a scheduled formal hearing, however, this process may not be an appropriate mechanism to resolve all allegations. In order for the Alternative Resolution process to be an appropriate resolution option, both parties must have an understanding of and agree on the necessary elements of the

process. Both the Reporter and Respondent will have to agree to the following terms should they wish to participate in the Alternative Resolution process:

- Participation in this process is voluntary and either the Reporter or Respondent can choose to end the process at any time prior to signing the agreement;
- Mediation, even if voluntary, will not be used in cases involving sexual assault;
- Both the Reporter and Respondent must participate in individual conference meetings with appropriate staff to learn more about the resolution process prior to participating;
- The process can only be used once and will not be considered if requested by a repeat Respondent under the *Student Conduct Code* and/or the *Sexual Harassment, Misconduct, & Discrimination Policy*;
- The Reporter and Respondent must agree to all recommendations outlined in the formal agreement or the matter may be referred to the Title IX Coordinator for further action;
- Information documented during this process may be subpoenaed if a criminal investigation is initiated;
- Participation in this process does not constitute a responsible finding of a *Policy* violation and therefore is not reflected on the Respondent's disciplinary record;
- If the Respondent is documented and found in violation of any *Policy* violations in the future, an Alternative Resolution agreement can be used in the sanctioning phase of that process; and
- The College reserves the right to suspend or terminate the Alternative Resolution process and revert back to an investigation at any time.
- The Respondent may be charged with *Compliance with Directives, part d.* under the *Sexual Harassment, Misconduct, & Discrimination Policy* for failure to meet the requirements laid out in an Alternative Resolution agreement.

Any agreement reached as part of the Alternative Resolution process must be documented, signed in-person or via email by the Reporter and Respondent, and approved by the Title IX Coordinator. If no agreement is reached, the matter may be referred to the Title IX Coordinator for further action.

The Alternative Resolution process is beneficial when both parties participate in good faith. Should the Respondent not complete the agreement, the case can

either revert back to an investigation or the Respondent can be charged with *Compliance with Directives, part d*. If the College determines that proceeding with the *Compliance with Directives* charge is the appropriate route, the original Title IX & Sexual Misconduct staff member who facilitated the agreement may serve as a witness in that proceeding. The Reporter who originated the initial Formal Complaint and the Respondent will have full access to the outcome and rationale.

Both the Reporter and the Respondent may be accompanied by an Advisor at any meeting with Title IX & Sexual Misconduct staff during the Alternative Resolution process.

3. **Sample Restorative/Educational Activities.** Possible options that Students may incorporate into the Alternative Resolution process are outlined below:

- Restorative Circle
 - Participation in a discussion by trained facilitators with any persons Harmed and development of a shared agreement of how to correct the Harm. The Reporter and Respondent (and possible community members) work together to develop an agreement that resolves the issue(s), and can help the Respondent restore their standing in the community and repair relationships that were damaged by their actions. During the circle, both Students can have a support person present. A support person differs from an Advisor as this person can have an active role during this process. A support person must be approved by the lead facilitator.
- Salient Analysis of Interpersonal Dynamics (SAID) Workshop
 - Consists of 3 individual one-on-one sessions (1 hour each) with the Respondent and a trained College staff member that are designed to create a space for those accused of Prohibited Conduct under this *Policy* and/or Violations of the *Student Conduct Code* to examine their behavior and receive contextual information surrounding it with the goal of sparking behavior change, skill-building, and self-reflection.
- Reporter Impact Statement
- Counseling Sessions
- Alcohol Education Class(es)
- Bi-weekly or Monthly check in meetings with the Title IX Coordinator
- Implementation of a No Contact Directive with the College
- Restriction from participation in specific clubs and/or organizations
- Restriction from participation in particular events (e.g. Senior Week)

- Completion of a master education plan with regular meetings with a faculty or staff member of the College
- Community Service

For more information on a description of these possible resolution options, please refer to the [Title IX & Sexual Misconduct website](#).

4. **Expectations for Use of Alternative Resolution Process.** The Alternative Resolution process is an additional resolution option provided by the College. The process is voluntary for all individuals involved and must be approved by the College prior to utilization. The College will consider several factors when determining if this resolution process is appropriate:

- The Respondent's disciplinary history;
- Whether the Respondent has had several allegations and/or reports of escalation against them;
- Whether there was a use of a weapon or force;
Whether physical bodily injury was sustained;
- Whether the alleged incident was committed by multiple perpetrators;
and
- Whether the Reporter is a minor and/or affiliated with a vulnerable population.

5. **Timeline for Alternative Resolution Process.** The Office of Title IX & Sexual Misconduct will make every effort to develop an agreement, in consultation with the Reporter, which is both thorough and prompt. To determine the due dates for each educational, administrative, or restorative activity outlined in the agreement, the Title IX & Sexual Misconduct staff will consider aspects including, but not limited to:

- Number of activities included on the contract
- Type of activities included on the contract
- Timing of the semester
- Graduation date(s) of the Reporter and Respondent

In consideration of the information above, the Office will attempt to have all deadlines for components of the agreement completed within 60 business days of the agreement being signed provided that the process may be extended for good cause, including but not limited to the absence of a party, a party's Advisor or support person (applicable only for the participation in a restorative circle) for a meeting or activity; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

E. Remedies & Sanctions

If the Respondent is found to have violated the *Policy*, the Respondent will receive sanctions and the Reporter will be provided appropriate remedies. The College has wide latitude in the imposition of sanctions and remedies tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Reporter and College community, and accountability for the Respondent. Sanctions may also serve to remedy the discriminatory effects of the Prohibited Conduct on the Reporter and others, including systemic actions found to be appropriate for the broader College community. Remedies will be designed to restore or preserve equal access to the College's Program or Activity.

The various outcomes listed below, alone or in any combination, may be imposed upon any Student or employee specifically noted in the section below found to have violated this *Policy*. If a Student-employee is found to have engaged in Prohibited Conduct, the Student-employee may be subject to sanctions both in connection with their employment (outside the scope of the Office of Title IX & Sexual Misconduct and this *Policy*) and in connection with their Student status, as appropriate under this *Policy* and other applicable processes.

i. Status Outcomes (Status Sanctions) for Student Respondents

The following outcomes, commonly referred to as sanctions, directly impact the status of a Student with the College:

- **Warning.** A notice in writing to the Student that the Student is violating or has violated institutional regulations and that further violations may result in more severe disciplinary action.
- **Probation.** This status serves as a disciplinary status assigned to a Student for a specified period of time. While on this status, any further violations of College *Policy* will result in more severe disciplinary action and may result in additional Administrative Directive Outcomes and/or Suspension. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct for seven years after a Student separates from the College.
- **Pending suspension.** The pending suspension status is assigned to a Student for a specified period of time before that person is suspended from the College. While on this status, any further violations of College Policy may result in suspension from the College. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct and the Office of Student Conduct & Off-campus Services for seven years after a Student separates from the College.
- **Suspension.** Termination of course registration and residency (if applicable) from the College after a specific date and for a specified time. Through the duration of the suspension, the Student may be restricted from College

property and may be required to provide prior notice and receive approval from the Title IX Coordinator for the purpose of conducting College business. Before a Student may be readmitted to the College after the designated period of time, the Student must meet with the Dean of Students to show satisfactory completion of any assigned directives or to discuss stipulated conditions for their return. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct and the Office of Student Conduct & Off-campus Services indefinitely. Should a Student wish to return to the College after the suspension period, the Student must comply with any academic standards and procedures then in effect.

- **Expulsion.** Permanent dismissal from the College and restriction from College property. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct and the Office of Student Conduct & Off-campus Services indefinitely. Expulsion is the most serious disciplinary action taken by the College and is generally reserved for only those cases of behavioral misconduct in which all the relevant facts and aggravating circumstances support a conclusion that the only reasonable sanction is permanent removal from the College.
- **Degree Revocation.** Permanent revocation of an earned degree from the College and restriction from College property. This status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct and the Office of Student Conduct indefinitely. Degree revocation is reserved for only those cases of behavioral misconduct that occur while an individual is a Student, but is not made known to the College until after a degree is earned, and in which all the relevant facts and aggravating circumstances support a conclusion that the only reasonable sanction is permanent revocation of an earned degree from the College.

ii. **Educational Outcomes for Student Respondents**

Examples of available educational outcomes include but are not limited to:

- **Mediation.** Participation in a mediated discussion with other disputants facilitated by multi-partial, trained mediators with the hope of developing a negotiated agreement serving as resolution to the dispute. Unlike other sanctions, all participants must voluntarily agree to participate in mediation.
- **Other discretionary sanctions.** Work assignments, essays, presentations, research projects, service to the College, or other discretionary assignments deemed appropriate by the Hearing Administrator based on the individual nature and circumstances surrounding the case.

iii. **Administrative Directives for Student Respondents**

- **Pending termination of housing.** This status serves as a housing probationary status assigned to a Student for a specified period of time before their housing privileges are terminated. While on this status, any further violations of College *Policy* may result in termination of housing. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct and the Office of Student Conduct & Off-campus Services for five years after a Student separates from the College.
- **Termination of housing.** Removal or prohibition of a Student from College housing after a specific date and for a specified period of time. Through the duration of the termination, the Student will be restricted from entering all residential floors in College buildings. Students removed from College housing for disciplinary reasons will receive the refund available based on the time of the semester according to the Department of Residential Education and Housing policies and the housing contract. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Title IX & Sexual Misconduct and the Office of Student Conduct & Off-Campus Services for seven years after a Student separates from the College.
- **Loss of privilege.** Denial of any specified privilege for a designated period of time. Examples include but are not limited to: guest privileges, restriction from a College event or program, and/or area or building.
- **Restitution.** Compensation for loss, damage, or injury to College property. This may take the form of appropriate service and/or monetary or material replacement.

iv. **Sanctions for Employee Respondents**

Any employee found in violation of Title IX Sexual Harassment under this *Policy* may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to:

- Referral for training;
- Referral for counseling;
- Formal written reprimand;
- Suspension;
- Reassignment;
- Demotion;
- Loss of privileges for supervising Students;
- Loss of privileges for travel;
- De-tenuring; or
- Termination of employment.

Referral to another appropriate authority for review for possible violation of State and/or Federal statutes may also be appropriate.

v. Remedies

The Title IX Coordinator and EEO Officer, will be responsible for identifying and implementing any non-disciplinary actions necessary to prevent recurrence of the conduct and to remedy its discriminatory effects on the Reporter and others as appropriate, including any systemic actions found to be appropriate for the broader College community. Such interventions may include, but are not limited to:

- Academic modification/flexibility;
- Work schedule modification/flexibility;
- Counseling;
- Reimbursement;
- Community-focused restorative processes;
- Education or training; or
- Monitoring or other individual support needed to remedy the harm.

The Title IX Coordinator will identify what actions the College will take, who will be responsible for implementing such actions, and by when. To the extent, the Title IX Coordinator determines that non-disciplinary interventions for the Reporter or others are not necessary, the Title IX Coordinator will identify why such remedies are not needed.

vi. Factors Considered in Sanctioning

Proper sanctioning for violations of Prohibited Conduct requires careful review of numerous different factors and circumstances. Some factors are specific to the Respondent party, such as a prior history of misconduct, evidence of a pattern of behavior, and/or multiple violations within the same occurrence. Other factors relate to the circumstances surrounding or contributing to the offense at issue, such as the inherent severity of the incident, the intentionality or premeditation of the behavior, and/or whether the conduct involved physical violence and/or the use of a weapon. The respective Hearing Administrator must also assess these considerations in light of the obligation to stop, prevent, and remedy incidents of discrimination and harassment. Careful consideration of all of these factors is paramount to the determination of appropriate, equitable, and effective sanctions and other outcome(s) (where applicable).

Violations involving Prohibited Conduct often include “mitigating” and/or “aggravating” factors, which tend to render a violation either more or less egregious than other violations of the same policy. As a result, a one-size-fits-all approach, such as expelling all Students or terminating all employees who violate a particular policy, can be disproportionately harsh (or lenient), is often ineffective at

discouraging misconduct, and fails to consider the circumstantial differences that contribute to behavior that violates policy. Instead, each Prohibited Conduct violation should allow for a range of sanctions, where a violation that is more egregious receives more severe sanctions within the allotted range and a less egregious violation results in less severe sanctions within the same range. This provides consistency and transparency for the parties involved in the sanctioning process, helps to avoid arbitrary and capricious sanctioning decisions and the appearance of the same, and simultaneously recognizes that certain instances of a particular type of misconduct can be articulated as being more severe than others.²⁴

vii. Designated Sanction Ranges

As required by the Title IX Final Rule and the federal Jeanne Clery Act, the College must disclose the range of possible sanctions that may be imposed following an institutional disciplinary procedure addressing Prohibited Conduct.

The Hearing Administrator may impose any sanction that they find to be fair and proportionate to the violation and that is authorized for violations of the *Policy*. The College expects all cases where a Respondent is found to be in violation of Prohibited Conduct to involve consideration of the sanctions of suspension or expulsion (for Student Respondents) and suspension or termination of employment (for employee Respondents). Any sanction imposed shall be explained or supported in a written decision of the administrator.

As required by the Title IX Final Rule and the federal Jeanne Clery Act, the College must disclose the range of possible sanctions that may be imposed following an institutional disciplinary procedure addressing Prohibited Conduct. See below for the table containing details regarding specific sanction ranges designated for Student Respondents, and subsequent information pertaining to employee Respondents.

²⁴ Source: 2018 ATIXA Whitepaper: *The ATIXA Guide to Sanctioning Student Sexual Misconduct Violations*.

Designated Sanction Ranges for Student Respondents

Prohibited Conduct	Sanction Range
Sexual Harassment	
<i>b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's Education Program or Activity.</i>	Probation to Expulsion
<i>c. Conduct of a sexual nature or based on gender or sexuality that is severe or pervasive enough to create a Hostile Environment, as defined by a reasonable person under similar circumstances. This may include unwanted, unwelcome, or inappropriate sexual or gender-based activities, or comments.</i>	Warning to Expulsion
<i>d. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made a condition of the conferral of any benefit, or rejection of such advance, request, or conduct implies that a person will suffer adverse consequences from another person in an express or implied position of authority.</i>	Warning to Expulsion
Sexual Assault	
<i>a. Completed or attempted, Sexual Penetration, however slight, of a person without that person's Effective Consent.</i>	Suspension to Expulsion
<i>b. The touching of an Intimate Body Part of another person for the purpose of sexual gratification, without that person's Effective Consent.</i>	Pending Suspension to Expulsion
<i>c. (Incest) Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.</i>	Warning to Expulsion
<i>d. (Statutory Rape) Sexual intercourse with a person who is under the statutory age of consent.</i>	Suspension to Expulsion
<i>e. Any intentional, non-consensual Sexual Contact with an Intimate Body Part of another, or forcing another to have Sexual Contact with an Intimate Body Part of oneself or another, with any object or body part, or any disrobing of another without Effective Consent.</i>	Pending Suspension to Expulsion
Stalking	
<i>a. Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.</i>	Warning to Suspension
Interpersonal Violence	
Domestic Violence	Probation to Expulsion

Dating Violence

Probation to Expulsion

Sexual Exploitation

a. Engaging in voyeurism which may constitute acts including but not limited to listening, watching or taking pictures, videos, or audio recordings of another person in a state of undress without their Effective Consent or of another person engaging in a sexual act without the Effective Consent of all parties.

