

## **PROCEDURES FOR PREVENTING AND RESPONDING TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING BY STUDENTS**

### **Objective**

The objective of this regulation is to ensure compliance with Board Policy 2.1001 - Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking, the Campus SaVE Act and the VAWA. Brookdale Community College commits to full compliance with the VAWA and the obligations imposed on all postsecondary institutions under its SaVE Act. This regulation for students is intended to implement the requirements of these Acts and the implementing regulations promulgated by the United States Department of Education, 34 C.F.R. §668.46.

The SaVE Act seeks to address the violence women face on college campuses and updates the Jeanne Clery Act (Clery Act). Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment, which includes acts of sexual misconduct, domestic violence, dating violence, sexual assault and/or stalking, is a form of sex discrimination prohibited by Title IX.

### **Authority**

All applicable legislation including but not limited to the Clery Act, as amended by the VAWA; the Campus SaVE Act; Title IX of the Higher Education Act; the Prevention of Domestic Violence Act of 1991, N.J.S.A. 2C:25-17 et seq.; State of New Jersey, P.L. 1994, Chapter 160, N.J.S.A. 18A:61E-1 et seq.; United States Department of Education regulations, 34 C.F.R. §668.46; New Jersey Sexual Assault Victim's Bill of Rights; and other applicable State or Federal laws and regulations; and the Bylaws of the College Board of Trustees.

### **Regulation Statement**

Brookdale Community College is committed to providing an institutional environment where all persons may pursue their studies, careers, duties, and activities in an atmosphere free of threat of unwelcome and unwanted sexual actions. It strongly condemns sexual offenses, will not tolerate sexual offenders, and supports those who have been victimized.

Sexual assaults are serious violations of the College's Student Code of Conduct, College employee policies, Board of Trustees Policy 2.1001 – Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking, the Campus SaVE Act, the VAWA, Board Policy 3.9002, Non-Discrimination and Board Policy 6.1002 – Campus Sexual Assault Victim's Bill of Rights. They are crimes under state law and punishable by fines and/or imprisonment. In addition, these actions are subject to civil suit for damages.

New students and employees will receive information about sexual misconduct during orientation and during their first full semester at the College.

This regulation is intended to implement requirements of the Acts noted above, and regulations promulgated by the United States Department of Education, 34 C.F.R. §668.46. Those obligations, as they pertain to incoming students and new employees, require that the College promote awareness and prevention methods of the following offenses:

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking.

### **Criminal Offenses Required to be Disclosed**

General categories of crime statistics are disclosed in the College's Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Report annually and are as follows:

- Murder and non-negligent manslaughter
- Negligent manslaughter
- Robbery
- Aggravated Assault
- Motor Vehicle Theft
- Arson
- Burglary
- Sexual Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault w Object, Forcible Fondling)
- Sexual Offenses, Non-Forcible (Incest, Statutory Rape)
- Larceny\*
- Vandalism\*
- Liquor Law Arrests
- Liquor Law Violations Referred for Disciplinary Action
- Drug Law Arrests
- Drug Law Violations Referred for Disciplinary Action
- Illegal Weapons Possession Arrest
- Illegal Weapons Possession Violations Referred for Disciplinary Action

\*Statistics not required by law but reported in Brookdale's annual Clery Report

## Definitions

1. “Sexual Assault” means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent. This includes an offense that meets the definition of rape, fondling, incest or statutory rape as used in the Federal Bureau of Investigation Uniform Crime Reporting (UCR) Program.

Sexual Assault, as defined by the National Incident-Based Reporting System Edition of the Uniform Crime Reporting System of the Federal Bureau of Investigation, includes:

