BROOKDALE COMMUNITY COLLEGE
COLLEGE REGULATION

3.9002R Equal Opportunity and Non-Discrimination

I. Title of Regulation

3.9002R Equal Opportunity and Non-Discrimination

II. Objective of Regulation

To provide equal opportunity in all areas of the College's employment and educational practices, to foster a safe and non-discriminatory workplace and educational environment in all areas of College operations and programs and to provide a discrimination free workplace and educational environment.

III. Authority

All applicable Executive orders, all applicable Federal and State Anti-Discrimination laws, 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, employment practices, College operations or otherwise. All forms of unlawful discrimination or harassment based upon any characteristic/category (hereinafter referred to as category) protected under applicable Federal and State Law is prohibited. Protected activity under State or Federal law (i.e., opposition to prohibited discrimination or participation in the complaint process) are also prohibited and will not be tolerated.

Definitions

1. **Discrimination** is defined as an intentional or unintentional act which adversely affects employment or educational opportunities on the basis of membership in one or more categories as defined under State and Federal law. The College provides equal employment opportunity to all its employees and applicants for employment. The College considers as a basis for selection in employment only those characteristics which are demonstrably related to job performance or requirements.

2. **Harassment** is conduct directed toward an individual or group based on membership in one or more categories as defined under State and Federal law. Such conduct must be sufficiently severe or pervasive to alter an individual's employment conditions, or a student's educational opportunities which, in turn, creates an unreasonably intimidating,

offensive, or hostile environment for employment, education, or participation in College activities.

A person does not have to be the direct and immediate target of harassment to complain about it. Harassing behavior toward others may be so offensive, demeaning, or disruptive as to constitute a hostile work or academic environment, though not specifically directed at the observer or individual lodging the complaint. A single, isolated incident of harassment may, based on the facts and circumstances, create a hostile environment. Conduct alleged to constitute harassment will be evaluated according to the objective standard of a reasonable person.

3. **Sexual Harassment** includes any unwelcome sexual advances, requests for sexual favors, or other unwelcome written, verbal, or physical conduct of a sexual nature when:

i. submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a College activity;

ii. submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting that individual's academic standing, employment status, or participation in a College activity; or

iii. such conduct is severe or pervasive enough to unreasonably interfere with an individual's academic or work performance or participation in a College activity, or to create an intimidating, hostile, or abusive work or educational environment.

Sexual harassment may be committed by anyone regardless of gender identity and may occur between members of the same or different sexes. Further, harassment based on a person's sex is not limited to instances involving sexual behavior. That is, harassment on the basis of sex may occur without sexual advances or sexual overtones when conduct is directed at individuals or groups because of their sex. This is often referred to as sex or gender harassment, and such conduct violates this Regulation.

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. The College will not tolerate harassment, discrimination or retaliation 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 social media platforms and other forms of electronic communications.

4. **Third Party Harassment** – This Regulation also applies to and prohibits 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.

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 or Different Treatment

It is a violation of College policy to treat any person less favorably or differently based on any protected activity or category (i.e., opposition to prohibited discrimination or participation in the complaint process) under State or Federal law.

2. Use of Derogatory or Demeaning Terms

It is a violation of College policy to use derogatory or demeaning slurs to refer to a person based on a protected category under State or Federal law 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 based on an individual's identity in a category protected by law:

- Discriminating against an individual with regard to terms and conditions of employment or academic status.
- Treating an individual differently.
- Calling another by an unwanted nickname which refers to one or more protected categories.
- Using derogatory references regarding any protected characteristics in any job-related or academic communication.
- Engaging in threatening, intimidating, or hostile acts, in the workplace or academic environment, based on protected characteristics.
- Displaying or distributing material in the workplace / academic environment that contains language or images that are derogatory or demeaning based upon any protected characteristics.
- Displaying or distributing material in the workplace, academic environment, and/or on social media that contains language or images of another person that are derogatory or demeaning based on any protected characteristics and without the expressed permission of the individual whose language or images are displayed or distributed.

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.
- Distribution or sharing of any photos, videos, or images of a sexual nature of another person without their consent.

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 responsible to promptly report the incident(s) to the Chief Human Resources Officer (CHRO), the Chief Student Affairs Officer (CSAO), or the Executive Director, Student Services. 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 CHRO.

F. Remedial/Disciplinary Action

Anyone found to have violated the College's Equal Opportunity and Non-Discrimination 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

CHRO

Approved: President
Replaces: 3.9002R – Equal Employment and Educational Opportunity, and 3.9004R – Sexual and Gender Harassment
Effective: 6/21/2001
Revised: 2/27/2007
Approved: President, 10/30/2020, previously named Non Discrimination
Approved: President, 9/17/2025