Probation to Expulsion

b. Unauthorized display, publication, posting, transmission, or other dissemination (including via the Internet) of another in a state of undress or of a sexual nature without the person's Effective Consent. Consent to be recorded does not imply consent for such records to be displayed, published, transmitted, or otherwise disseminated.

Probation to Expulsion

c. An act or acts committed through abuse or exploitation of another person's gender or sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or other non-legitimate purpose without the Effective Consent of the person.

Pending Suspension to Expulsion

d. Exposure of one's sexual organs or the display of sexual behavior or contact that would reasonably be offensive to others or be observed by any other non-consenting persons who would be affronted or alarmed.

Probation to Suspension

e. "Stealthing" which involves intentionally removing a condom without the other person's Effective Consent during sexual activity.

Pending Suspension to Expulsion

f. Knowingly exposing another individual to a sexually transmitted infection, disease, or virus without the other individual's knowledge and Effective Consent.

Pending Suspension to Expulsion

Gender-Based Discrimination or Harassment

Gender-Based Discrimination

Warning to Expulsion

Gender-Based Harassment

Warning to Expulsion

Complicity

a. Aiding or assisting means any act that aids, facilitates, promotes, or encourages the commission of Prohibited Conduct under this Policy by another person.

Probation to Suspension

Compliance with Directives

a. Failure to comply with a duly issued directive by an authorized College Official or law enforcement officer. A directive may be considered any written or verbal mandate.

Warning to Pending Suspension

b. Failure to fully satisfy all the components outlined within a signed Alternative Resolution agreement in the designated time frame.

Probation to Suspension

Abuse of College Process	
<i>a. Abuse of, interference with, or failure to comply in a College grievance or resolution process(es).</i>	Probation to Suspension
<i>b. Attempts, whether successful or not, to destroy or conceal information during an investigation of an alleged Policy violation.</i>	Probation to Suspension
<i>c. Discouraging or attempting to discourage another individual's proper participation in, or use of, a College disciplinary or resolution process.</i>	Probation to Suspension
Retaliation	
<i>a. Any adverse action, intimidation, threat, coercion or discrimination against an individual (including Students, employees, and Third Parties) for the purpose of interfering with any right or privilege secured by Title IX or its Final Rule, or because the individual has made a report or Formal Complaint of Prohibited Conduct, been accused of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, hearing, or other resolution process under this Policy. Retaliation also includes such conduct through associates or agents of a Reporter, Respondent, Third Party, or participant in any investigation, proceeding, or resolution process related to this Policy.</i>	Probation to Suspension
Defamation	
<i>a. Oral or written publication of a false statement of fact relating to allegations reported to the Office of Title IX & Sexual Misconduct (with or without the submission of a Formal Complaint) that exposes the person about whom it is made to hatred, contempt, or ridicule; subjects that person to loss of the good will and confidence of others; or so Harms that person's reputation as to deter others from associating with that person.</i>	Warning to Expulsion

In cases where the Respondent has previous disciplinary history in which the minimum sanction for the alleged Prohibited Conduct is less than the Respondent's current status sanction, the College reserves the right to extend the sanction range as appropriate.

An employee found in violation of any form of Title IX Sexual Harassment will be issued sanctions ranging from a formal written reprimand to termination of employment.

F. Appeals

Both the Reporter and Respondent have the opportunity to appeal, as applicable, the dismissal of a Formal Complaint and any decision and/or outcome(s) rendered by a Hearing Administrator during the Formal Grievance Process. The circumstances available to appeal, the specific grounds to which parties can appeal on, and the procedures associated with submitting and evaluating appeals are outlined below.

- i. **Appeal Procedures.** All appeals must be submitted in writing within five (5) business days of receiving the written notice (of dismissal or hearing outcome), and include any supporting documentation that the Student wishes to be considered. Deference is given to the Title IX Coordinator's rationale for dismissal of the Formal Complaint or the Hearing Administrator's findings of fact and decision regarding responsibility and/or any sanctions. Therefore, the burden of proof is on the party filing an appeal to sufficiently demonstrate cause to alter procedures, the original decision, or any sanctions. An appeal will generally be limited to a review of the investigation report and supporting documents for one or more of the purposes below, provided however the Appeal Officer may request additional information or clarification from the Respondent, Reporter, witnesses, Investigator(s), Title IX Coordinator, and/or other relevant administrators for purposes of this review.
- ii. **Grounds for Appeal.** The dismissal of a Formal Complaint or the determination of responsibility (hearing decision) may be appealed on the following grounds as applicable:
 - a. **Process Review.** Procedural irregularity that materially affected the outcome of the matter;
 - b. **New Information.** New evidence that was not reasonably available at the time the dismissal or determination regarding responsibility was made, that could materially affect the outcome of the matter;
 - c. **Conflict of Interest or Bias.** The Title IX Coordinator, Investigator(s), Hearing Administrator, and/or other associated decision-maker(s) (as applicable) had a conflict of interest or bias for or against Reporters or Respondents generally or the individual Reporter or Respondent that materially affected the outcome of the matter; and/or
 - d. **Information Review.** To determine whether there was information presented in the Formal Complaint, investigation process, and/or formal administrative hearing (as applicable) that, if believed by the administrator, was sufficient to warrant the continuation of a College resolution process or establish that a violation(s) of the *Policy* occurred.

Either party may also appeal the assigned sanction(s) on the following ground:

- a. **Sanction Review.** The sanction(s) designated by the formal Hearing Administrator was clearly inappropriate and/or disproportionate to the Prohibited Conduct for which the Respondent was found in violation.
- iii. **Review of Appeal.** In the event that either or both parties submit an appeal, the Title IX Coordinator will notify the parties that an appeal was received and forward the appeal and any supporting documentation to the non-appealing party for reference

and the applicable Appeal Officer. Appeals on the dismissal of a Formal Complaint will be reviewed by either the Assistant Vice President for Student Affairs (AVP)²⁵ or a Human Resources representative depending on whether the Respondent is a Student or Employee. Appeals relating to decisions and sanction(s) rendered following a formal administrative hearing will be reviewed by the Vice President for Student Affairs (VPSA)²⁶ for cases involving a Student Respondent, or the Vice President for Inclusive Excellence, or designee, for employee Respondents.

In all cases, regardless of the nature of the appeal, the Appeal Officer must be impartial and free from bias or conflict of interest. If the Appeal Officer has concerns that they cannot conduct a fair or unbiased review, the Appeal Officer must report those concerns to the Title IX Coordinator and a different Appeal Officer will be assigned to the appeal. Similarly, a Reporter or a Respondent who has concerns that the assigned Appeal Officer cannot conduct a fair and unbiased review, may report those concerns to the Title IX Coordinator who will assess the circumstances and determine whether a different Appeal Officer should be assigned to the appeal.

Similarly, a Reporter or a Respondent who has concerns that the assigned Appeal Officer cannot conduct a fair and unbiased review, may report those concerns to the Title IX Coordinator who will assess the circumstances and determine whether a different Appeal Officer should be assigned to the appeal.

- iv. **Appeal Decision.** The Appeal Officer responsible for reviewing the appeal may make one of the following decisions:
- a. ***Affirm.*** The Appeal Officer may decide to affirm the decision of the Title IX Coordinator (to dismiss the Formal Complaint, all or in part) or the Hearing Administrator.
 - b. ***Alter sanction.*** The Appeal Officer may alter the sanctions issued by the Hearing Administrator. Alteration of a sanction may include reducing or increasing the sanction or requirements.
 - c. ***New hearing.*** The Appeal Officer may determine that a new hearing by a different Hearing Administrator is warranted to correct procedural irregularity or to consider new information. Both parties may also appeal the decision rendered by the new Hearing Administrator.
 - d. ***Remand.*** The Appeal Officer may direct the Title IX Coordinator or Hearing Administrator (as applicable) to review their original decision subject to any instruction from the Appeal Officer. The Title IX Coordinator or Hearing Administrator (as applicable) may then affirm their original decision or render

²⁵ Any references to the Assistant Vice President (AVP) may also include a designee.

²⁶ Any references to the Vice President of Student Affairs (VPSA) may also include a designee.

a new decision consistent with the instructions provided by the Appeal Officer. Both parties may appeal a decision made by the Title IX Coordinator or Hearing Administrator if there are any changes after the review.

- v. **Timeframe for Appeal Review.** Barring any extenuating and/or unforeseen circumstances, the Appeal Officer will issue a determination within fifteen (15) business days of receiving the written appeal documentation. In the event where a delay may be present, good faith efforts will be made to ensure a decision is rendered and updates are communicated to the Reporting and Responding parties in a reasonably timely manner.

Once an outcome has been rendered, both the Reporter and the Respondent will be notified simultaneously via their institutional email of the result of the Appeal Officer's written decision. The decision of the Appeal Officer reviewing the submitted appeal is the final and conclusive decision of the College and is appealable only to the New Jersey Superior Court, Appellate Division, in accordance with the New Jersey Rules of Court. For more information regarding appealing to the New Jersey Superior Court, please consult the following webpage:

<https://www.njcourts.gov/courts/appellate.html>

- vi. **Additional Considerations.** The imposition of sanctions may be deferred during the appellate process and the status of the Student shall not change until the Appeal Officer issues a final decision, except that a hold may be placed on the Student's transcript and no degree will be awarded to the Respondent pending completion of the appeals process or completion of the determined sanctions.

APPENDIX A - POLICY DEFINITIONS

“Actual Knowledge” is notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College. The College may have Actual Knowledge of Sexual Harassment even where no person has reported or filed a Formal Complaint about the Sexual Harassment. This Actual Knowledge standard is not met when the only official of the College with Actual Knowledge is the Respondent.

“Advisor” is a person who is present throughout any meetings, investigation preparations, hearing proceedings, and/or any appeal process to provide support and/or assistance to an individual. Individuals may be accompanied by one Advisor of their choice. The Advisor may be any person of the individual’s choosing, and may, but is not required to be an attorney. If an Advisor is also an attorney, the Advisor is still limited to the supportive and non-participatory role. Except where explicitly stated by this *Policy*, as consistent with the Title IX Final Rule, Advisors of choice shall not participate directly in any process or represent any person involved; nor can an Advisor speak, write, or otherwise communicate with an Investigator, conduct administrator, Hearing Administrator, or appeal officer on behalf of the individual they are advising as per standard policy and practice of TCNJ. Advisors may not engage in behavior or advocacy that harasses, abuses, or intimidates either the Reporting or Responding party, a witness, or individuals involved in resolving the complaint. Advisors who do not abide by these guidelines and/or create undue delay(s) of the process due to their involvement may be excluded from the process.

The College’s obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this *Policy*, and the College cannot agree to extensive delays solely to accommodate the schedule of an Advisor of choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The College will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of choice, and may offer the party the opportunity to obtain a different Advisor or utilize one provided by the College. As such, it is the responsibility of the individual party to coordinate scheduling with their Advisor for any meetings and/or proceedings.

An Investigator or Hearing Administrator may also be accompanied by an Advisor, which may include a representative from the Office of General Counsel, who may participate only in a manner to ensure procedural standards are upheld, but that does not disrupt the overall proceeding. Any cost associated with the participation of an Advisor is the responsibility of the individual party.

“College” or “Recipient” refers to The College of New Jersey.

“Communication” includes, but is not limited to, contact through the use of the Internet, social networking sites, email, voicemail, text message, written message, and telephone, as well as in person.

“Drug” refers to a chemical substance, especially one prescribed by a physician that is used in the diagnosis, treatment, or prevention of a condition or disease. A Drug is also a chemical substance, such as a narcotic, that affects the central nervous system and is used recreationally for perceived desirable effects on personality, perception, or behavior. Drugs purchased without a prescription may include headache medicines, cough syrups, and similar mild medications, and can be purchased at virtually any pharmacy or retail store. For purposes of this *Policy*, the term “Drug” also includes any other chemical substance, compound or combination when used to induce an altered state, and any otherwise lawfully available product when used for any purpose other than its intended use when such use may cause harm to oneself or others.

“Education Program or Activity” includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.

“Effective Consent” is informed, freely and actively given mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. A person may be unable to give Effective Consent when they are unable to consent due to their age, or because the person is physically helpless, mentally Incapacitated, or Incapacitated from alcohol or other Drugs.

- Effective Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Effective Consent is required regardless of whether the person initiating the act is under the influence of Drugs and/or alcohol.
- Effective Consent may be initially given but withdrawn at any time.

Effective Consent cannot be given when it is the result of intimidation, force, or threat of Harm. When Effective Consent is withdrawn or can no longer be given, sexual activity must stop immediately.

“Formal Complaint” a document (or electronic submission, such as by electronic mail or through an online portal provided for this purpose by the College) filed by a Reporter (containing their physical or digital signature, or otherwise indicates that the Reporter is the person filing the Formal Complaint) or signed by the Title IX Coordinator alleging Prohibited against a Respondent and requesting that the College utilize a College resolution process to adjudicate or

resolve the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Reporter must be participating in or attempting to participate in the Education Program or Activity of the College with which the Formal Complaint is filed.

“Harm” creates an intimidating or Hostile Environment by substantially interfering with a Student’s education, or by materially impairing the academic pursuits, employment or participation of any person or group in the College community, or by severely or pervasively causing physical or emotional Harm to the Student or other member of the College community.

“Hearing Administrator” includes any person hired and/or trained by the College who is designated by the Office of Title IX & Sexual Misconduct to conduct formal administrative hearings surrounding violations of Prohibited Conduct.

“Hostile Environment” is defined as an environment that, through one or more incidents of harassing conduct (e.g., physical, verbal, graphic or written) based on a person’s Protected Category becomes sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of a reasonable individual to participate in or benefit from a College program or activity.

“Incapacitated” is a state in which a person lacks the capacity to understand the fact that a situation is sexual, or cannot understand or make a rational and reasonable judgment about the nature and/or extent of a situation (the “who, what, when, where, why and how” of the sexual interaction). A person who knows or should reasonably know that another person is incapacitated may not engage in sexual activity with that person.

Persons who meet any of the following criteria or conditions are incapacitated: (i) sleeping; (ii) passed out or otherwise unconscious; (iii) under the age of consent or under a certain age in relation to the other party to the sexual activity (both of which are matters of state law); or (iv) due to a disability, do not have the mental capacity to consent.

A person who does not meet any of those criteria or conditions for incapacity may become incapacitated through the use of alcohol or Drugs. Such a person’s state of incapacity is a subjective determination that is based on all of the facts available because persons reach incapacitation at different points and as a result of different stimuli.

Alcohol related incapacity results from a level of alcohol ingestion that is more severe than that required to produce the minimum levels of influence, impairment, intoxication, inebriation, or drunkenness. Factors that can influence a person’s status include gender, body size and composition; tolerance for alcohol and other Drugs; amount and type of alcohol or other Drugs taken or administered, and the mixture taken; amount of food intake prior to ingestion; propensity for blacking out; genetics; and time elapsed since the ingestion of the alcohol or Drugs.