- The attempt or act of rape (sexual intercourse without consent or with a child under the age of thirteen, by a stranger, an acquaintance, or an intimate).
  - Forced sodomy (forced oral or anal sex) against that person’s will or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
  - Forced penetration by a foreign object either animate such as a finger, or inanimate.
2. “Sexual Offenses-Forcible” means any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent.
  3. “Sexual Offenses-Non-Forcible” means any unlawful, non-forcible sexual intercourse (e.g., incest, statutory rape).
  4. “Non-Penetration Sexual Assault” includes the act of touching an unwilling person’s intimate parts such as genitalia, anus, groin, breast, or buttocks, or the clothing covering these parts, or forcing an unwilling person to touch another’s intimate parts.  
The above acts constitute sexual assault when they are committed against a person’s will as evidenced by refusal of consent or through the use of force, threat, manipulation, or intimidation, or against a person who, by virtue of mental incapacity or physical helplessness, is unable to give or withhold “consent” (to give assent, acceptance or approval as to the proposal of another). This includes, but is not limited to, incapacity or helplessness caused by alcohol or other drugs. Intoxication of the assailant shall not diminish the assailant’s responsibility for the sexual assault.
  5. “Hate Crimes” – any of the above-mentioned offenses, and any incidents of larceny-theft, simple assault, intimidation, or destruction/damage/vandalism of property that manifests evidence that the victim was intentionally selected because of the perpetrator’s bias against the victim. The categories of bias include the victim’s actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin and disability.
  6. “Domestic Violence” includes violent misdemeanor and felony offenses committed by the victim’s
    - current or former spouse or domestic partner
    - current or former cohabitant
    - anyone else protected under domestic or family violence law

- any person with whom the victim has had a dating relationship
  - any person with whom the victim shares a child in common
7. “Dating Violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; AND where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.
8. “Stalking” means a course of conduct directed at a specific person that would cause a reasonable person to:
- fear for her, his, or other’s safety, or
  - suffer substantial emotional distress
- A stalker need not know his/ her actions are unwanted. Stalking is often a precursor to violence.

Stalking is a crime designated by degrees.

9. “Stalking in the Fourth Degree” – A person is guilty of this crime if he/she purposely or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of a third person or suffer other emotional distress.
10. “Stalking in the Third Degree” – A person is guilty of this crime if he/she commits the crime of stalking in violation of an existing court order prohibiting the behavior. A person is guilty of a crime in the third degree if he/she:
- commits a second or subsequent offense of stalking against the same victim
  - commits the crime of stalking while serving a term of imprisonment or while on parole or probation as the result of conviction for any indictable offense under the laws of New Jersey or any other state or the United States.
11. “Course of conduct” means repeatedly maintaining a visual or physical proximity to a person; directly or indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about a person, or 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 combination thereof directed at or toward a person. N.J.S.A. 2C:12-10.
12. “Repeatedly” means on two or more occasions.
13. “Emotional Distress” means significant mental suffering or distress.
14. “Cause a Reasonable Person to Fear” – Cause fear which a reasonable victim, similarly situated, would have under the circumstances.
15. “Incest” means non-forcible sexual intercourse between persons who are related to each other within the degrees where marriage is prohibited by law.
16. “Statutory rape” means non-forcible sexual intercourse with a person who is under the statutory age of consent.

17. "Consent"

- Consent must be clear, verbal, sober, and affirmative.
- Consent must be obtained for each and every sexual activity to constitute effective consent.
- Consensual activity requires a mutual decision of both parties without any hint of force, threat, coercion, pressure, fraud, manipulation or fear of injury or loss of safety.
- Consent cannot be given if the victim is asleep, mentally or physically incapacitated due to alcohol and/or other drugs or due to a temporary or permanent mental or physical condition.
- Silence, passivity or the lack of active resistance is not consent.
- Previous sexual activity does not equal current consent.
- Consent to one form of sexual activity does not equal consent to other forms of sexual activity.
- Consent can be withdrawn at any point.

18. "Order of Protection" means an official legal document signed by a judge that is filed against a current or former family member or household member or a person of other similar relationship. The order forces that individual to keep at a distance and is intended to prevent his or her abusive behavior toward a student or employee. Also called a restraining order, it is enforceable in court, and can be drafted to meet specific needs as they apply to situations.

19. "Retaliation" - Intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's formal or informal complaint or participation in a College investigation or proceedings related to sexual violence or assault. If the College learns of possible retaliation for filing a complaint of sexual misconduct, including threats, intimidation, coercion or discrimination, it will take immediate and appropriate steps to investigate and remedy the action with disciplinary action, if necessary.

### **Investigating Allegations of Sexual Misconduct**

As soon as a complaint and/or form is filed with the Title IX Coordinator (Vice President-Student Success) the Manager-Diversity, Inclusion and Compliance or the Student Conduct & Compliance Officer, an impartial and reliable investigation will be performed. Opportunity will be provided for both the complainant and the student charged to present witnesses and evidence. Both parties will be provided with the opportunity to be accompanied by an advisor of their choice.

In a protracted case, the College will take interim measures and make reasonable accommodations to protect the complainant.

