

# BROOKDALE COMMUNITY COLLEGE

## COLLEGE REGULATION

### 3.9002R

#### I. Title of Regulation

Non-Discrimination

#### II. Objective of Regulation

To establish a uniform method of ensuring equal employment and educational opportunity, prohibiting discrimination, harassment, and hostile environment in the workplace and educational programs.

#### III. Authority

All applicable legislation including but not limited to Titles VI and VII of the Civil Rights Act of 1964 as amended; Civil Rights Act of 1991; Title IX of the Educational Amendments of 1972 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; Age Discrimination in Employment Act as amended; Americans with Disabilities Act; New Jersey Law Against Discrimination; Chapter 103, P.L.2006; Title 18A of the New Jersey Statutes; and the Bylaws of the Board of Trustees.

#### IV. Regulation Statement

Brookdale Community College is committed to equal opportunity and does not discriminate in its educational programs, activities, or employment practices. All forms of unlawful discrimination or harassment based upon race, creed, color, nationality, national origin, ancestry, age, sex, marital status, civil union status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, disability, or other protected category or activity (i.e., opposition to prohibited discrimination or participation in the complaint process) are prohibited and will not be tolerated. Sexual harassment is a form of unlawful gender discrimination and, likewise, will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the employment or academic relationship, compromises equal employment and academic opportunity, debilitates morale and interferes with work or academic productivity. Brookdale Community College will not tolerate harassment or discrimination by anyone, including supervisors, co-workers, non-employees, or students. This regulation applies to conduct which occurs on campus and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the College, such as any off-campus location, business-related social function, or any facility where College business is being conducted and discussed.

This regulation also applies to third party harassment. Third party harassment is unwelcome behavior of a sexual, racial or derogatory nature regarding any protected category, that is not directed at an individual but is a part of that individual's work or

academic environment. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

This regulation pertains to all employment and educational practices, including but not limited to, recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions, career development, career placement, transfer and admission to an educational program.

#### **A. Prohibited Discriminatory Conduct**

##### **1. Less Favorable Treatment**

It is a violation of College policy to treat any person less favorably based on a person's race, creed, color, national origin, ancestry, age, sex, marital status, civil union status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, disability, or protected activity (i.e., opposition to prohibited discrimination or participation in the complaint process).

##### **2. Use of Derogatory or Demeaning Terms**

It is a violation of College regulations to use derogatory or demeaning slurs to refer to a person's race, gender, age, religion, disability, affectional or sexual orientation, or ethnic background which have the effect of harassing an employee or student or creating a hostile work/academic environment. Harassment or the creation of a hostile work/academic environment can occur even if there is no intent on the part of an individual to harass or demean another.

Examples of behaviors that may constitute prohibited discrimination or harassment:

- Discriminating against an individual with regard to terms and conditions of employment or academic status because of that individual's race, gender, age, religion, disability, affectional or sexual orientation, place or origin, or his/her ancestors' place of origin.
- Treating an individual differently because of race, gender, age, religion, disability, affectional or sexual orientation, place of origin, or his/her ancestors' place of origin, or because an individual has the physical, cultural, or linguistic characteristics of a racial or national origin group.
- Treating an individual differently because of marriage or civil union to or association with persons of a racial, religious or national origin group; or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name or spouse's name is associated with a racial, religious, or national origin group.

- Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic jokes which harass an employee/student or create a hostile work/academic environment.
- Using derogatory references regarding any of the above characteristics in any job-related or academic communication.
- Engaging in threatening, intimidating, or hostile acts, in the workplace or academic environment, based on the foregoing characteristics.
- Displaying or distributing material in the workplace / academic environment that contains language or images that are derogatory or demeaning based upon any of the foregoing characteristics.

## **B. Prohibited Sexual Harassment Conduct**

It is a violation of College policy to engage in sexual harassment of any kind. Sexual harassment, with or without sexual conduct, is defined as unwelcome sexual advances, requests for sexual favors, or other verbal, physical, or visual conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment or academic success;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.

## **C. Type of Sexual Harassment**

1. **Quid Pro Quo Sexual Harassment** is a form of harassment that may include unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct based on the gender of the affected person when (a) submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic success; (b) submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions.

It is a violation of College policy for any person to use his or her authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence any personnel or academic actions; to grant, recommend or refuse to take any action on the basis of a person's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take action as reprisal against any person for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

2. **Hostile Environment Sexual Harassment** is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities or academic success.
3. **Third Party Harassment** is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work or academic environment.

Examples of behaviors that may constitute sexual harassment:

- Generalized gender-based remarks and comments.
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.
- Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mails, invitations, gestures or inappropriate comments about a person's clothing.
- Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily clad individuals.
- Explicit or implicit suggestions of sex by a supervisor, manager, or faculty member in return for a favorable employment or academic action such as hiring, compensation, promotion, retention, or grades.
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment or academic consequence with respect to any employment or educational practice such as performance evaluations, grades, or promotional opportunities.
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

#### **D. Employee/Student Responsibilities**

Any person who believes that she/he has been subjected to any form of prohibited discrimination/harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to the Diversity Management

Officer, Dean of Human Resources, or Dean of Enrollment Development and Student Affairs. All employees are expected to cooperate with investigations undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination or expulsion.

**E. Supervisor/Academic Staff Responsibilities**

Supervisors and academic personnel should make every effort to maintain an environment that is free from any form of prohibited discrimination/harassment. Supervisors/Academic staff are expected to take all allegations of discrimination or harassment, including sexual harassment, seriously, and to refer the matter immediately to the individual(s) responsible for receiving such complaints. All complaints will be reviewed and appropriate remedial/disciplinary action will be taken to address any substantiated claim. All employees receiving complaints of unlawful discrimination/harassment must immediately refer the complaint to the Diversity Management Officer.

**F. Remedial/Disciplinary Action**

Anyone found to have violated the College's policy may be subject to remedial action such as counseling, training, or intervention, or may be subject to appropriate disciplinary action, which may include reprimand, suspension, reassignment, termination of employment, or expulsion from the College. Referral to another appropriate authority for review for possible violation of state and federal statutes may also be appropriate.

**G. Complaint Process**

See Internal Procedures for Complaints Alleging Discrimination, Harassment or Hostile Environment in the Workplace or Educational Programs.

**V. Responsibility for Implementation**

Dean of Human Resources

Approved: President  
Replaces: 3.9002R - Equal Employment and Educational Opportunity, and  
3.9004R - Sexual and Gender Harassment  
Effective: 6/21/01  
Revised: 2/27/07