The effects of alcohol and Drug use often occur along a continuum. For example, alcohol intoxication can result in a broad range of effects, from relaxation and lowered inhibition to euphoria and memory impairment, and to disorientation and incapacitation. Incapacitation due to alcohol or drug use is a state beyond “mere” intoxication or even being drunk. It exists when a person lacks the ability to make or act on a considered decision to engage in sexual activity. Indicators of incapacitation may include inability to communicate, lack of control over physical movements, and/or lack of awareness of circumstances. An incapacitated person can also experience a blackout state during which the person is conscious, but has limited ability to form or retain memories, and may exhibit verbal or non-verbal (e.g., a nod) expressions that under normal circumstances between two individuals acting with full capacity might reasonably be interpreted as conveying consent. Because that person does not have the capacity to consent, despite those expressions, consent is lacking. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person’s level of intoxication due to alcohol and/or Drug use. The relevant standard that will be applied is whether the Respondent knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity. Some medical conditions may also cause incapacitation. Incapacity can result from factors including, but not limited to mental disability, involuntary physical restraint, or the administration of substances.

“Intimate Body Parts” includes the following: sexual organs, genital areas, anal area, inner thigh, groin, buttock, or breast of a person.

“Official with Authority” any official of the College who has authority to institute corrective measures on behalf of the College. When an Official with Authority receives a disclosure or becomes aware of alleged Prohibited Conduct, this conveys Actual Knowledge to the College and triggers the College’s response obligations under the Final Title IX Rule. Examples of Officials with Authority include, but are not limited to, representatives from the Dean of Students Office, Residential Education (limited to professional staff), Human Resources, and Campus Police Services.

“Prohibited Conduct” defined in Section III, Part H.

“Protected Category” collectively refers to one or more of the following categories: age, race, creed, color, national origin, nationality, ancestry, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

Abusive or harassing conduct directed at a person or group *because of* actual or perceived membership in a Protected Category (sometimes generally known as “bias incident(s)”, “bias crime(s)”, or “hate crime(s)”) may result in an enhanced sanction.

“Reasonable Accommodations” are adjustments or modifications made in a system or process to ensure accessibility for individuals with disabilities. Reasonable accommodations are determined by the Accessibility Resource Center (ARC) on a case-by-case basis.

“Reasonable Person” is a person of a reasonably sound mind under similar circumstances and with similar identities to the individual in question.

“Reporter” is the person who is alleged to have experienced an act(s) of Prohibited Conduct defined within this *Policy*. Please note that while non-Students may report a Student to the Office of Title IX & Sexual Misconduct, *Procedural Standards* may not apply to non-Student Reporters.

“Respondent” is the individual who has been reported to have allegedly engaged in Prohibited Conduct, and may be subject to an investigation, procedural requirements including proceedings, emergency measures, and/or sanctions as a result of information filed in a report, determined through an investigation, and/or Prohibited Conduct proceeding.

“Responsible Employee” defined in Section III, Part C.

“Sexual Contact” is an intentional touching by a person, either directly or through clothing, of another’s Intimate Body Parts for the purpose of degrading or humiliating another or sexually arousing or sexually gratifying the actor.

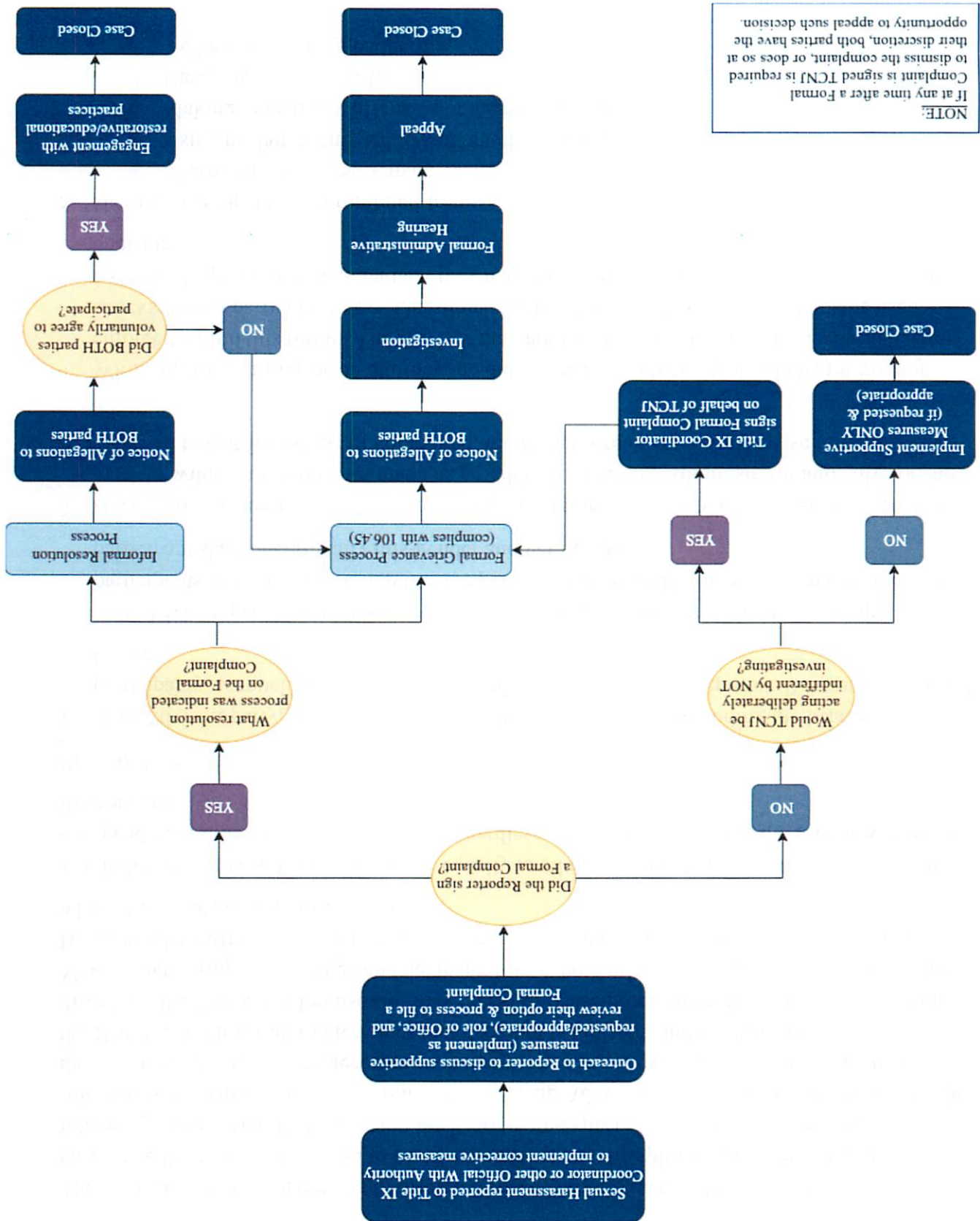
“Sexual Penetration” includes intercourse (anal, oral, or vaginal), including penetration with a body part (*e.g.*, penis, finger, hand, or tongue) or an object either by the actor or upon the actor’s instruction.

“Student” or “Students” includes all persons who accept an offer of admission to the College, register for credit bearing courses or maintain matriculation in a degree or certificate program at the College, either full time or part time, degree or non-degree seeking, and have an academic record with Primary Academic Web Services (PAWS), the College’s records and registration system. The status of other individuals who participate in College-sponsored or recognized programs will be determined solely at the discretion of the Title IX Coordinator or Director of Student Conduct.

“Third Party” includes individuals who are neither Students nor employees, including but not limited to contractors, guests, and consultants.

“Weapon” includes any item that is designed in appearance or function to resemble a firearm, cause Harm, and/or invoke fear or intimidation. Weapons include, but are not limited to, knives, brass knuckles, swords, slingshots, or any other item when used to Harm or intimidate another.

APPENDIX B - RESOLUTION PROCESS FLOWCHARTS



APPENDIX C - FORMAL ADMINISTRATIVE HEARING RULES OF DECORUM

The College's resolution options to resolve forms of Prohibited Conduct, including the Formal Grievance Process, are designed to be an educational and disciplinary experience rather than inherently adversarial. Participants in the hearing are expected to act in accordance with their role as it is described within this *Policy*. The Hearing Administrator is responsible for conducting the hearing and maintaining decorum such that the hearing is executed fairly and effectively. If the Hearing Administrator determines that decorum is violated, and the hearing has become disorderly the Hearing Administrator may recess or pause proceedings to address the behavior. Misconduct during the hearing can take many forms, both minor and egregious. It is within the Hearing Administrator's discretion to discourage or exclude parties, witnesses, and/or Advisors who demonstrate a lack of the decorum.

The following rules and standards apply equally to all parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Reporter or Respondent.

Rules of Decorum

1. If an Advisor, party, or witness is referencing another person, including the hearing participants, as much as possible the person's name or role (i.e. Reporter, Respondent) should be used.
2. If an Advisor, party, or witness is referencing another person, including the hearing participants, it is the expectation that the person is referenced by their preferred gender. No participant shall intentionally mis-gender another person.
3. During cross-examination, the Hearing Administrator must approve all questions before the party or witness responds. As much as possible, the Hearing Administrator and Advisors are expected to restrict the use of compound, redundant, irrelevant, or otherwise impermissible questions.
4. While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum. The Advisor may not use profanity or make irrelevant fallacious attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
5. Hearing participants are prohibited from:
 - a. Interrupting other participants;
 - b. Using profanity directed toward another participant;
 - c. Making objectively offensive or aggressive gestures;
 - d. Harassing another participant;
 - e. Yelling, screaming, badgering;

- f. Physically “leaning in” to the personal space of another participant;
- g. Approaching a participant without the express permission of the Hearing Chair;
- h. Take any action that a reasonable person may see as intended to intimidate a participant or meaningfully modify someone's participation in the process.
- i. Engaging in any other behavior to deliberately disrupt the live hearing.

The Hearing Administrator has sole discretion to pause or interject during the process and all hearing participants are expected to comply with any direction provided. If a hearing participant violates the Rules of Decorum or proceedings otherwise become disorderly the Hearing Administrator may recess or pause proceedings to address the behavior.

If a hearing participant violates the Rules of Decorum, the Hearing Administrator may give a verbal warning, pause the hearing process, and/or remove a hearing participant. If a party's Advisor is removed for egregious or repeated violations of the Rules of Decorum, the party may have the opportunity to immediately replace the Advisor or the Office of Title IX & Sexual Misconduct will assign an Advisor to the party for the purpose of completing cross-examination. Reasonable delays, including the temporary adjournment of the hearing, may be permitted should an Advisor be removed. A party cannot serve as their own Advisor under any circumstance, including if their Advisor is removed.

If the Hearing Administrator determines that an Advisor violated the Rules of Decorum but in the course of asking a relevant question, the violation will not affect the question's relevancy. The Hearing Administrator will notify the Advisor of the violation and permit the question to be re-asked (or permit a replacement Advisor in cases where the Advisor has been removed for the violation of the Rules of Decorum).

APPENDIX D - AGREEMENT REGARDING EVIDENCE DISCLOSURE

Signatories to the Agreement

This Agreement is made between The College of New Jersey and [NAME OF INDIVIDUAL] who is the [REPORTER / RESPONDENT / OR ADVISOR] in Case # _____.

What does this Agreement cover?

This Agreement governs access to evidence as specifically provided in the 2020 U.S. Department of Education Final Rule on Title IX of the Education Amendments of 1972 (Regulations), 85 Fed. Reg. 30026 (May 19, 2020). For the purposes of the Formal Grievance Process through the College, this agreement will extend to both Title IX violations as well as College Sexual Misconduct violations, known collectively as Prohibited Conduct.

The Agreement does not prohibit the parties from generally discussing *the allegations* under investigation with a parent, friend, or other source of emotional support, or with an advocacy organization, nor otherwise prohibit the parties from speaking with their Advisor or Advisors about the facts and evidence of this case.

However, this agreement clarifies that the parties may not discuss information that *does not consist of* the allegations under investigation, including evidence related to the allegations that has been collected and exchanged between the parties and their Advisors during the investigation, or the investigative report summarizing relevant evidence sent to the parties and their Advisors. *See*, 85 Fed. Reg. 30295-30296.

This Agreement shall survive any amendments to or withdrawal of the Title IX Final Rule and/or any amendments to or withdrawal of College *Policy*. It is binding upon heirs and assigns. It may not be revoked.

Parties are Responsible for their Advisors' Conduct

Parties are responsible for themselves, their Advisor, anyone who has access to their computers or other devices that may be used to access the evidence and records covered by this case, and anyone who has access to their Advisor's computers or other devices that may be used to access the evidence and records covered by this case. Penalties for violations, whether knowing or negligent, include sanctions under other provisions of the *Sexual Harassment, Misconduct, & Discrimination Policy*, and for Advisors, ineligibility for a term or permanent ineligibility to serve as an Advisor in future cases.

In addition to these sanctions, where a party violates this Agreement by disclosing confidential records obtained in the course of the investigation or hearing, the Hearing Administrator may draw an adverse inference as to that party's credibility in making a determination regarding responsibility should such disclosure demonstrate the party's consciousness of responsibility.

The rules and standards apply equally to all parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Reporter or Respondent.

Waiver of Disclosure to Advisors

By default, access to records will be shared separately with parties and Advisors who have been designated in writing by the party. If the party DOES NOT want the records shared with their Advisor (as allowed under the Title IX Final Rule), they must indicate such request in writing to the Title IX Coordinator. If the party does so request, they may not re-share or re-disclose the records to their Advisor or any other person.

Evidence Sharing Process

Pursuant to the Title IX Final Rule, the College is required to provide access to the investigation report and evidence prior to the hearing. These records will be provided pursuant to the Title IX Final Rule but, as the Title IX Final Rule acknowledge, these records are protected by federal privacy laws (including FERPA and others) and may be covered under State law as well. The Title IX Final Rule provide authority for the College to strictly limit re-disclosure and require that parties and Advisors access and use the records only and strictly for the purposes delineated in the Title IX Final Rule and outlined in this *Policy*.

Access to the records will be provided electronically. Parties and Advisors are barred from printing, copying, taking photos or videos of the screen, audio or video recording a reading of the material, or otherwise using analog or technological methods, known or unknown to capture the content of the records.

For the purposes of a formal administrative hearing, all parties and Advisors will also receive paper copies of the investigation report, which may be utilized and referenced during the hearing.

Security and Confidentiality Protocols

By signing below, the individual is agreeing that they will maintain a password or other security on any device that they are using to access the records, and that they will not re-share or re-disclose access to the records or their password or security process used to access the records to any person, including family, friends, those with whom they live, witnesses, other parties, or their Advisor/Advisee. Each party and Advisor shall receive a link to access the electronic file and links should not be re-shared or forwarded to anyone.

Further, the individual agrees that they will not physically share the space for review with any other person with the limited exception that Advisors may physically share the space looking at the records with other persons in their professional capacity who are assisting them in preparing for their role as an Advisor in this case (for instance, an Associate in a law firm). The Advisor, and the party in turn, is responsible for that additional person or persons who access the content alongside the Advisor.

Disability Accommodations

If a party or Advisor discloses a disability under the Americans with Disabilities Act (ADA) that requires a different method of providing access to the records in place, the College will work with that party or Advisor to provide access to the records but the same rules on access, sharing, and re-disclosure shall apply. Parties or Advisors may contact the Title IX Coordinator to disclose a disability and request accommodations. Disclosures and requests must be made timely. The College will agree to short delays to ensure access for a covered disability, but this must not be used as a tactic for delay of the proceedings.