The evidentiary standard (preponderance of the evidence which means more likely than not that sexual misconduct / violence occurred) will be used in resolving the complaint. In the event of a crime or for obtaining and/or enforcing a no-contact order or an order of protection/restraining order, individuals are encouraged to contact the Brookdale College Police Department. The Police Department has the responsibility to engage local law enforcement to investigate and/or handle preservation of evidence.

An internal investigation will result in written notice sent concurrently to the complainant and the alleged perpetrator of the outcome of the complaint; including if there were substantiated findings and appeal procedures. The Complaint and Disciplinary Process are described in detail below.

### **Confidentiality**

While the College encourages the alleged victim to report the incident to local or campus law enforcement to access all of the legal protections available, there is NO requirement to do so. Filing a report will not necessarily obligate a victim to prosecute the crime.

College employees receiving reports of incidents of sexual misconduct/sexual violence by students must submit the information to the Student Title IX Officer or designee (Vice President, Student Success) Counselors are required to adhere to N.J.A.C 13:34-8.3 regarding “Confidentiality” and may be exempt from reporting the crime if functioning within the scope of his/her license or certification. If there is a clear and present danger to the health or safety of the victim and/or others, the counselor has a duty to notify the appropriate College official.

The student victim reporting an incident will be advised by the Title IX Coordinator (Vice President-Student Success) or designee of the right not to file a formal complaint but will be provided with assistance as needed. If the victim wishes to pursue a complaint, the substance and outcome are to remain confidential and will only be shared with the alleged perpetrator, complainant, and those directly involved in the investigation. Any violation of the confidentiality of the substance and/or outcome will be subject to disciplinary action under applicable policies, procedures (including the Student Code of Conduct), and/or collective bargaining provisions.

The College is required under federal law (the Clery Act) to report incidents of sexual misconduct / violence but will not identify any victim in the mandated annual security reporting.

### **Sanctions against the Violator**

Following an investigation, College students charged with such conduct are subject to prosecution and are subject to disciplinary action in accordance with this Regulation. Sanctions that the College may impose on a student following a final determination of responsibility include, but are not limited to, those described in the “Sanctions and Remedies” section of this Regulation.

Any visitor, supplier, contractor or delivery person alleged to have violated this policy will be reported to the Brookdale Community College Police Department and/or to his/her human resources representative, if applicable. Violation of this policy may result in the individual being banned from the College and/or the loss of business with the College.

### **Crime Prevention Programs for Students and Employees**

A common theme of a crime prevention program is to encourage students and employees to be aware of their responsibility for their own security and the security of others. The College holds annual crime prevention programs for new students at orientation, continuing students as part of guest lectures by the Police Department and for students and employees through annual on-line and open in-person programs.

Crime prevention is further enhanced by the dissemination of the College’s Student Code of Conduct to students and the College’s Code of Conduct and the Non-Discrimination Policy for employees. This information is provided to students each semester and annually to employees.

The key elements to crime prevention can be best achieved through coordination among the Campus Police Department, faculty, staff, and students.

### **Responsible Employees**

A “responsible employee” is an employee who has a duty to report an incident of sexual misconduct to the Title IX Coordinator or other College official with authority to take action to redress an incident

of sexual misconduct. A reporting employee must report to the Title IX Coordinator or other College official with authority all relevant details about the alleged sexual misconduct shared by the victim including the names of the victim and accused(s), any witnesses and other relevant facts, including the date, time and specific location of the alleged incidents.

The following employees (or categories of employees) are the College’s responsible employees. Phone numbers called from a cell phone or other outside source, add (732) 224- to the interoffice numbers listed below:

Campus Police and Security	X2222
Vice President, Student Success ( <i>Title IX Coordinator for Student Matters</i> )	X2770
Director, Student Conduct and Compliance ( <i>Deputy Title IX Coordinator for Student Matters</i> )	X2096
Associate Vice President, Human Resources and Organizational Safety ( <i>Title IX Coordinator for Employee Matters</i> )	X2234
Manager, Diversity, Inclusion and Compliance ( <i>Deputy Title IX Coordinator for Employee Matters</i> )	X2695

**Complaint and Disciplinary Process**

A person may file a complaint regarding allegations of dating violence, domestic violence, sexual assault, or stalking involving a student by contacting the Vice President-Student Success (Title IX Coordinator for Students), the Manager-Diversity, Inclusion & Compliance, the Student Conduct & Compliance Officer, or, in his or her absence, the Director of Student Life and Activities or the College Officer of the Day. The administrator who is contacted will meet with the complaining person to receive the complaint which must be in writing. The Student Conduct & Compliance Officer will undertake the processing of the complaint which, unless the complaining person directs otherwise, shall include notifying the student charged with domestic violence, dating violence, sexual assault or stalking that a complaint has been filed against him or her. In the event, the allegations are brought by a student regarding a college employee, the matter shall be promptly referred to the College’s Manager-Diversity, Inclusion & Compliance who shall process the complaint in accordance with College Regulation 3.9003R.