Discipline and Sanctions for Violations of the Agreement

If the College learns of a re-disclosure, it may bring charges under the *Sexual Harassment, Misconduct, & Discrimination Policy* or Employment Policies for parties, may review the Degree or credits earned of former students/alumni, and may undergo a process to bar permanently or temporarily Advisors from serving in that role. For Students and former Students/alumni, that process will be governed by the *Sexual Harassment, Misconduct, & Discrimination Policy* and its procedures.

For Advisors, evidence of violation(s) of this agreement will be gathered by the Title IX Coordinator, Director of Student Conduct, or a designee of either and presented to the Vice President for Student Affairs for cases involving students/Director of Human Resources for cases involving employees/Other Appropriate Staff Member. The Advisor accused may provide an explanation or alternative evidence in writing for consideration by the Vice President for Student Affairs for cases involving students/Director of Human Resources for cases involving employees/Other Appropriate Staff Member. Such evidence or explanation is due within fifteen (15) calendar days of receipt of a notice of a charge of re-disclosure or improper access to records. There shall be no right to a live hearing, oral testimony, or cross-examination. The Vice President for Student Affairs for cases involving students/Director of Human Resources for cases involving employees/Other Appropriate Staff Member shall consider the evidence under a preponderance of the evidence standard and issue a finding in writing and, if the finding is Responsible, shall include a sanction. The finding shall be issued in writing to all parties and Advisors (if there is a current case pending) within thirty (30) days unless extended for good cause. There is no appeal of this finding. Sanctions shall be higher for intentional re-disclosure of records than for negligent re-discourse. In the event that an Advisor is barred permanently or for a term from serving in the role as Advisor in the future, they may request a review of that bar from the Vice President for Student Affairs for cases involving students/Director of Human Resources for cases involving employees/Other Appropriate Staff Member no earlier than three-hundred and sixty-five (365) days after the date of the findings letter.

Name (printed or typed)

Signature

Date

**The College of New Jersey Board of Trustees
Resolution Approving
the Student Conduct Code**

- Whereas: The College of New Jersey, in order to fulfill its mission, has the authority and responsibility to maintain order, protect the community and the rights of its members, and cultivate and sustain a positive living and learning environment; and
- Whereas: The *Student Conduct Code* last amended in 2020, is to be reviewed in accordance with federal and state policies and any substantive changes will be reviewed in accordance with applicable governance policy and procedures; and
- Whereas: The Title IX Final Rule issued from the Department of Education and evolving case law informing best practices around student conduct cases involving Title IX and other issues suggest securing fundamentally fair procedural standards, changes to procedural standards in both the *Sexual Harassment, Misconduct, and Discrimination Policy* (formerly the *Title IX Policy*) and *Student Conduct Code* are necessary to secure the best interest of the College and our students,
- Whereas: The proposed changes to the *Student Conduct Code* are minimal and have been developed under direction of the Vice President for Student Affairs and in collaboration with the Office of General Counsel,
- Therefore,
Be It Resolved: That on August 11, 2020 the Board of Trustees of The College of New Jersey hereby approves the attached *Student Conduct Code*, for implementation upon approval.

August 11, 2020

Section:	XI.1.3	
Title:	The College of New Jersey Student Conduct Code	
Effective Date:	July 1, 2020	
Approved By:	Board of Trustees	
Responsible Unit:	Division of Student Affairs (609) 771-2201; sa@tcnj.edu	
Related Documents:	<ul style="list-style-type: none">• Academic Integrity Policy• The College of New Jersey Policy Prohibiting Discrimination in the Workplace/Educational Environment• Student Rights and Freedoms Policy• Computer Access Agreement• Sexual Harassment, Misconduct, & Discrimination Policy• Involuntary Health or Safety Withdrawal Policy• Use of Campus Property Policy	
History:		
<u>Version</u>	<u>Date</u>	<u>Notes</u>
7.0	June 30, 2020	Revisions approved by the Board of Trustees
6.0	July 9, 2019	Interim Policy approved by the Board of Trustees
5.0	July 10, 2018	Revisions approved by the Board of Trustees
4.0	October 24, 2017	Revisions approved by the Board of Trustees
3.0	July 5, 2016	Revisions approved by the Board of Trustees
2.0	July 8, 2014	Revisions approved by the Board of Trustees
1.0	July 12, 2011	New Policy; Initial Release

I. INTRODUCTION

The [College](#) of New Jersey, as a community dedicated to learning and the advancement of knowledge, expects and requires the behavior of [Students](#) to be compatible with its high standards of scholarship and conduct. Acceptance of admission to the [College](#) carries with it an obligation to uphold the [College's](#) standards and promote the welfare of the community. [Students](#) are responsible for upholding non-academic standards of

behavior set forth in this [Policy](#) as well as the expectations for academic conduct outlined in the [Academic Integrity Policy](#).

Academic communities differ from other communities in several ways. For the purpose of this code, two differences are particularly worthy of emphasis. First, the primary mission of [Colleges](#) and universities is the pursuit of knowledge and the development of the whole person. The environment must be conducive to teaching, learning, research, and personal growth. Second, campus living and learning environments are unique. On a residential campus such as The College of New Jersey, [Students](#) live in close proximity to one another and interact continuously in their day-to-day living. Freedom to learn can be preserved only through respect for the rights of others, for the free expression of ideas, and for the law.

In order to fulfill its mission and function, the [College](#) has the authority and responsibility to maintain order and to exclude those who are disruptive of the educational process. The *Student Conduct Code* aims to protect the community and the rights of its members, to cultivate and sustain a positive living and learning environment, to educate [Students](#) regarding responsibility and accountability for their actions, to encourage and foster self- insight and self- initiated change of behavior, to uphold the procedural rights of [Students](#) accused of violating the [College's](#) rules and regulations, and to encourage the application of ethical decision-making in the daily life of [Students](#).

II. DEFINITIONS

"Advisor" is a person permitted to be present throughout any meetings, investigation preparations, hearing proceedings, and/or any appeal process to provide support and/or assistance to an individual.

"AVP" is an Assistant or Associate Vice President (including those serving in an interim or acting role) or a designee appointed by the Vice President of Student Affairs ([VPSA](#)).

"College" means The College of New Jersey.

"College Official" includes any person employed by the [College](#) performing assigned administrative, academic, or professional responsibilities including campus police, campus health providers, and [Student](#) employees.

"Communication" includes, but is not limited to, contact through the use of the Internet, social networking sites, email, voicemail, text message, written message, and telephone, as well as in person.

"Controlled Substances" means a substance whose distribution is controlled by regulations or statute. Such substances include, but are not limited to, [Narcotics](#), depressants, stimulants, hallucinogens, and cannabis.

"Drug" refers to a chemical substance, especially one prescribed by a physician that is

used in the diagnosis, treatment, or prevention of a condition or disease. A Drug is also a chemical substance, such as a [Narcotic](#), that affects the central nervous system and is used recreationally for perceived desirable effects on personality, perception, or behavior. Drugs purchased without a prescription may include headache medicines, cough syrups, and similar mild medications, and can be purchased at virtually any pharmacy or retail store. For purposes of this [Policy](#), the term “Drug” also includes any other chemical substance, compound or combination when used to induce an altered state, and any otherwise lawfully available product when used for any purpose other than its intended use when such use may cause [Harm](#) to oneself or others.

“Drug Paraphernalia” is defined as all equipment, products, and materials of any kind that are used or intended for use in planning, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing a controlled dangerous substance into the human body, including roach clips, bongs, pipes, etc.

“Harm” creates an intimidating or [Hostile Environment](#) by substantially interfering with a [Student’s](#) education, or by materially impairing the academic pursuits, employment or participation of any person or group in the [College](#) community, or by severely or pervasively causing physical or emotional harm to the [Student](#) or other member of the [College](#) community.

“Hearing Administrator” includes any person hired and/or trained by the [College](#) who is designated to conduct conferences and student conduct hearings.

“Hostile Environment” is defined as an environment that, through one or more incidents of harassing conduct (e.g., physical, verbal, graphic or written) based on a person’s [Protected Category](#) becomes sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of a reasonable individual to participate in or benefit from a [College](#) program or activity.

“Narcotic” refers to an addictive [Drug](#), such as opium or morphine, which reduces pain, alters mood and behavior, and usually induces sleep or stupor.

“Policy” means the written regulations, standards, and policies of the [College](#) as found in, but not limited to, this policy and an official [TCNJ policy website](#).

“Prescription Drug” refers to any substance prescribed by a licensed medical practitioner for individual consumption. It includes prescribed [Drugs](#) and over-the-counter [Drugs](#), which may have been legally obtained.

“Protected category” collectively refers to one or more of the following categories: age, race, creed, color, national origin, nationality, ancestry, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed

Forces of the United States, or disability.

Abusive or harassing conduct directed at a person or group because of actual or perceived membership in a Protected Category (sometimes generally known as “bias incident(s)”, “bias crime(s)”, or “hate crime(s)”) may result in an enhanced sanction.

“Reasonable Accommodations” are adjustments or modifications made in a system or process to ensure accessibility for individuals with disabilities. Reasonable accommodations are determined by the Accessibility Resource Center (ARC) on a case-by-case basis.

“Reporter” is the [Student](#) alleged to have experienced an incident of personal abuse as outlined in section 03. *Personal Abuse* of the *Student Conduct Code*. Please note that while non-students may report [Student](#) to the Office of Student Conduct, *Procedural Standards* may not apply to non-student reporters. .

“Respondent” is the [Student](#) who is subject to an investigation, procedural requirements including proceedings, remedial measures, and/or sanctions as a result of information filed in a report, determined through an investigation, and/or conduct proceeding.

“Retaliation” includes any adverse actions or statements that attempt to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by that person’s status as a [Student](#) or because that [Student](#) has made a report, provided information for, assisted, or participated in any manner in a conduct matter, investigation, or proceeding.

Retaliation is established when:

- The [Reporter](#) has engaged in activities or procedures protected as a member of the TCNJ community (e.g. report a [Policy](#) violation or participate in an investigation);
- The [Respondent](#) knew of the activity;
- The [Respondent](#) thereafter subjected the person to any adverse action, treatment or condition; and
- There is a causal connection between the protected activity or procedure and the adverse action, treatment or condition.

“Stalking Behavior” means repeatedly maintaining a visual or physical proximity to a person; following, monitoring, observing, surveilling, threatening, or communicating to or about a person directly or through third parties, by any action, method, device, or means; interfering with a person’s property; repeatedly committing harassment against a person; or repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of [Communication](#) or threats implied by conduct or a combination thereof directed at or toward a person.

“Student” or “Students” includes all persons who accept an offer of admission to the [College](#), register for credit-bearing courses or maintain matriculation in a degree or certificate program at the [College](#), either full time or part time, degree or non-degree

seeking, and have an academic record with Primary Academic Web Services (PAWS), the [College's](#) records and registration system. The status of other individuals who participate in [College](#)- sponsored or recognized programs will be determined solely at the discretion of the Director of Student Conduct.

"Third Party" includes individuals who are neither [Students](#) nor Employees, including but not limited to contractors, guests, and consultants.

"VPSA" is the Vice President of Student Affairs (including those serving in an interim or acting role) or a designee appointed by the President.

"Weapon" includes any item that is designed in appearance or function to resemble a firearm, cause [Harm](#), and/or invoke fear or intimidation. Weapons include, but are not limited to, knives, brass knuckles, swords, slingshots, or any other item when used to [Harm](#) or intimidate another.

III. POLICY

A. Authority

The *Student Conduct Code* describes the non-academic behavior expected of all [Students](#), as well as the procedures for addressing and adjudicating reports of [Student](#) misconduct. Academic integrity standards are not covered by this code, but rather fall within the authority of the faculty, academic integrity officer in each school, the All-[College](#) Academic Integrity Board, and Office of the Provost and Vice President for Academic Affairs as outlined in the [Academic Integrity Policy](#).

Authority for student conduct ultimately rests with the President of the [College](#) and the Board of Trustees, who delegate authority for non-academic conduct of [Students](#) to the [VPSA](#).

The [VPSA](#) may delegate this authority to the Dean of Students Office. Under the direction of the Office of Student Conduct, the Director of Student Conduct is responsible for implementing the student conduct process. The [VPSA](#) has authority to appoint hearing boards and hearing or appellate administrators. Any reference in the *Student Conduct Code* to the role or responsibilities of a specific [College Official](#) may be delegated by that person to an appropriate designee. Also note, any reference in the *Student Conduct Code* to a person or role in the [Policy](#) or process is intentionally gender neutral to reflect the [College's](#) commitment to an inclusive [Policy](#).

The [College Student Conduct Code](#) shall apply to [Student](#) conduct that occurs on [College](#) premises, at [College](#)-sponsored activities, and off campus. This includes, without limitation, time periods during which classes are not in session, or the [Student](#) is not yet registered for college classes and while enrolled or participating in a program at another institution. The Director of Student Conduct has discretion

to determine what off-campus conduct will be addressed by the student conduct process. Factors that will be considered include whether the incident is documented by a verifiable source, adversely affects the [College](#) community, occurs at a [College](#)-affiliated event, or endangers the health or safety of the [Student](#) or others.

Each [Student](#) shall be responsible for their conduct from the time of enrollment in courses or matriculation in a degree program, through the actual awarding of a degree or cessation of academic coursework at the [College](#). The [College](#) has discretion to address conduct that occurs when classes are not in session if a [Student](#) is registered for courses for a semester, but classes are not yet in session, or if a [Student](#) is on a leave of absence or has voluntarily withdrawn from the [College](#) if the behavior occurred while they were a [Student](#).

B. Interpretation and Amendments

Any questions of interpretation or application of the *Student Conduct Code* shall be referred to the Director of Student Conduct for final determination.

A recognized constituency or the Dean of Students may request a review of the *Student Conduct Code* by submitting a written request to the [VPSA](#).

Any substantive changes will be reviewed in accordance with applicable governance [Policy](#) and procedures.

C. Students' Rights and Responsibilities

[Students](#) at the [College](#) have the same rights and protections under the Constitutions of the United States and the State of New Jersey as other citizens. These rights include freedom of expression, press, religion, and assembly. The [College](#) has a tradition of [Student](#) activism and values freedom of expression, which includes voicing unpopular views and dissent. As members of the [College](#) community, [Students](#) have the right to express their own views, but must also take responsibility for respecting the same right of others. [Students](#) wishing to gather or express their views peaceably should follow the guidelines in the [Use of Campus Property Policy](#).

[Students](#) have the right to be treated fairly and with dignity regardless of race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability, and as revised in [The College of New Jersey Policy Prohibiting Discrimination in the Workplace/Educational Environment](#). The [College](#) has a strong commitment to pluralistic education.

Accordingly, the [College](#) will not unlawfully discriminate on the basis of protected group status.

[Students](#) have the right to have access to the [College](#) policies that affect them. The [College](#) is committed to providing [Students](#) with a balanced and fair system of accountability and dispute resolution. Accordingly, [Students](#) will be provided appropriate *Procedural Standards* that are administrative in nature and should not be equated with procedures used in civil or criminal court. Individuals can access [College](#) policies [here](#).