The complainant and the student charged shall be entitled to a prompt, fair and impartial process from the initial investigation to the final result. All proceedings will be conducted by officials who do not have a conflict of interest or bias, and who have received annual training on the issues relating to dating violence, domestic violence, sexual assault and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Written notification of the charge(s) involving dating violence, domestic violence, sexual assault, or stalking and possible penalties shall be provided to the student charged as soon as possible, but no later than 60 days of receipt of the complaint by the Student Conduct & Compliance Officer or other College authority, with a copy provided simultaneously to the person who filed the complaint. The complainant and the student charged will have the opportunity to discuss the matter with the Student Conduct & Compliance Officer or another College authority to clarify the evidence and/or circumstances of the matter.

## **Mediation**

A student may request mediation from the College at any stage of the process. The complainant and the student charged will be asked not to contact each other to discuss mediation. Mediation will be used only with the consent of both the complainant and the student charged, and either has the right to terminate the mediation process and resume the regular disciplinary process at any time. The mediation process will typically commence within ten days after consent is received from both the complainant and the student charged and will continue until concluded or terminated by either the complainant or the student charged. If the mediation results in a resolution, the disciplinary process will be concluded and the matter will be closed. If a resolution cannot be reached, the disciplinary process will proceed. The College will not use mediation for cases involving allegations of sexual assault.

## **Administrative Resolution**

After the complainant and the student charged have had an opportunity to review the written notice resulting from the investigation, the College will ask the student charged to respond to the alleged violation in one of the following ways: 1) Responsible; 2) Not Responsible; or 3) No Response. If the student charged accepts responsibility, the matter will proceed to the sanctions stage, followed by any appeal. If the student charged declines responsibility, or chooses not to respond, the College will convene a hearing panel.

## **Hearing**

If informal resolution, mediation or administrative resolution is not available or appropriate, the College will convene a hearing panel following the end of the investigation. The hearing will normally be scheduled by the College within five (5) business days or class days of the charge. The hearing panel determines whether the student charged is responsible or not responsible for a violation of Board Policy 2.1001 - Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking. If the student charged is determined to be responsible, the matter proceeds to the sanctions stage.

The hearing panel will generally have three members drawn from a small group of specially-trained College administrators. In certain matters, the College may include retired judges, lawyers or other individuals with relevant experience and special training. Panelists will not be from the department of either the complainant or the student charged. All panelists will receive training from experts in the field at least once a year. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of gender-based misconduct. The complainant and the student charged will be informed of the panel's membership before the hearing process begins.

Both the complainant and the student charged will have the opportunity to submit written responses to the written notice resulting from the investigation and other relevant information to the hearing panel. Each of the complainant and the student charged will have the opportunity to review any written submissions by the other. The hearing panel may set reasonable parameters for these written submissions. The hearing panel will review the written notice resulting from the investigation and written submissions of the complainant and the student charged. The panel may determine that a hearing is not necessary when all three panel members agree that the information in the written notice resulting from the investigation and the written submissions (if any) of the complainant and the student charged is sufficient to make a determination (for example, where the complainant and the student charged do not disagree about the relevant facts). If the panel decides that a hearing is not necessary,



the panel will proceed directly to make a determination, including an explanation of why a hearing is not necessary, as described below.

### **Hearing Procedures**

The College will, whenever possible, give the complainant and student charged at least five days' advance notice of the hearing. The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and the student charged, their respective advisors, witnesses (when called), and necessary College personnel may be present in the hearing room or rooms during the proceeding. The College will work with other College personnel so that any student whose presence is required may participate in the hearing.

In general, hearings will proceed as follows:

- Complainant statement;
- Respondent statement;
- Questions to the complainant by the hearing panel;
- Questions to the respondent by the hearing panel;
- Witness testimony and questioning by the hearing panel;
- Questions to the investigator by the hearing panel;
- Closing statement by complainant and
- Closing statement by respondent.

The panel may set reasonable time limits for any part of the hearing. Each of the complainant and the student charged will have the opportunity to present witnesses and other information consistent with this Policy. The panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. When the complainant and the student charged are not able to be present for the hearing panel, arrangements will be made for participation by alternate means.

In cases where either the complainant or the student charged opts not to participate in the hearing, the panel may still hear from the other.

### **Additional hearing rules include:**

- **Testimony via Closed-Circuit Television.** The hearing panel may decide in appropriate cases that only the person testifying (and that person's advisor, if applicable) is in the hearing room during his or her testimony. Each of the complainant and respondent is able to view testimony from a separate, private room via closed-circuit television.
- **Questioning.** Only the panel may ask questions of the complainant and the student charged and any witnesses. Both the complainant and the student charged will have the opportunity to suggest questions of the other and of witnesses by submitting suggested questions to the panel in writing. The panel may revise or not ask any or all submitted questions.
- **Information Regarding Romantic or Sexual History.** The panel will not consider the romantic or sexual history of either the complainant or the student charged in cases involving allegations of gender-based misconduct, except for testimony offered by one or the other about the shared sexual history of the complainant and the student charged that the panel deems relevant. If such information is offered by the complainant or the student charged, the other has the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and the student charged by itself does not support an inference of consent to alleged gender-based misconduct.

- **Prior Conduct Violations.** The hearing panel will not consider the prior conduct violations of the student charged, unless the College has received such information in the investigation of the matter because:
  - The respondent was previously found to be responsible, and
  - The previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.
- **Hearing Recording.** The College will keep an audio recording of the hearing for the use of the panel, for sanctioning, and for purposes of appeal. The panelists may request a transcript of the recording.
- **Cell Phones and Recording Devices.** Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

### **Panel Determinations/Standard of Proof**

The panel will use “preponderance of the evidence” as the standard of proof to determine whether a violation of Board Policy 2.1001 - Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking occurred. As explained above, preponderance of the evidence means that, in order to find the student charged responsible for violating Board Policy 2.1001 - Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking, a panel must be convinced, based on the information it considers, that the student charged was more likely than not to have engaged in the conduct at issue.

The panel will find a student responsible, or not responsible, based on a majority vote. The panel will generally render a determination within ten (10) business or class days after the conclusion of a hearing. The panel’s decision will include an explanation of the basis for the determination.

If the panel finds the student charged responsible, the matter will proceed to the sanctions stage. The College will transmit the panel’s determination to the Vice President-Student Success (“Appellant Officer”), the complainant and the student charged for the imposition of appropriate sanction(s).

### **Sanctions and Other Remedies**

#### 1. How Sanctions Are Determined

To promote consistency with the College’s handling of similar cases, appropriate training will be provided to the Vice President-Student Success at least once a year. The Vice President of Student Success will impose sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the College’s handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of gender-based misconduct.

The Vice President of Student Success will consider relevant factors, including if applicable: (1) the specific gender-based misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent’s state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the

complainant; (5) the prior disciplinary history of the student charged; (6) the safety of the College community; and (7) the conduct of the student charged during the disciplinary process.

In determining what sanctions will protect the safety of the College community, the Vice President-Student Success will consider: (1) the risk that the student charged may engage in additional gender-based misconduct; and (2) the deterrent or permissive effect of a particular sanction on the campus community, including on particular individuals and organizations aware of the offense (keeping in mind that a sanction must always be fair and appropriate for the particular case).

The Vice President-Student Success will render a sanctioning decision within five days following the receipt of the panel's determination. The sanctioning decision will be communicated in writing to the complainant and the student charged ("Sanctioning Notice").

## 2. List of Sanctions

The College may impose any one or more of the following sanctions on a student determined to have violated Board Policy 2.1001 - Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking:

- Reprimand/warning
- Changing the academic schedule of the student
- Disciplinary probation
- Revocation of honors or awards
- Restricting access to College facilities or activities (including student activities and campus organizations)
- Issuing a "no contact" order to the student or requiring that such an order remain in place
- Dismissal or restriction from College employment
- Suspension (limited time or indefinite)
- Expulsion
- Community Service
- Revocation of degree

In addition to any other sanction (except where the sanction is expulsion or revocation of a degree), the College will require any student determined to be responsible for a violation of Board Policy 2.1001 to receive appropriate education and/or training related to the gender-based misconduct violation at issue. The College may also recommend counseling or other support services for the student.