[Students'](#) rights also include those outlined in [Student Rights and Freedoms](#) and other published [College](#) policies. Violation of [College Policy](#), including but not limited to the *Student Conduct Code*, may result in forfeiture of such rights when necessary to preserve the safety of the [College](#) community or to achieve the orderly execution of the educational mission of the [College](#).

Along with rights come certain responsibilities. [Students](#) at the [College](#) are expected to act consistently with the values of the [College](#) community to preserve a safe and vibrant environment that encourages scholarship and personal growth.

The [College](#) values the individual contribution of every member of the community and expects that [Students](#) will:

- Engage in responsible social conduct that reflects credit upon the [College](#) community both on and off campus, and is consistent with a safe and healthy environment;
- Respect the rights of others to pursue an exceptional education free from harassment, bullying, defamation, and discrimination;
- Conduct oneself with personal integrity and in an honest manner that makes that person worthy of the trust of others;
- Model good citizenship in any community by committing to actions that benefit the community and others, and do not impede the educational mission of the [College](#) or individual pursuits of knowledge;
- Recognize that respect for the ideas and contributions of all persons allow for diverse and creative intellectual inquiry;
- Do no [Harm](#) and do not present a threat of [Harm](#) to self, others, or personal or institutional property;
- Seek assistance, resources, or aid for self or others in a timely manner when health, safety, or wellness is at risk;
- Respect the right of fellow [Students](#) to participate in [College](#) or outside organizations, associations, or relationships with other [Students](#) without fear, threat, or act of hazing;
- Conduct oneself professionally and with civility in all pursuits of knowledge in and outside the classroom;
- Be responsible and held accountable for one's decisions and actions, and the

- impact on self and others; and
- Be fully acquainted and comply with the [College's](#) published policies and procedures and local, state, and federal law.

D. Violations of Expectations for Student Conduct

*The following is a non-exhaustive list of conduct that **does not meet** The [College's](#) expectations for [Student](#) conduct. Such misconduct is a violation of the Student Conduct Code and may result in disciplinary sanctions. Other conduct not found in this code may still be deemed unacceptable and may be addressed by the [College](#).*

1. Law and Policy Compliance

- a. Violation of any [College](#) Policy, rule, or regulation published in hard copy or available electronically on the [College](#) website.
- b. Violation of any federal, state or local law. (See [Appendix A](#) and [Appendix B](#) for non-exhaustive lists of selected state statutes and township ordinances and [Appendix C](#) for an excerpt of the State of New Jersey "Anti-Bullying Bill of Rights Act.")
- c. Failure to meet financial obligations with respect to [College](#) funds, or conducting any financial transaction unlawfully or unethically.
- d. Violation of [College](#) policies and regulations governing the possession or use of automobiles or other motor vehicles on campus, or violation of parking regulations published by the [College](#).

Failure to notify the [College](#) of any arrest or conviction. [Students](#) have an ongoing obligation to notify the [College](#) of any arrest or criminal conviction (the "criminal charge") within 30 calendar days of the occurrence of the criminal charge by submitting detailed documentation describing the criminal charge and the circumstances and event or underlying conduct that gave rise to the criminal charge to the Office of Student Conduct. [You may report your arrest by clicking here.](#) The Director of Student Conduct will review all such notices and determine the appropriate course of action through established student conduct *Procedural Standards* and practices. Failure to report a criminal charge within 30 calendar days of occurrence will be considered a *D. Violation of Expectations for Student Conduct*.

The [College](#) recognizes that an arrest, in and of itself, is not a finding of guilt. However, the [College](#) may investigate the event or conduct giving rise to or the circumstances surrounding the arrest to determine whether a possible violation of the [Student](#) Conduct Code is warranted and, if so, whether a *D. Violation of Expectations for Student Conduct* has occurred.

2. Personal Integrity

- a. Falsifying, or being party to the falsification, of any official [College](#)

identification card, record (e.g. oral or written [Communication](#)), or document.

- b. Possession, use, manufacture, or sale of a falsified identification card, document, or record.

3. Personal Abuse

a. Bullying, Intimidation, and Harassment

- i. Engaging in conduct, including any gesture, written, verbal or physical act, or any electronic [Communication](#) (which includes e-mails, text messages, and Internet postings on web-sites or other social media), that is directed at a person(s), that is so severe or pervasive and objectively offensive that it substantially disrupts or interferes with the orderly operation of the [College](#) or the rights of any [Student](#) or other member of the [College](#) community; and that:
 - a. involves intimidation or threats to another person's safety, rights of personal privacy and property, academic pursuits, [College](#) employment, or participation in activities sponsored by the [College](#) or organizations or groups related to the [College](#); or
 - b. a reasonable person should know, under the circumstances, will have the effect of insulting or demeaning any person or group; or
 - c. creates an intimidating or [Hostile Environment](#) by substantially interfering with another [Student's](#) education, or by materially impairing the academic pursuits, employment or participation of any person or group in the [College](#) community, or by severely or pervasively causing physical or emotional [Harm](#) to the [Student](#) or other member of the [College](#) community; or
 - d. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally [Harming](#) a [Student](#) or other person or damaging the person's property or placing the person in reasonable fear of physical or emotional [Harm](#) to their person, or to any member of that person's family or household, or of damage to their property.
- ii. Any attempt to intimidate, threaten, or unduly influence another person with the purpose to discourage cooperation or truthful participation in a student conduct matter, investigation, or proceeding. This may also include the intentional violation of no contact directives or interim measures implemented by the [College](#) in response to an open investigation or proceeding.
- iii. Any attempted [Retaliation](#) against an individual because the person has made a report, provided information, assisted, or participated in any manner in a conduct matter, investigation, or proceeding.

Abusive or harassing conduct directed at a person or group *because of*

actual or perceived membership in a Protected Category (sometimes generally known as “bias incident(s)”, “bias crime(s)”, or “hate crime(s)”) may result in an enhanced sanction.

b. Invasion of Privacy

- i. Unauthorized making of an explicit or objectively offensive recording (including but not limited to photographs, video, and/or audio) of another person.
- ii. Unauthorized display, publication, transmission, or other dissemination (including via the Internet) of explicit or objectively offensive recordings (including but not limited to photographs, video, and/or audio) of another person. Consent to be recorded does not imply consent for such records to be displayed, published, transmitted, or otherwise disseminated.
- iii. Unauthorized intrusion upon a person’s private property or [Communications](#).
- iv. Unauthorized appropriation and/or use of someone’s identifying or personal data or documents.

c. Stalking

- i. Purposefully or knowingly engaging in [Stalking Behavior](#) directed at a specific person that would cause a reasonable person to fear for their safety or the safety of a third person, or suffer other emotional distress. Such [Stalking Behaviors](#) include but are not limited to alarming conduct, following a specific person or otherwise communicating with a person repeatedly in a manner likely to cause fear for safety, or seriously annoy a reasonable person under similar circumstances.

d. Defamation

- i. Oral or written publication of a false statement of fact that exposes the person about whom it is made to hatred, contempt, or ridicule; subjects that person to loss of the good will and confidence of others; or so [Harms](#) that person’s reputation as to deter others from associating with that person. This does not include the good faith documentation of a possible [Policy](#) violation or good faith journalistic reporting in the absence of negligence or recklessness.

e. Physical Abuse

- i. Use of unwelcome force against a person or the property of any person or group.
- ii. Any action or statement that imminently threatens significant [Harm](#) to the health or safety of any person or group.
- iii. Any action, statement, or use of force against a person where a previous

or current personal, intimate, or special relationship exists (defined by marriage, civil union, dating, family membership, or co-habitation), which includes physical, sexual, emotional, economic, and/or psychological actions or threats of actions that a reasonable person in similar circumstances and with similar identities would find intimidating, terrorizing, or threatening. Such behaviors may include threats of violence to one's self or one's family member.

- iv. Interference with the freedom of another person to move about in a lawful manner by force, threat, or intimidation.

Physical Abuse conduct directed at a person or group *because of actual or perceived* membership in a Protected Category (sometimes generally known as "bias incident(s)", "bias crime(s)", or "hate crime(s)") may result in an enhanced sanction.

f. Hazing

- i. Any action taken, or situation created that negligently, intentionally, or recklessly subjects any person to the risk of bodily [Harm](#), physical discomfort, harassment, emotional or mental degradation, abuse, or interferes with academic activities; or causes or encourages any person to commit an act that would be a violation of law or [College](#) regulations for the purpose of initiating, promoting, fostering, or confirming any form of affiliation with a [Student](#) group or organization. This provision applies to all [Students](#) regardless of [College](#) or Student Government recognition of the [Student](#) group or organization.
- ii. Observation of any hazing activity as described above by a [Student](#) without reporting the incident to [College](#) authorities.
- iii. Aiding or assisting another to engage in any hazing activity as described above.
- iv. The expressed or implied consent of a person is not a defense to any hazing activity described above.

4. Property

- a. Unauthorized use or possession, attempted or actual theft, and/or misappropriation of property belonging to others, the [College](#), or the New Jersey Educational Facilities Authority.
- b. Damage, malicious or negligent defacement, or destruction of property belonging to others, the [College](#), or the New Jersey Educational Facilities Authority.
- c. Unauthorized possession, duplication, or use of keys to any [College](#) premises; or unauthorized entry into any office, residence (*including but not limited to residence hall rooms, private residences*)

on or off campus, or private businesses), mailbox, or other [College](#) facility.

Defacement, damage or destruction of property conduct directed at a person or group *because of actual or perceived* membership in a Protected Category (sometimes generally known as “bias incident(s)”, “bias crime(s)”, or “hate crime(s)”) may result in an enhanced sanction.

5. Compliance with Directives

- a. Failure to comply with a duly issued directive by an authorized [College Official](#) or law enforcement officer. A directive may be considered any written or verbal mandate.
- b. Failures to correctly identify oneself at all times and present this information upon request by a [College Official](#) or law enforcement officer.
- c. Aiding or assisting another to violate [College Policy](#), or acting in any way to further a violation of [College Policy](#). [Students](#) may be held accountable for the actions of their guest.
- d. Failure to fully satisfy all the components outlined within the signed Alternative Resolution agreement in the designated timeframe.

6. [Drugs](#), [Narcotics](#), [Controlled Substances](#), and/or Paraphernalia

- a. Unlawful possession, use, purchase, or attempted purchase of [Drugs](#), [Narcotics](#), or [Controlled Substances](#) and/or Paraphernalia.
- b. Unlawful manufacture, distribution, or intended distribution of [Drugs](#), [Narcotics](#), or [Controlled Substances](#) and/or Paraphernalia.
- c. Misuse or misappropriation of any prescription or over-the-counter medication.
- d. Knowingly being in the presence of the *illegal* use of a [Drug](#), [Prescription Drug](#), [Narcotic](#), or [Controlled Substances](#).
- e. Disrupting the campus or off-campus community or engaging in any [Policy](#) violation while under the influence of a [Drug](#), [Controlled Substances](#), or [Narcotic](#).

Amnesty

The [College's](#) highest priority is the physical and mental health, safety, and well-being of individual [Students](#) and the campus community. Therefore, no [Student](#) seeking medical attention by contacting either [College](#) or local authorities for a [Drug](#) overdose (nor a [Student](#) who seeks medical attention on behalf of the affected [Student](#)) and cooperates with and/or assists any medical, [College](#), or law enforcement officials will be formally charged under the *Student Conduct Code* for the unlawful use or possession of a [Drug](#). Although this does not relieve any [Student](#) or organization from responsibility for other [Policy](#) violations that may have occurred prior to seeking medical attention, the effort to seek help for the affected [Student](#) may be a mitigating factor in

sanctioning. Affected [Students](#) may be required to complete an evaluation or other education programs, but will not face disciplinary charges or sanctions as prescribed through the student conduct process.

Although New Jersey state law permits the use of medical marijuana within narrowly tailored circumstances, federal laws prohibit marijuana use, possession, and/or cultivation at educational institutions and on the premises of other recipients of federal funds. The use, possession, or cultivation of marijuana for medical purposes is therefore not allowed on any [College](#) property, nor is it allowed at any [College](#) -sponsored event or activity off campus.

7. Alcoholic Beverages

- a. Being in possession of, attempting to purchase, purchasing, or consuming alcoholic beverages on or off campus while under the age of 21.
- b. Selling, distributing, or serving alcoholic beverages to a person under the age of 21.
- c. Possession and/or utilization of devices for the rapid, high-risk consumption of alcohol including, but not limited to funnels, beer pong accessories, beer bongs, luges, etc., regardless of age.
- d. Consuming alcoholic beverages or carrying alcohol in open containers in any public area without the receipt of an alcohol permit, regardless of age.
- e. Hosting the underage consumption of alcohol in a social space, residence hall room, common area, or off-campus space that is occupied by, under the control of, or reserved for the use of a [Student](#) or organization.
- f. Possession of common source containers of alcohol whether empty or full, including but not limited to kegs, punch bowls, etc., regardless of age.
- g. Excessive use of alcohol resulting in a state of intoxication which endangers oneself or others.
- h. Disrupting the campus or off-campus community or engaging in any [Policy](#) violation while a [Student](#) is intoxicated.

Amnesty

The [College's](#) highest priority is the physical and mental health, safety, and well-being of individual [Students](#) and the campus community. Therefore, no [Student](#) seeking medical attention by contacting either [College](#) or local authorities for intoxication (nor a [Student](#) who seeks medical attention on behalf of the affected [Student](#)) and cooperates with and/or assists any medical, [College](#), or law enforcement officials will be formally charged for the unlawful use or possession of alcohol. Although this does not relieve any [Student](#) or organization from responsibility for other [Policy](#) violations that may have occurred prior to seeking medical attention, the effort to seek help for the affected [Student](#) may be a mitigating factor in sanctioning. Affected [Students](#) may be required to complete an evaluation or other education programs, but will not face disciplinary charges or sanctions as prescribed through the

student conduct process.

8. Weapon and Dangerous Substances

- a. Possession, storage, or carrying of a firearm or other Weapon in a residence hall room, on a person, or in a motor vehicle on College premises or at any College-affiliated activity or event. Knives of a standard size and utilized for an ordinary kitchen function are permitted in residence hall kitchens.
- b. Possession or use of fireworks, gun powder, explosives or other incendiary devices, or dangerous chemicals, except as authorized for use in class, in connection with College-sponsored research, or for another approved activity and used in the way authorized and approved on College premises or at any College-affiliated activity or event.

9. Fire and Safety

- a. Setting or attempting to set fire to, or creating a fire on property owned or operated by the College without a permit.
- b. Intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency.
- c. Unauthorized or improper handling of or tampering with any fire, safety, or emergency equipment or fixtures.
- d. Lighting a candle, incense, or any other open flame inside a College facility or wooded area without express permission from the Department of Occupational Safety and Environmental Services.
- e. Smoking or use of electronic smoking devices inside any College building and/or within 10 feet of a doorway to any College building.
- f. Removing screens, entering or exiting a building through a window, and/or throwing objects out windows.
- g. Leaving exit, fire, and/or smoke doors propped open or unlocked, or entering or exiting the buildings through emergency exit doors.
- h. Presence on the roofs of College buildings, fire escapes, ledges, service elevators, balconies, and other areas that are designated closed or prohibited.
- i. Riding of bicycles or skateboards/hoverboards, the throwing, kicking, or bouncing of objects, the use of roller skates or blades, the use of water guns, and any other activity that causes risk to property or personal safety inside a College facility.
- j. Presence of any motorized vehicle or machine in buildings with the exception of motorized vehicles used by, or in aid to, persons with disabilities.