### **Ongoing Accommodations for Complainant**

Whatever the outcome of the hearing process, a complainant may request ongoing or additional accommodations and the College will determine whether such measures are appropriate. Potential ongoing accommodations include:

- Providing an escort for the complainant
- Changing the complainant's academic schedule
- Adjusting the complainant's work schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class

### **Additional Responses**

The College may also determine that additional measures are appropriate to respond to the effects of the incident on the College community. Additional responses for the benefit of the College community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred;
- Additional training and educational materials for students and employees;
- Revision of the College's policies relating to gender-based misconduct.

### **Appeal**

Either the complainant or the student who has been determined to have violated Board Policy 2.1001, or both, may appeal the determination of the hearing panel and the Vice President-Student Success to the President of the College within five (5) business or class days of the notification of the sanctions imposed. The individual requesting an appeal must submit an appeal letter to the President of the College. If either the complainant or the student who has been determined to have violated Board Policy 2.1001 submits an appeal, the College President will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five days after notice of an appeal.

The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;
2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for an appeal.

If the College President concludes that a change in the hearing panel's determination is warranted or a change in the sanction imposed by the Vice President-Student Success is warranted, the College President may enter a revised determination or sanction, reconvene the panel to reconsider the determination, or return the matter for additional investigation or change the sanction. To promote consistency with the College's handling of similar cases, appropriate training will be provided to the President at least once a year.

The College President will notify the complainant and the student charged of the final decision in writing. The appeal decision of the College President is final.

### **Records Disclosure**

Disciplinary proceedings conducted by the College are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the College without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

## **Amendments**

The College may amend this Regulation 6.3003R. Nothing in this Regulation shall affect the inherent authority of the College to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the College community.

## **APPENDIX**

### **Assistance Available to Victims**

If you or someone you know has been sexually assaulted or raped, get to a safe place. Call 911, your local police department or the Rape Care Hotline at (888) 264-RAPE (toll free). Do not eat, drink, shower or change clothing until you have been examined.

180/Turning Lives Around of Monmouth County will help provide shelter, outpatient counseling and advocacy for women. Call (732) 264-4111 or (888) THE WCMC (888-8439262) 24-hour Crisis Hotline.

Brochures on these subjects are available in the Advising and Counseling Office (CAR), the Campus Police Department (Alumni Drive), the Student Life & Activities office (SLC), the office of the Student Conduct & Compliance Officer (CAR), and the Human Resources Office (BAC).

### **The College Sexual Assault Response System**

If you or someone you know is a victim of sexual assault:

- You have the right to privacy: All information you share about the incident must and will be kept confidential. College officials cannot talk about your experiences without your permission. College officials will report that an incident occurred to the campus police. Campus police have an obligation under the Clery Act to report to the state and other authorities the date of an incident. No other information will be shared without your permission.
- You have the right to make decisions about who can be contacted and if and how any intervention will proceed. You have the option, or not, to notify and seek assistance from law enforcement and campus authorities. You have the option of seeking assistance from any of the services mentioned in this Regulation.
- You have the right to institutional implementation of court-issued No Contact Orders/ Orders of Protection/Restraining Orders.
- You have the right to view the College's annual Clery Report located on the BCC Police Department webpage.

### **Reporting Sexual Misconduct**

The following actions should be taken by the victim or a witness to sexual misconduct / violence:

1. Preserve evidence as may be necessary as proof of criminal activity or to obtain an appropriate order of protection.
2. Call Rape Care Hotline at (888) 264-RAPE (toll free) or (888) THE WCMC (888-843-9262) 24-hour Crisis Hot Line.
3. Report the alleged offense as soon as possible to a responsible party such as:

-Title IX Coordinator (for all student matters: Vice President- Student Success,) 224-2215, the Manager-Diversity, Inclusion & Compliance, 224-2695, or the Student Conduct & Compliance Officer, 224-2096.

-Manager – Diversity, Inclusion and Compliance, 224-2695

-Campus Police or Security Guard - 911, 224-2222, or see p. 14 for HEC security guard contact information

-Local law enforcement, 911

-Campus security authorities that include any College official with significant responsibility for student and campus activities such as, but not limited to, a dean, the Director of Student Life and Activities, the Student Conduct & Compliance Officer, a department chair, faculty member, staff advisor, or coach.

## **How to Be an Active Bystander**

### **What is a Bystander?**

Bystanders are the largest group of people involved in violence (sexual, dating and domestic). They greatly outnumber both the perpetrators and the victims. Some bystanders know that a specific assault is happening or will happen. Some bystanders see an assault or a potential assault in progress. Bystanders have the power to stop assaults from occurring and to get help for people who have been victimized.