10. Computer Misuse

- a. See the Computer Access Agreement.

11. Disruption/Obstruction

- a. Disruption to, or obstruction of teaching, research, administrative, disciplinary proceedings, or other [College](#) activities or normal operations including its public service functions on or off campus.
- b. Obstruction of the free flow of pedestrian or vehicular traffic on [College](#) premises or at [College](#)-sponsored or supervised events or activities.
- c. Behavior that disturbs the peace, academic study, or sleep of others on or off campus.

12. Repeated Behavior

- a. Repeated behavior that materially and/or substantially interferes with the operation of the [College](#) or individuals, and that previously has been brought to the attention of the [Student](#) through participation in a separate behavior review process or by a [College Official](#).

IV. PROCEDURAL STANDARDS

A. Reports.

1. **Filing a report.** Any member of the [College](#) community may file a report against a [Student](#) for possible violations of the *Student Conduct Code*.¹ A report must be prepared in writing and submitted to the Director of Student Conduct. A person may submit a report online by using the following link: [File a Report](#). Any report should be submitted as soon as possible after the incident takes place, preferably within 30 calendar days. However, the Director of Student Conduct has discretion to accept a report and/or issue charges regardless of when the report is submitted if the conduct or [Respondent](#) are deemed to pose a possible threat to the [College](#) community or to individual members of the [College](#) community. *For [Sexual Harassment, Misconduct, & Discrimination](#) related reports including but not limited to possible incidents of physical sexual misconduct, sexual harassment, stalking, and/or some instances of physical abuse if involving an intimate partner, the following process will apply: [Sexual Harassment, Misconduct, & Discrimination Policy](#).*
2. **Advisor.** Individuals may be accompanied by one Advisor provided that the involvement of the Advisor does not result in an undue delay of the process. It is the responsibility of the individual to coordinate scheduling with their Advisor for any meetings and/or proceedings.

The Advisor may not participate directly with any process or represent any person involved; nor can an Advisor speak, write, or otherwise communicate with an investigator, conduct administrator, hearing administrator, or appeal reviewer on behalf of the individual they are advising. Advisors may not engage in behavior or advocacy that harasses, abuses, or intimidates either

¹ Including a representative from the Office of Student Conduct on behalf of a person outside the College community if the incident has an adverse effect on the College and there is documentation from a verifiable source.

reporting or responding party, a witness, or individuals involved in resolving the complaint. Advisors who do not abide by these guidelines may be excluded from the process.

The Advisor may be any person of the individual's choosing; however, an Advisor may not also serve as a witness in the same matter. The Advisor may be an attorney but the Advisor is still limited to the supportive and non-participatory role described above. An Investigator or Hearing Administrator may also be accompanied by an Advisor, which may include a representative from the Office of General Counsel. The Advisor of the hearing administrator, who may participate in a manner to ensure procedural standards are upheld, but does not disrupt the overall proceeding. Any cost associated with the participation of an Advisor is the responsibility of the individual.

3. **Initial Assessment.** All cases will be reviewed by the Director of Student Conduct. *See also [Appendix D](#) for a flow chart of the student conduct process.*

Upon receipt of a report regarding behavior that may fall under 03. Personal Abuse (*Violations of Expectations for Student Conduct*), the Director of Student Conduct will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In this initial assessment, the Director of Student Conduct will:

- a. Assess the safety and well-being of those involved and offer the College's immediate support and assistance;
- b. Inform the [Reporter](#) and [Respondent](#) of the right to seek medical treatment;
- c. Inform the [Reporter](#) and [Respondent](#) of the right to contact law enforcement, have a criminal investigation conducted (where appropriate), and/or seek a protective order (where appropriate);
- d. Inform the [Reporter](#) and [Respondent](#) about [College](#) and community resources, the right to seek appropriate and available interim measures, and how to request those measures;
- e. Inform the [Reporter](#) of the right to seek resolution under this *Code*, and determine whether the [Reporter](#) wishes (i) to seek such resolution, or (ii) to request that no investigation be pursued, and that no disciplinary process be initiated or disciplinary action taken; if possible considering the unique circumstances of the case;
- f. Explain the [College's](#) prohibition against Retaliation;
- g. Assess the nature and circumstances of the report;
- h. Determine whether the report triggers any Clery act obligations, including entry of the report in the daily crime log, and/or issuance of a timely warning, and take steps to meet those obligations.

The Director of Student Conduct will ensure the [Reporter](#) receives a written explanation of all [College](#) resources and options and are offered the opportunity to meet with the Director of Student Conduct to discuss those

resources and options. When a decision is reached to impose interim measures, to initiate an investigation, or to take any actions that involves notifying a [Respondent](#), the Director of Student Conduct will also ensure that the [Respondent](#) receives a written explanation of all college resources and options and are offered the opportunity to meet with the Director of student Conduct to discuss those resources and options.

4. **[Reasonable Accommodations](#).** Should any individual involved in the Student Conduct process as a [Reporter](#), [Respondent](#), or witness believe they may require and/or benefit from any form of accommodation to effectively participate, they are encouraged to contact the Accessibility Resource Center (ARC) directly at 609-771 3199. [Reasonable accommodations](#) are individualized and in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992 (as amended). All requests must be made in advance and the Office of Student Conduct staff will consider recommendations provided by ARC.

B. Alternative Resolution Process. The [College](#) recognizes that there is not one universal resolution process that best meets the needs of our [Students](#) and the campus community. To adequately address reports of behavior that may be in *Violation of Expectations for Student Conduct* that may result in charges under 03. Personal Abuse an alternative process may be utilized.

Alternative resolution is a voluntary process within the [College's Student Conduct Code](#) that allows a [Respondent](#) in a student conduct matter to accept responsibility for the behavior they engaged in that may have caused [Harm](#) to the [Reporter](#). By fully participating in this process the [Respondent](#) will not be charged with a violation of [College](#) policy.

The alternative resolution process is designed to eliminate the conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the [Reporter](#) while still maintaining the safety of the overall campus community.

The alternative resolution process will only be used at the request and agreement of both the [Reporter](#) and [Respondent](#); and under the direction of the Office of Student Conduct. In order for the alternative resolution process to be appropriate, both parties must have an understanding and agree on the necessary elements of the process. Both the [Reporter](#) and [Respondent](#) will have to agree to the following terms should they wish to participate in the alternative resolution process:

1. Participation in this process is voluntary and either the [Reporter](#) or [Respondent](#) can choose to end the process at any time prior to signing the agreement;
2. Both the [Reporter](#) and [Respondent](#) must participate in individual intake meetings with appropriate staff to learn more about the resolution process prior to participating;
3. The process can only be used once and will not be considered if requested by a

repeat [Respondent](#) under the *Student Conduct Code* and/or the *Sexual Harassment, Misconduct, & Discrimination Policy*;

4. The [Reporter](#) and [Respondent](#) must agree to all recommendations outlined in the formal agreement or the case reverts back to an investigation;
5. Information documented during this process can be subpoenaed if a criminal investigation is initiated;
6. Participation in this process does not constitute a finding of “In-Violation” for a *Violation of Expectations for Student Conduct* charge, and is therefore not reflected on the [Respondent’s](#) disciplinary record;
7. If the [Respondent](#) is documented and found “In-violation” for any *Violations of Expectations for Student Conduct* this agreement can be used in the sanctioning phase of that process; and
8. The [Respondent](#) may be charged with 05. Compliance with Directives for failure to meet all requirements outlined in the agreement.

The alternative resolution process is beneficial when both parties participate in good faith. Should the [Respondent](#) not complete the agreement, the case may revert back to an investigation, and/or the [Respondent](#) may be charged with 05. Compliance with Directives.

If the [Student](#) is charged with *Violations of Expectations for Student Conduct* under 05. Compliance with Directives, the original conduct staff member who facilitated the agreement may serve as a witness during the conduct process. The [Reporter](#) who originated the initial complaint and the [Respondent](#) will have access to the outcome and rationale of this proceeding.

A Restorative process is a philosophical approach to dispute resolution that embraces the reparation of [Harm](#), healing of trauma, reconciliation of interpersonal conflict, and reintegration of people who have been marginalized through participatory learning and improved decision making skills. Rather than focusing on what policies have been violated, restorative processes instead identify who has been [Harmed](#) and what actions are necessary moving forward to repair the [Harm](#).

Possible options that [Students](#) may utilize in this process are outlined below:

1. Restorative Circle. Participation in a discussion by trained facilitators with a [Reporter](#) or Harmed Parties that is designed to result in the shared agreement outlining how to correct the [Harm](#) caused by the [Respondents](#) behavior. The [Reporter](#)/Harmed Parties and [Respondent](#) (and possible community members) work together to develop an agreement that resolves the issue(s), and can help the [Respondent](#) restore their standing in the community and repair relations that were damaged by their actions. During the circle process both [Students](#) can have support person present. A support person differs from an [Advisor](#) as this person can have an active role during this process. A support person must be approved by the lead facilitator.
2. Impact Statement
3. Counseling Sessions

4. Alcohol/Drug Education Class(es)
5. Bi-weekly or monthly check in meetings with the Director of Student Conduct
6. Implementation of a No Contact Directive with the College
7. Restriction from participation in specific clubs and/or organizations
8. Restriction from participation in particular events (e.g. Senior Week)
9. Completion of a mentored action plan with regular meetings with an assigned staff member of the College
10. Community Service

The [College](#) reserves the right to suspend or terminate the alternative resolution process at any time.

Any agreements reached as part of the Alternative Resolution Process must be documented, signed in-person or via email by the [Reporter](#) and [Respondent](#), and approved the Director of Student Conduct. If no agreement is reached then the matter may be referred to the Director of Student Conduct for further action.

Both the [Reporter](#)/Harmed Parties and [Respondent](#) may be accompanied by an [Advisor](#) at any meeting with student conduct staff during the Alternative Resolution Process.

- C. Investigation.** The Director of Student Conduct or an experienced external investigator will conduct a prompt, thorough, fair and impartial investigation to determine if the information in the report merits charges against a [Student](#) or [Students](#), a formal admonishment, no charges, or if the incident can be addressed through a resolution process, such as mediation or restorative practices. An [Advisor](#) of the [Student's](#) choice may be present during the investigation meeting but may not represent the [Student](#) or actively participate in the meeting. The conference administrator may also have an [Advisor](#) present at their discretion.

For investigations that may result in 03. *Personal Abuse* charges, there will be two trained investigators present whenever possible. The lead investigator will coordinate meetings with the [Reporter](#) and [Respondent](#). Both the [Reporter](#) and [Respondent](#) will be interviewed and asked to share information they have regarding the incident, as well as all relevant documentation (i.e. text messages, emails, photos, etc.), and identify witnesses who may provide direct information regarding the allegation. The investigator(s) will gather all information and create a statement summary. The [Reporter](#) and [Respondent](#) will be called in for a meeting where they each will be given the opportunity to review the summary and respond with additional comments.

When there is both a [College](#) and law enforcement investigation, the conduct investigation may be temporarily delayed so law enforcement may gather evidence, but the investigation will resume once law enforcement has completed evidence gathering. The [College](#) will generally not wait for the conclusion of any related criminal proceeding to initiate or conduct an investigation.

For [Sexual Harassment, Misconduct, & Discrimination](#) related investigations, the following process will apply: [Sexual Harassment, Misconduct, & Discrimination Policy](#)

Information gathered during a [Sexual Harassment, Misconduct, & Discrimination](#) investigation may be shared with the Office of Student Conduct. Information gathered during a student conduct investigation may be shared with the Office of Title IX and Sexual Misconduct for the purposes of ongoing investigations and/or administrative hearings.

If a [Sexual Harassment, Misconduct, & Discrimination](#) investigation results in charges for *D. Violations of Expectations for Student Conduct* that are unrelated to [Sexual Harassment, Misconduct, & Discrimination](#), the [Director of Title IX Compliance & Sexual Misconduct](#) may transfer the case back to the Office of Student Conduct for adjudication. If the [Director of Title IX Compliance & Sexual Misconduct](#) determines that there are violations of expectations outlined in this code that are not [Sexual Harassment, Misconduct, & Discrimination](#) in nature but directly relate to a violation of the [Sexual Harassment, Misconduct, & Discrimination Policy](#), the [Director of Title IX Compliance & Sexual Misconduct](#), in consultation with the Director of Student Conduct, may decide to adjudicate all charges through the [Sexual Harassment, Misconduct, & Discrimination](#) process.

- D. Charge(s).** Any charges will be presented to the [Respondent](#) in writing through the [Student's College](#) email address, as the official means of [Communication](#) at the [College](#), and a conference with a [Hearing Administrator](#) shall be scheduled within a timely period.
- E. Conference.** The [Respondent](#) will be scheduled to meet with an assigned administrator for a conference meeting to discuss the grounds for any charges, process, and sanctioning practices. The [Respondent](#) will select whether they will participate in a formal or informal conduct hearing; unless the case includes charges for any violations under the *03. Personal Abuse* section of this code. In such cases, the administrator will determine what type of hearing is appropriate after considering the expressed preferences of both the [Respondent](#) and [Reporter](#), and the totality of the circumstances. If the administrator finds that an informal hearing is appropriate, then a different administrator may be assigned or the conference administrator may conduct the hearing with the permission of both the [Respondent](#) and [Reporter](#). An [Advisor](#) of the [Respondent's](#) choice may be present during the conference. The conference administrator may also have an [Advisor](#) present through the conference meeting and/or informal or formal administrative hearing at their discretion. If after notice a [Respondent](#) does not attend a scheduled conference, the administrator may postpone the conference or review the information available and make a decision on responsibility including assigning any sanctions to the [Respondent](#) if deemed appropriate.

- F. Informal hearing.** If the [Respondent](#) selects an informal hearing the administrator conducting the conference may immediately conduct the informal hearing as the [Hearing Administrator](#) or schedule the informal hearing to take place within a practical period. However, in the case of a *03. Personal Abuse* charge, if the administrator selects an informal hearing to address any charges, the administrator conducting the conference will assign a different [Hearing Administrator](#) to conduct the informal hearing within a practical period.

A [Respondent's Advisor](#) may remain present for the informal hearing, but may not represent the [Respondent](#) or address the [Hearing Administrator](#). The [Advisor's](#) role is limited to providing support to the [Respondent](#) by observing or by advising the [Respondent](#) in a manner that does not disrupt the conduct proceeding. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings.

The [Hearing Administrator](#) may temporarily adjourn the informal hearing if the administrator determines that further review or clarification is necessary including, but not limited to, interviewing the [Reporter](#) and/or other witnesses.