A perpetrator of College sexual assaults may be outwardly charming, have a lot of friends, and may not consider the actions to be wrong. People who know this person (bystanders) and who might be friends with this person, often do not want women they care about (sisters, friends, etc.) to date or hang around this person. But when the behavior is directed at other women whom they are not close to, they often do not think they need to get involved. Bystanders often know that this person's behavior is inappropriate and potentially illegal, but they do not know what they can do to make a difference.

Brookdale Community College wants to create a culture of bystanders who are actively engaged in the prevention of violence, not bystanders who stand by and do nothing.

Safe and Positive options for Bystander Interventions:

- Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, sexual assault, or stalking.
- Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers for intervening, identifying safe and effective intervention options, and taking actions to intervene.
- Believe someone who discloses a sexual assault, abusive relationship, or experience with stalking.
- Be respectful of yourself and others. Make sure any sexual act is OK with your partner if you initiate.
- Watch out for other students, members of the College faculty and friends. If you see someone on or off Brookdale's campuses who looks like they are in trouble, ask if they are okay. If you are afraid to interfere with the situation, call that person over for something very general ("Can I speak to you about the homework from the other day?"). If you see another student, a member of the faculty or friend doing something harmful, say something.
- Speak up. If someone says something offensive, derogatory, or abusive, let them know if you can do so safely that the behavior is wrong and you don't want to be around it. Don't laugh at sexist, racist, or homophobic jokes.

### **Ways to Reduce Your Risk of Sexual Assault**

Sexual abuse is a form of physical abuse. Any situation in which you are forced to participate in unwanted, unsafe or degrading sexual activity is sexual abuse. Forced sex, even by a spouse or intimate partner with whom you also have consensual sex, is an act of aggression and violence. Furthermore, people whose partners abuse them physically and sexually are at a higher risk of being seriously injured or killed.

While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted.

- Be aware of your surroundings.
- Try to avoid isolated areas.

- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Don't allow yourself to be isolated with someone you do not trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings.
- If someone is pressuring you and you need to get out of an uncomfortable situation:
  - Remember that being in this situation is not your fault.
  - Don't feel obligated to do anything you do not want to do.
  - Have a code word with your friends or family so that you can call them and communicate your discomfort without the person you are with knowing.
  - Try to think of an escape route. How would you get out of the room? Where are the doors? Windows?

### **Public Safety Suggestions**

- If you travel unescorted, especially at night, you should be aware of measures you can use to safeguard yourself from attack. Brookdale Community College is ready to assist you in an emergency.
- For the Lincroft campus, use the emergency phone number at the College - 2222 - from any on-campus phone or call 911. Also, there are eighteen yellow exterior emergency Call Boxes identified by blue lights located throughout the Lincroft campus. View a map of the Lincroft campus at <http://www.brookdalecc.edu/images/map/map2high-res.jpg>. Operate the call box by opening the door, picking up the handset and the police will be contacted whether or not a message is transmitted. If you are calling from a cell phone for an emergency, dial 911. From outside the College phone system, call (732) 224-2222 to also report a non-emergency or public safety related matter.
- To report a crime or emergency or non-emergency at Brookdale at Hazlet, call Security at 4004 or, from outside the College phone system, (732)739-6012.
- To report a crime or emergency or non-emergency at Brookdale at Long Branch, call Security at 1514 or, from outside the College phone system, (732)229-8440 ext. #1.
- To report a crime or emergency or non-emergency at Brookdale at Wall, call Security at 6001 or, from outside the College phone system, (732)280-7090 ext. #1.
- To report a crime or emergency or non-emergency at the Brookdale at Neptune, call Security at 1226 or, from outside the College phone system, (732)774-3363 ext. #.
- To report a crime or emergency or non-emergency at Brookdale's Freehold Campus, call Security at 7000 or, from outside the College phone system, (732)780-0020 ext. #1.

You can help combat crime if you are aware of:

- Suspicious Persons
- Questionable Actions
- Dangerous Conditions

Your information is valuable. Give it to the College Police quickly. Time is important. The following observations help identify people:

- Observe the individual's height, weight, age, complexion, dress, speech, movement and anything else unusual in appearance or actions. Identify two or more notable characteristics. Compare physical proportions and age with someone you know.



- Observe distinguishing marks -- a ring or other jewelry, tattoo or scar, missing tooth or finger, bow legs, etc.
- Observe if a car is used. Write down the color, make and license number.