1. **Joint hearing.** In cases involving more than one [Respondent](#), the administrator may permit the hearing concerning each party to be conducted either separately or jointly.
2. **Information.** The informal hearing provides an opportunity for the [Respondent](#) to be heard and to provide information such as written witness statements. The [Respondent](#) may accept or deny responsibility for any charges.
3. **Decision.** The [Hearing Administrator](#) will determine whether the [Respondent](#) is "In-Violation" for any charges. The [Hearing Administrator's](#) determination shall be made on the basis of whether it is *more likely than not* that the [Respondent](#) violated the *Student Conduct Code*. If the [Respondent](#) is found not "In-Violation" for all charges, the process is concluded (except in *03. Personal Abuse* cases where the [Reporter](#) also has the right to appeal the outcome). If the [Respondent](#) is found "In-Violation" for any charges, the [Hearing Administrator](#) will then assign any appropriate sanctions. The decisions and sanctions will be emailed to the [Respondent's](#) TCNJ email address after the hearing.
4. **Appeal.** The [Respondent](#) (and [Reporter](#) in *03. Personal Abuse* cases) may appeal the decision and/or any sanctions issued by the [Hearing Administrator](#) in writing to the Director of Student Conduct. (Please see Section *F. Appeals* for more information).
5. **Formal hearing.** If a formal hearing is selected, the [Respondent](#) has the opportunity to select an administrative hearing or, in cases that will not result in suspension or expulsion from the [College](#), a Community Standards Board (CSB) hearing. However, in the case of a *03. Personal Abuse* charge, when the administrator selects a formal hearing, they will have the option of selecting

either an administrative hearing or, if suspension or expulsion is not within the sanction range, a CSB hearing. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings.

6. **Administrative hearing.** An administrative hearing is conducted by a trained faculty or staff member of the [College](#) who is selected by the Director of Student Conduct and, when practicable, has not previously served as a [Hearing Administrator](#) in a prior conduct process involving the [Respondent](#). The administrator will hear information presented by the [Reporter](#), the [Respondent](#), and any participating witnesses; and will subsequently render a decision and sanctions if appropriate. A [Student](#) may appeal the decision of the [Hearing Administrator](#) to the Director of Student Conduct.
7. **Community Standards Board (CSB).** The CSB is a [Student](#) board chaired by a [Student](#) representative and advised by the Assistant Director of Student Conduct. Quorum for CSB includes minimally two [Student](#) voting members and one [Student](#) chair. The CSB Board may be comprised of up to four voting members and the [Student](#) chair who votes only in the case of a tie. The [Advisor](#) to the CSB does not vote nor participate in deliberations, but may answer questions regarding *Procedural Standards*, [Policy](#), or sanctioning practices. A [Student](#) may appeal the board's decision to the Director of Student Conduct. The CSB will not hear cases that may result in suspension or expulsion from the [College](#) should the [Respondent](#) be found "In-Violation" for any charges. The CSB may not be available for cases occurring at the end of the semester or during extended breaks such as the summer. In such cases, the Director of Student Conduct will assign the case to an available [Hearing Administrator](#) or determine whether the case can wait until a CSB becomes available.
8. **Formal hearing guidelines.** Formal hearings shall be conducted according to the following guidelines.
 - a. **Private hearing.** A hearing is conducted in private. The [Reporter](#) (in *03. Personal Abuse* cases) [Respondent](#), and in some cases the person bringing the complaint on behalf of the [College](#) and [Advisor\(s\)](#) are allowed to attend the entire portion of the board or administrative hearing at which information is received (this excludes deliberations). Admission of any other person to the hearing shall be at the discretion of the board or administrator hearing the case.
 - b. **Joint hearing.** In cases involving more than one [Respondent](#), the administrator or board chair may permit the hearing concerning each party to be conducted either separately or jointly.
 - c. **Questions.** The [Hearing Administrator](#) or board, the person bringing the complaint on behalf of the [College](#), and the [Reporter](#) (in *03. Personal Abuse* cases) and [Respondent](#) may arrange for witnesses to present pertinent information. The [Reporter](#) and the [Respondent](#) may suggest questions to be

answered by one another and/or one another's witnesses, but the questions must be directed to the chairperson of the board or the administrator of the hearing rather than to the other party or witness directly. The chairperson of the board or the administrator will determine whether questions or potential information are appropriate at their discretion.

- d. **Additional information.** Relevant records, exhibits and written statements (including [Student](#) impact statements and/or character statements during the sanction phase) may be accepted as information for consideration by a board or administrator at the discretion of the chairperson or administrator.
- e. **Decline to provide information.** The [Respondent](#) (and in *03. Personal Abuse* cases the [Reporter](#)) has the right to decline to provide any written or oral statements, answer questions posed in a hearing, or provide any information on their behalf. However, the hearing board or administrator may draw an adverse inference from the [Student's](#) absence of information or refusal to answer questions.
- f. **Procedural questions.** All procedural questions are subject to the final decision of the chairperson of the board or administrator.
- g. **Majority vote and quorum.** A board will determine by majority vote whether the [Respondent](#) has violated the [Policy](#) as charged. For any board hearing, a quorum of two voting members is necessary. Quorum is not required for an administrative hearing as the decision is made by the administrator alone.
- h. **Basis for decision.** The board or administrator's determination shall be made on the basis of whether it is *more likely than not* that the [Respondent](#) violated the *Student Conduct Code*. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings.
- i. **Hearing recorded.** Recordings will not be permitted during any phase of the conduct process with the exception of the administrative hearing. There will be a single record, such as a digital audio recording, of all formal hearings. Deliberations will not be recorded. The record will be the property of the [College](#).
- j. **Decision in absentia.** If a [Respondent](#), with notice, does not appear for a formal hearing, the [Hearing Administrator](#) or board may postpone the hearing or hear the information in support of the charges in the [Respondent's](#) absence and will make a decision on the available information.

- k. **Special accommodation.** The CSB or administrator may accommodate persons with concerns for the personal safety, well-being, and/or fears of confrontation during the hearing by providing separate facilities or physical dividers, and/or by permitting participation by telephone, videophone/conferencing, videotape, audiotape, written statement, or other viable means as determined by the Director of Student Conduct to be appropriate.

G. Appeal Procedures.

1. **Respondent appeal.** A [Respondent](#) is afforded one single opportunity to appeal decisions and/or any sanctions issued by a [Hearing Administrator](#) or board within five business days of the date of the written decision. The decision of the administrator reviewing the submitted appeal is the final and conclusive decision of The [College](#) of New Jersey and is appealable only to the New Jersey Superior Court, Appellate Division in accordance with the New Jersey Rules of Court.
2. **Reporter appeal.** A [Student](#) who is the subject of a report resulting in a [Respondent](#) being charged under *03. Personal Abuse* (see Section D.3. under *Violations of Expectations for Student Conduct*) is afforded one single opportunity to appeal decisions and/or any sanctions issued by a [Hearing Administrator](#) or board within five business days of the date of written notification of the decision and/or relevant sanctions. The decision of the administrator reviewing the submitted appeal is the final and conclusive decision of The [College](#) of New Jersey and is appealable only to the New Jersey Superior Court, Appellate Division in accordance with the New Jersey Rules of Court.
3. **Required format.** All appeals must be in writing, and include any supporting documentation that the [Student](#) wishes to be considered. Deference is given to the original [Hearing Administrator](#) or board's findings of fact and decision of "In-Violation" and/or any sanctions; therefore the burden of proof is on the [Student](#) filing an appeal to sufficiently demonstrate cause to alter procedures, the original decision, or any sanctions. An appeal will generally be limited to a review of the verbatim record of the hearing and supporting documents for one or more of the purposes below, provided however the administrator may request additional information or clarification from the [College](#) and/or external investigators, conference administrator, the [College](#) administrator preparing the hearing, the [Hearing Administrator](#) or board, the [Reporter](#) (in *03. Personal Abuse* cases) or [Respondent](#), and/or witnesses for purposes of this review.
 - a. **Process review.** To determine whether the hearing was conducted in accordance with published procedures and without bias on the part of the [Hearing Administrator](#) or any board member. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.

- b. **Information review.** To determine whether there was information presented in the hearing that, if believed by the board or administrator, was sufficient to establish that a violation of the *Student Conduct Code* occurred.
 - c. **Sanction review.** To determine whether any sanctions imposed were appropriate for the violation of the *Student Conduct Code* which the [Respondent](#) was found to have committed.
 - d. **New information.** To consider new information, submitted by the appealing [Student](#) within the prescribed five business day period, sufficient to alter a decision or other relevant facts not brought out at the time of the original hearing, because such information was not known to the [Student](#) appealing at the time of the original hearing.
4. **Appeal decision.** An administrator reviewing an appeal may make one of the following decisions:
- a. **Affirm.** The administrator may decide to affirm the decision of the original [Hearing Administrator](#) or board.
 - b. **Alter sanction.** The administrator may alter the sanctions issued by the original [Hearing Administrator](#) or board. Alteration of a sanction may include reducing or increasing the sanction or requirements.
 - c. **New hearing.** The administrator may determine that a new hearing by a different [Hearing Administrator](#) or board is warranted to correct procedural irregularity or to consider new information. A [Student](#) may appeal a decision of the new [Hearing Administrator](#) or board.
 - d. **Remand.** The administrator may direct the original [Hearing Administrator](#) or board to review their original decision subject to any instructions from the administrator; and may affirm that decision or render a new decision consistent with those instructions. A [Student](#) may appeal a decision made by the original [Hearing Administrator](#) or board if there are any changes after the review.

H. Summer, End of Term, and Geographically Remote Cases. The following process will apply for incidents that occur over the summer, incidents that are reported regarding a [Student](#) who does not participate in courses on the property of the [College](#), or incidents that are reported near the end of any academic term and are unable to be heard before the last week of classes in accordance with the conduct process.

- 1. **Minor incident.** For a minor incident (where a finding of responsibility would result in a warning and/or educational sanctions), the [Respondent](#) will be asked to submit a statement in writing regarding the incident that may include statements by any witnesses by a prescribed date. The [Hearing Administrator](#), in conjunction with the incident report, will consider this statement. The

[Respondent](#) will be notified of the [Hearing Administrator's](#) decision via electronic [Communication](#). This process will also be utilized to handle such incidents that occur during summer sessions conducted at the [College](#) or for minor incidents that occur in a geographically remote location. If the [Respondent](#) wishes to appeal the decision of the [Hearing Administrator](#), that individual must do so within five business days of notification of the decision.

2. **Major incident.** For a more serious incident (where a finding of responsibility may result in a status of pending termination of residency; termination of residency; pending suspension; suspension; or expulsion), the [Student](#) may choose to respond to the charges in writing (as described above), or to participate in a hearing process in person through existing procedures. The Director of Student Conduct will determine whether this process should take place during the summer or term of geographically remote course or after classes have reconvened in the following semester. For incidents that occur in a geographically remote location, a hearing with the [Respondent](#) or witness(es) present may occur. All such hearings will take place on the property of the [College](#), and the [Respondent](#) is financially responsible for any travel costs incurred to attend the hearing. In addition, participation in a hearing by means of technology such as video, telephone, Internet chat, or video may also occur with mutual consent of the [Respondent](#) and [Reporter](#) (in *03. Personal Abuse cases*) and the Director of Student Conduct.

- I. **Interim Measures/Remedies.** Under certain circumstances (such as *03. Personal Abuse cases*) interim measures may be initiated to protect the safety and well-being of persons involved in an incident or the campus community in conjunction with, or pending the outcome of, a separate behavior review process (such as the [Involuntary Health or Safety Withdrawal Policy](#)), and/or the investigative or adjudicative processes of the [Student Conduct Code](#) and/or [Sexual Harassment, Misconduct, & Discrimination Policy](#). Interim measures may include the following to the extent reasonably available and appropriate:

1. **Interim suspension.** Immediate separation of a [Student](#) from the [College](#) by the Dean of Students pending an investigation or adjudication. Through the duration of the interim suspension, the [Student](#) may be restricted from [College](#) property and may be required to provide prior notice and receive approval from the Director of Student Conduct for the purpose of conducting [College](#) business. Interim suspension will be imposed only in exceptional circumstances to ensure the health, safety or welfare of members of the [College](#) or [College](#) property or to ensure the [Student's](#) own safety and welfare. [Students](#) who have been suspended on an interim basis must have a conduct hearing within a practical period of time after the imposition of the interim suspension. Cases involving interim suspension through the Office of Student Conduct may be forwarded to the College's Behavior Intervention Team for further assessment of threat to self or others under the [Involuntary Health or Safety Withdrawal](#) policy.

2. **Interim termination of housing.** Immediate removal and prohibition of a [Student](#) from [College](#) housing by the Director of Student Conduct pending an investigation or adjudication. Through the duration of the termination the [Student](#) will be restricted from entering all residential floors in [College](#) buildings.
3. **Degree hold.** The awarding of a degree from the [College](#) is contingent not only on the completion of academic requirements but also on full compliance with the [College's](#) regulations throughout the [Student's](#) entire time enrolled, including the period between the completion of academic requirements and graduation. If a [Student](#) is scheduled to graduate while there is an open case/investigation into their alleged behavior, the [College](#) reserves the right to withhold a [Student's](#) degree pending the outcome of the [College's](#) investigation and/or adjudication process.
4. **No Contact Directive.** A no contact directive is an official [College](#) directive that serves as notice to an individual that they must not have physical contact with or proximity to, or direct verbal, electronic, or written [Communication](#) with another individual or group, nor shall they coordinate indirect [Communications](#) with the other individual or group through a [Third Party](#).
5. **Behavior Support Plan.** This is an agreement between the [Student](#) and the Office of Student Conduct and/or other appropriate office (including but not limited to Dean of Students Office, Office of Title IX and Sexual Misconduct, or Division of Academic Affairs) which outlines expected behaviors to aid in a [Student's](#) success. This plan serves as an agreement of understanding between the [Student](#) and the [College](#) of the [Student's](#) duty to meet The [College's](#) behavioral expectations. By participating in this plan, the [Student](#) acknowledges a commitment to working with a [College](#) administrator to establish support(s) and resource(s) on campus with the intention of mitigating disruptive behaviors. *This measure may occur prior to, in conjunction with, or as a sanction resulting from a student conduct investigation or proceeding.*
6. **Academic measures.** This may include assistance in transferring to another section of a course, assistance in requesting withdrawal or an incomplete grade in a particular course, leave of absence or withdrawal from the [College](#), or assistance requesting alternate methods of completing coursework.
7. **Housing measures.** This may include requiring a [Student](#) to relocate [College](#) housing assignment pending the outcome of a conduct investigation or proceeding. This may also include facilitating changes from a non-campus housing location to alternate housing, or assistance in exploring alternative housing off-campus.
8. **Employment measures.** This may include arranging for alternate [College](#) employment, different work shifts, etc.