### **While Walking**

- The best weapon against attack is psychological preparedness. An attacker usually expects a passive victim. Walking at a steady pace, looking confident and knowing where you are going makes a difference. Although there is no sure way to protect yourself against attack, certain factors can decrease your vulnerability.
- Try to avoid going out at night alone. When possible, walk with another person or in group. If walking alone, be even more alert to your surroundings.
- Walk near the curb and avoid walkways that pass close to shrubbery, dark doorways and other places where someone may hide. Avoid shortcuts and stay in well-lighted areas.
- Do not accept rides from strangers. If a car approaches and you are threatened, scream and run in a different direction opposite that of the car. The driver will have to turn around to pursue you.
- Maintain a secure grip on your purse. Avoid carrying large amounts of money or wearing expensive jewelry.
- Avoid working in or leaving classrooms and meeting rooms alone at night. Walk to the parking lot with another person.
- Avoid over loading your arms which renders you defenseless. Be prepared to drop bundles and run.
- Consider wearing clothing that would not impede your ability to run quickly.
- If you fear danger, scream loudly or blow a whistle. Don't be afraid to be afraid. Raising a commotion in an uneasy situation may prevent an attack.
- Carrying a defense implement, such as an umbrella or a spray can, should be considered with caution and should be used only to stop an attack in order to get away.
- Avoid telephone conversations while walking alone especially during the hours of darkness.

### **When Going to Your Car**

- Whether your car is parked in your own driveway, or in a parking lot, it is a good idea to remember the following rules:
- Avoid walking through or next to unlighted wooded areas or bushes whenever possible.
- Always have your car keys ready.
- Always approach your car dead center from the front or rear, never from the side. This allows you complete visibility on both sides (driver and passenger) and also allows detection of anyone hiding or lurking there.
- It is advisable to carry a pocket flashlight or penlight at all times. Before getting into the car, look in the back seat and on the rear floor of the vehicle. Check the cars adjacent to you to assure that no one is hiding or waiting for you.
- Upon getting in the vehicle, lock all doors at once.
- Start the engine immediately -- don't just sit and wait.
- Should anyone try to break into the vehicle while you're in it, press down firmly on the horn and keep it pressed down to attract as much attention as possible. Make every attempt to drive away.
- Whenever possible, have someone accompany you to your vehicle, then drive the person to his/her car.

## When Driving

- Travel on well-lighted, busy streets. Keep windows rolled up and doors locked.
- Do not leave your wallet or purse in view. Put it in the glove compartment or on the floor opposite you.
- Keep your car in gear at all traffic lights and stop signs. If your safety is threatened, hold down on the horn and drive away.
- When stopped behind another vehicle make sure you can see the rear wheels of the vehicle touch the roadway. Never drive any closer. This will allow room to drive away if danger approaches.
- If you have reason to believe that another vehicle is following you, do not stop. Drive to the nearest police station or open business. Write down the license number and description of the vehicle.
- Park only in well-lighted areas and look for loiterers before leaving your vehicle.
- Lock your vehicle and do not leave valuables in view. (Lock them in the trunk.) This will discourage thieves.
- Don't hitchhike, and don't pick up hitchhikers.

## Resources

### Brookdale Police Department – Lincroft

- On-Campus Emergency (24/7/365) 911
- Police Services X2222
- Anonymous Tip Line X1999

### Regional Locations – Security Guards

- Regional Location Emergency (24/7/365) 911
- Hazlet (during business hours) X4004 or 732-739-6012
- Long Branch X1514 or 732-229-8440,x1
- Wall X6001 or 732-280-7090, x1
- Neptune X1226 or 732-774-3363, x1
- Freehold X7000 or 732-780-0020, x1

### Medical Treatment – While at Brookdale

- Contact the Brookdale Police or Regional Security Guard Numbers above

### Medical Treatment – Off Campus

- Bayshore Community Hospital 732-739-5900  
727 North Beers Street  
Holmdel, New Jersey 07733
- CentraState Healthcare System 732-625-1238  
West Main Street  
Freehold, New Jersey 07728
- Jersey Shore University Medical Center 732-775-5500  
1945 Route 33  
Neptune, New Jersey 07753
- Riverview Medical Center 732-771-2700  
One Riverview Plaza  
Red Bank, New Jersey 07701

### Emotional Support

- On-Campus – Counselors X2555
- Off-Campus – Monmouth County Rape Crisis Center Hotline 732-264-RAPE