9. **Other measures/remedies.** Any other measure that may be arranged by the [College](#) (to the extent reasonably available) to ensure the safety and well-being of a [Student](#) and/or the [College](#) community. This may include the use of dispute resolution services such as mediation or restorative practices when appropriate.
- J. **Sanctioning Practices.** The following sanctions, alone or in any combination, may be imposed upon any [Student](#) found to have violated the *Student Conduct Code*. See also [Appendix E](#) for specific sanctioning procedures for selected violations.
1. **Status Outcomes. A sanction that defines the status of a Student with the College.**
- a. **Warning.** A notice in writing to the [Student](#) that the [Student](#) is violating or has violated institutional regulations and that further violations may result in more severe disciplinary action.
 - b. **Probation.** This status serves as a disciplinary status assigned to a [Student](#) for a specified period of time. While on this status, any further violations of [College Policy](#) will result in more severe disciplinary action and may result in additional Administrative Directive Outcomes and/or Suspension. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Student Conduct for five years after a [Student](#) separates from the [College](#).
 - c. **Pending suspension.** The pending suspension status is assigned to a [Student](#) for a specified period of time before that person is suspended from the [College](#). While on this status, any further violations of [College Policy](#) may result in suspension from the [College](#). This status constitutes a disciplinary record that will remain on file with the Office of Student Conduct for five years after a [Student](#) separates from the [College](#).
 - d. **Suspension.** Termination of course registration and residency (if applicable) from the [College](#) after a specific date and for a specified time. Through the duration of the suspension, the [Student](#) will be restricted from [College](#) property and may be required to provide prior notice and receive approval from the Director of Student Conduct for the purpose of conducting [College](#) business. Before a [Student](#) may be readmitted to the [College](#) after the designated period of time, that person must meet with the Dean of Students to show satisfactory completion of any assigned directives or to discuss stipulated conditions for their return. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Student Conduct indefinitely. Should a [Student](#) wish to return to the [College](#) after the suspension period, that person must comply with any academic standards and procedures then in effect.

- e. **Expulsion.** Permanent dismissal from the [College](#) and restriction from [College](#) property. This status constitutes a disciplinary record that will remain on file with the Office of Student Conduct indefinitely. Expulsion is the most serious disciplinary action taken by the [College](#) and is generally reserved for only those cases of behavioral misconduct in which all the relevant facts and aggravating circumstances support a conclusion that the only reasonable sanction is permanent removal from the [College](#).
- f. **Degree revocation.** Permanent revocation of an earned degree from the [College](#) and restriction from [College](#) property. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Student Conduct indefinitely. Degree revocation is reserved for only those cases of behavioral misconduct that occur while an individual is a [Student](#), but is not made known to the [College](#) until after a degree is earned, and in which all the relevant facts and aggravating circumstances support a conclusion that the only reasonable sanction is permanent revocation of an earned degree from the [College](#).

2. Educational Outcomes.

- a. **Restorative practices.** Participation in a discussion by trained facilitators with any persons or departments [Harmed](#) and development of a shared agreement of how to correct the [Harm](#). Unlike other sanctions, all participants must voluntarily agree to participate in the restorative process.
- b. **Mediation.** Participation in a mediated discussion with other disputants facilitated by multi-partial, trained mediators with the hope of developing a negotiated agreement serving as resolution to the dispute. Unlike other sanctions, all participants must voluntarily agree to participate in mediation.
- c. **Mentored Action Plan.** Develop a mentored action plan with the aid of the aid of an assigned mentor, agree to the terms of the plan, complete required meetings, and reflection.
- d. **Other discretionary sanctions.** Work assignments, essays, presentations, research projects, conduct contracts, service to the [College](#), or other discretionary assignments.

3. Administrative Directive Outcomes.

- a. **Administrative relocation of housing.** Administrative transfer of a [Student](#) from one campus housing location to another.
- b. **Pending termination of housing.** This status serves as a housing probationary status assigned to a [Student](#) for a specified period of time before their housing privileges are terminated. While on this status, any

further violations of [College](#) Policy may result in termination of housing. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Student Conduct for five years after a [Student](#) separates from the [College](#).

- c. **Termination of housing.** Removal of a [Student](#) from [College](#) housing after a specific date and for a specified period of time. Through the duration of the termination, the [Student](#) may be restricted from entering all residential floors in [College](#) buildings. [Students](#) who are removed from [College](#) housing for disciplinary reasons will receive the refund available based on the time of the semester according to the Department of Residential Education and Housing policies and the housing contract. In addition, this status constitutes a disciplinary record that will remain on file with the Office of Student Conduct for five years after a [Student](#) separates from the [College](#).
- d. **Loss of privilege.** Denial of any specified privilege for a designated period of time. Examples include but are not limited to: guest privileges, restriction from a [College](#) event or program, and/or area or building.
- e. **Restitution.** Compensation for loss, damage, or injury to [College](#) property. This may take the form of appropriate service and/or monetary or material replacement.
- f. **Parental notification.** Notification may be sent to parents or guardians of a [Student](#) who is under 18 years of age, or financially dependent on their parents or guardians, depending on the circumstances surrounding the incident. Parents or guardians may also be notified of alcohol and other [Drug](#) incidents for [Students](#) under 21 years of age, regardless of financial dependency or resulting sanction.
- g. **No Contact Directive/Extension of existing No Contact Directive.** This may include a new directive (as described above), or an extension of an original directive with or without altered or additional parameters or instructions. Sanctioned No Contact Directives may only be removed prior to their scheduled expiration (if any) at the discretion of the Director of Student Conduct, and at the written request of all involved persons.
- h. **Behavior support plan.** This is a directive to the [Student](#) from the Office of Student Conduct and/or in consultation with another appropriate office (including but not limited to Dean of Students Office, Office of Title IX and Sexual Misconduct, or Division of Academic Affairs) which outlines expected behaviors to aid in a [Student's](#) success. By participating in this plan, the Student acknowledges a commitment to working with a College administrator to establish support(s) and resource(s) on campus with the intention of mitigating disruptive behaviors.

K. Disciplinary Record Keeping Practice.

1. **File maintenance.** A [Student](#) who is charged with a violation of the *Student Conduct Code* has a file created and maintained by the Office of Student Conduct. Files are maintained for five years after the date the [Student](#) separates from the [College](#); however files of [Students](#) who have been suspended or expelled are maintained indefinitely.
2. **Privacy/Confidentiality.** The federal Family Educational Rights and Privacy Act of 1974 (FERPA) protects a [Student's](#) education records, including student conduct files, from unauthorized disclosure to third parties. A [Student](#) must sign a waiver to grant access to their disciplinary record before the [College](#) will disclose information protected by FERPA contained in the [Student's](#) records. These confidentiality requirements apply to [Students'](#) parents or guardians with the exception of a health or safety emergency, an alcohol or [Drug](#) violation, or if the [Student](#) is financially dependent on the parents or guardians. Federal law makes exceptions in these cases and does allow the [College](#) to share disciplinary information with specific persons. In addition, FERPA allows the [College](#) to disclose a [Student's](#) education record without prior written consent when the disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may include only the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. Furthermore, FERPA permits the [College](#) to disclose sanction information to a [Student](#) or party who has filed a report of conduct that is a violation under *Personal Abuse* (see Section D.3. under *Violations of Expectations for Student Conduct*) when any sanction directly relates to the [Reporter](#). Finally, the [College](#) may publicly share with the campus community limited information related to conduct outcomes subject to the limitation set forth under FERPA.
3. **Inspection.** [Students](#) may request to inspect or view their disciplinary records in accordance with FERPA. To do so, a [Student](#) should make an appointment with the Director of Student Conduct. Records are not immediately available to [Students](#) because they must first be reviewed for confidential information regarding other [Students](#), and thus may need to be redacted. Upon request, the Office of Student Conduct may provide [Students](#) with copies of redacted incident reports, letters, and any forms or receipts in the [Student's](#) file. [Students](#) may make arrangements to review the recording as an element of their education record by making arrangements with the Office of Student Conduct. However, copies or transcripts of any recording will not be provided. Please note that it is not the [College's](#) practice to provide [Students](#) with copies of the information listed above during an open or active investigation.
4. **Reporting.** If a [Student](#) has given proper permission for the [College](#) to share disciplinary information to a [Third Party](#), it is the practice of the [College](#) to only disclose a disciplinary file if a [Student](#) has ever been placed on a pending termination of housing or pending suspension status, has been removed from

housing, or has been suspended or expelled from the [College](#). The [College](#) retains discretion to release additional information contained in a [Student's](#) disciplinary file if a [Third Party](#) requires disclosure of further information, or if a [Student](#) separates from the [College](#) with any pending student conduct matters. For further information on requesting a disciplinary file please go to the following site: [Disciplinary Background Check Information](#).

5. **Petition for administrative deletion.** Disciplinary records may be administratively deleted upon review and approval by the Dean of Students. When a record is administratively deleted, the information it contains is no longer part of an official disciplinary record. The [College](#) is required by law and [College Policy](#) to retain for statistical purposes information regarding certain types of disciplinary violations. Statistical information from deleted files may be retained with the [Student's](#) name and [Student](#) identification number removed. Administrative deletion affects only information maintained by the Office of Student Conduct. Copies of letters distributed by or to other [College](#) departments, incident reports, police reports, and the results of previous background checks reported outside of the Office of Student Conduct are not affected by an administrative deletion. Petitions for an administrative deletion may be made no sooner than one year after the date of the [Student's](#) last finding of responsibility from the student conduct process or one calendar year prior to their anticipated graduation, whichever is later. The request must be made in writing to the Dean of Students by submitting the following [form](#). Administrative deletion requests may not be granted for conduct that resulted in suspension or expulsion from the [College](#) and may also be denied for conduct that posed a threat to a member of the [College](#) community or serious damage to [College](#) property.

- L. **Violation of Law and *Student Conduct Code*.** [College](#) student conduct proceedings may be instituted against a [Student](#) charged with conduct that potentially violates both the criminal law and College policy without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under these *Procedural Standards* may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Director of Student Conduct. Prior determinations made or sanctions imposed under these *Procedural Standards* will not be subject to change because criminal charges arising out of the same facts giving rise to violation of [College](#) rules are later dismissed, reduced, or resolved in favor of the criminal law defendant.

M. Leave of Absence or Withdrawal.

1. Individuals who withdraw or take a leave of absence from the [College](#) while a conduct matter or any sanction is pending will have a registration hold placed on their [Student](#) account(s) and will be notified of the pending matter and registration hold.

2. If documentation of an incident is brought to the attention of the Office of Student Conduct after an individual separates from the [College](#), but includes conduct that allegedly occurred while an individual was a [Student](#), or conduct that occurred after separation from the [College](#) but has an adverse impact on the campus community, the [College](#) retains discretion to assign any charges, ban the individual from campus, and/or place a registration hold on the individual's account pending adjudication.
3. The [College](#) retains discretion to determine when there is enough information available or it is necessary to adjudicate charges for formerly enrolled [Students](#). An individual may contact the Office of Student Conduct to request arrangements to adjudicate or dispose of the matter before the registration hold will be released.

**Resolution Approving the College of New Jersey
Fiscal Year 2021 GSF/Capital Fee Modification**

- Whereas: The State College Autonomy Law vests the responsibility with the Board of Trustees to approve the college's unrestricted current fund budget and adjust student charges as necessary; and
- Whereas: The College's Treasurer has prepared a modification to the level of GSF/Capital Fee for fiscal year 2021; and
- Whereas: The President has reviewed this modification and recommends its approval; and
- Whereas: The Executive Committee of the Board of Trustees has reviewed the proposed modification to the GSF/Capital Fee and has recommended its approval; and
- Therefore
Be It
Resolved: That the Board of Trustees approves the modification to the GSF/Capital Fee as reflected in the attached schedule.

August 11, 2020

ATTACHMENT A				
FULL TIME STUDENTS (Flat Rate Over 12 Credits) / 3 Units				
	FY 2020	FY 2021	CHANGE	
			AMOUNT	PERCENT
UNDERGRADUATE - NEW JERSEY RESIDENT				
TUITION	13,238.80	13,238.80	-	0.0%
GSF/CAPITAL	3,111.68	2,721.68	(390.00)	-12.5%
STUDENT CENTER FEE	272.82	136.41	(136.41)	-50.0%
STUDENT ACTIVITY FEE	299.56	-	(299.56)	-100.0%
TOTAL	\$ 16,922.86	\$ 16,096.89	\$ (825.97)	-4.9%
ROOM CHARGE	9,515.74	9,515.74	-	0.0%
BOARD (ALA CARTE 1)	4,531.88	3,900.00	(631.88)	-13.9%
TOTAL	14,047.62	13,415.74	(631.88)	-4.5%
TOTAL COST	\$ 30,970.48	\$ 29,512.63	\$ (1,457.85)	-4.7%
UNDERGRADUATE - OUT OF STATE RESIDENT				
TUITION	25,217.04	25,217.04	-	0.0%
GSF/CAPITAL	3,111.68	2,721.68	(390.00)	-12.5%
STUDENT CENTER FEE	272.82	136.41	(136.41)	-50.0%
STUDENT ACTIVITY FEE	299.56	-	(299.56)	-100.0%
TOTAL	28,901.10	28,075.13	(825.97)	-2.9%
ROOM CHARGE	9,515.74	9,515.74	-	0.0%
BOARD (BASE PLAN: ALA CARTE 1)	4,531.88	3,900.00	(631.88)	-13.9%
TOTAL	14,047.62	13,415.74	(631.88)	-4.5%
TOTAL COST	42,948.72	41,490.87	(1,457.85)	-3.4%
CARD SERVICE FEE (FALL AND SPRING)	\$ 20.00	\$ -	(20.00)	-100.0%
Pass through annual charge for all students without personal insurance effective 8/1/2020 to 7/31/2021:				
UNDERGRADUATE STUDENT HEALTH INSURANCE	\$ 1,797.00	\$ 1,977.00	180.00	10.0%
GRADUATE STUDENT HEALTH INSURANCE	\$ 4,468.00	\$ 4,797.00	329.00	7.4%

<u>PART-TIME UG STUDENTS Per Credit/.25 Units</u>	<u>FY 2020</u>	<u>FY 2021*</u>	<u>CHANGE</u>	
			<u>AMOUNT</u>	<u>PERCENT</u>
UNDERGRADUATE - NEW JERSEY RESIDENT				
TUITION	469.55	469.55	0.00	0.00%
GSF/CAPITAL	128.86	112.75	-16.11	-12.50%
STUDENT CENTER FEE	11.62	5.81	-5.81	-50.00%
STUDENT ACTIVITY FEE	12.56	0.00	-12.56	-100.00%
TOTAL COST	622.59	588.11	-34.48	-5.54%
UNDERGRADUATE - OUT OF STATE RESIDENT				
TUITION	893.01	893.01	0.00	0.00%
GSF/CAPITAL	128.86	112.75	-16.11	-12.50%
STUDENT CENTER FEE	11.62	5.81	-5.81	-50.00%
STUDENT ACTIVITY FEE	12.56	0.00	-12.56	-100.00%
TOTAL COST	1,046.05	1,011.57	-34.48	-3.30%
<u>PART-TIME GRAD STUDENTS Per Credit Hour</u>				
GRADUATE - NEW JERSEY AND OUT OF STATE RESIDENTS				
TUITION	808.58	808.58	0.00	0.00%
GRADUATE FEES (Flat Rate)*	140.48	73.81	-66.67	-47.46%
TOTAL COST	949.06	882.39	-66.67	-7.02%
GRADUATE - NURSING STUDENTS				
TUITION	808.58	949.91	141.33	17.48%
GRADUATE FEES (Flat Rate)*	140.48	73.81	-66.67	-47.46%
TOTAL COST	949.06	1,023.72	74.66	7.87%
GRADUATE - MBA PROGRAM				
TUITION	938.58	938.58	0.00	0.00%
GRADUATE FEES (Flat Rate)*	140.48	140.48	0.00	0.00%
TOTAL COST	1,079.06	1,079.06	0.00	0.00%
<u>FLAT RATE</u>				
CARD SERVICE FEE (FALL AND SPRING)	20.00	0.00	-20.00	-100.00%