

# *The College of New Jersey*

## **STUDENT CONDUCT CODE**

### **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* [www.tcnj.edu/~academic/policy/integrity.html](http://www.tcnj.edu/~academic/policy/integrity.html).

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, undergraduate 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 undergraduates.

### **II. DEFINITIONS**

- A. **“College”** means The College of New Jersey.
- B. **“Student” or “students”** includes all persons who are registered for undergraduate courses or maintaining matriculation in an undergraduate degree program at the College, either full time or part time, degree seeking 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.
- C. **“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.

- D. **“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.
- E. **“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 he or she is unable to consent due to his or her age, or because he or she is physically helpless, mentally incapacitated, or intoxicated from alcohol or other drugs.
- F. **“Sexual penetration”** includes vaginal intercourse, cunnilingus, fellatio, or anal intercourse between persons or insertion of the hand, finger, or object into the anus or vagina either by the actor or upon the actor’s instruction.
- G. **“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.
- H. **“Intimate body parts”** includes the following: sexual organs, genital areas, anal area, inner thigh, groin, buttock, or breast of a person.
- I. **“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.
- J. **“Course of conduct”** 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.
- K. **“Protected category”** collectively refers to one or more of the following categories: age, 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.
- L. **“Advisor”** is a person chosen by either an accused student or a student presenting information in support of a complaint to accompany the student during conferences or hearing proceedings and/or assist him or her with any hearing or conference preparations. The advisor may not participate directly in any proceedings or represent any student involved. Any cost associated with the participation of an advisor is the responsibility of the student.
- M. **“Controlled substance”** 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.

- N. **“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.
- O. **“Narcotic”** refers to an addictive drug, such as opium or morphine, which reduces pain, alters mood and behavior, and usually induces sleep or stupor.
- P. **“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.
- Q. **“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, bong, pipes, etc.
- R. **“Weapon”** includes any item that is designed in appearance or function to resemble a firearm, cause harm, or invoke fear or intimidation. Weapons include, but are not limited to, knives beyond an ordinary kitchen knife, brass knuckles, swords, slingshots, or any other item when used to harm or intimidate another.
- S. **“Day”** is defined as the normal business day and does not include Saturdays, Sundays, designated breaks, legal holidays, or College-designated administrative holidays. With the mutual consent of the student, the Office of the Dean of Students, and the hearing administrator or board, a hearing may be held outside of normal business hours, on Saturdays or Sundays, during breaks, or on administrative holidays. Timelines set forth in this document may be extended in unusual circumstances as determined by the Dean of Students.
- T. **“Hearing administrator”** includes any faculty or professional staff member at the College designated and trained by the Office of the Dean of Students to conduct conferences, administrative informal hearings, and/or administrative formal hearings.

### III. POLICY

#### A. Authority

The *Student Conduct Code* describes the non-academic behavior expected of all undergraduate students as well as the procedures for addressing and adjudicating complaints 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* [www.tcnj.edu/~academic/policy/integrity.html](http://www.tcnj.edu/~academic/policy/integrity.html).

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 undergraduates to the Vice President for Student Affairs.

The Vice President for Student Affairs may delegate this authority to the Dean of Students and to the Director of Student Conduct. Under their direction, the Director of Residential Education, the Assistant Director of Student Conduct, and appropriate student conduct and residential education staff are responsible for implementing the student conduct process. The Vice President for Student Affairs 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 him or her to an appropriate designee.

The College *Student Conduct Code* shall apply to student conduct that occurs on College premises, at College-sponsored activities, and off campus. 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 his or her conduct from the time of enrollment in undergraduate courses or matriculation in an undergraduate degree program, through the actual awarding of a degree or cessation of undergraduate academic coursework. 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.

## **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.

The *Student Conduct Code* will be reviewed in its entirety every two years. Any time prior to the next biennial review of the *Student Conduct Code*, a recognized constituency or the Dean of Students may request a review of the *Student Conduct Code* by submitting a written request to the Vice President for Student Affairs.

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 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 *Policy Prohibiting Discrimination in the Workplace/Educational Environment*

[hr.pages.tcnj.edu/files/2010/.../TCNJ\\_Discrimination\\_Policyfinal2008-1.doc](http://hr.pages.tcnj.edu/files/2010/.../TCNJ_Discrimination_Policyfinal2008-1.doc). 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.

Students' rights also include those outlined in *Student Rights and Freedoms* [www.tcnj.edu/~sa/handbook/studrights.html](http://www.tcnj.edu/~sa/handbook/studrights.html) 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 students to:

- 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 him or her 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 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.

##### **2. Personal Integrity**

- a. Falsifying, or being party to the falsification, of any official College identification card, record, or document.
- b. Possession, use, manufacture, or sale of a falsified identification card, document, or record.

##### **3. Personal Abuse**

- a. Sexual Harassment
  - i. Conduct of a sexual nature or based on gender or sexuality that is severe or pervasive enough to create an intimidating, abusive, or hostile campus, educational, or working environment as defined by a reasonable person under similar circumstances. This may include unwanted, unwelcome, or inappropriate sexual or gender-based activities, or comments.
  - ii. 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 a student in an express or implied position of authority.
- iii. Sexual harassment is a violation of Title IX of the Education Amendments of 1972, and Title VII of the Civil Rights Act of 1964 (as amended in 1991), as well as *The Policy Prohibiting Discrimination in the Workplace/Educational Environment* hr.pages.tcnj.edu/files/2010/.../TCNJ\_Discrimination\_Policyfinal2008-1.doc. (which applies to all employees including student employees with respect to conduct that arises out of their employment status).
- b. Obscene or Indecent Behavior
    - i. 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.
    - ii. Trespassing, spying, or eavesdropping for sexual arousal.
  - c. Physical Sexual Misconduct
    - i. Any sexual penetration, however slight, that occurs without the effective consent of a person, or that occurs when a person is unable to give consent. Sexual penetration that occurs without the consent of the person can/may include the use of threats, coercion, or physical force. Sexual penetration that occurs when a person is unable to give consent can/may include those instances where the person is unable to consent due to his or her age, or because he or she is physically helpless, mentally incapacitated, or intoxicated from alcohol or other drugs.
    - ii. 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.
    - iii. 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 sexual misconduct. Therefore, in order to remove potential barriers to reporting sexual misconduct, the Office of the Dean of Students will not charge a student with violating any expectations of student conduct regarding alcohol or other drugs if that student reports such conduct within a complaint of possible sexual misconduct.
    - iv. Sexual misconduct is a violation of Title IX of the Education Amendments of 1972, and Title VII of the Civil Rights Act of 1964 (as amended), as well as *The Policy Prohibiting Discrimination in the Workplace/Educational Environment* hr.pages.tcnj.edu/files/2010/.../TCNJ\_Discrimination\_Policyfinal2008-1.doc. (which applies to all employees including student employees with respect to conduct that arises out of their employment status).
  - d. 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), whether it be a single incident or series of incidents; 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 him or her in reasonable fear of physical or emotional harm to his or her person, or to any member of that person's family or household, or of damage to his or her 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.
  - iii. Abusive or harassing conduct directed at a person or group *because of* membership in a protected category may result in an enhanced sanction.
- e. 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.
- f. Stalking
- i. Purposefully or knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of a third person, or suffer other emotional distress. Such courses of conduct 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.
- g. 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 him or her. This does not include the good faith documentation of a possible policy violation.
- h. Physical Abuse
- i. Use of unwelcome force against the person or 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 personal, intimate, or special relationship exists (defined by marriage, civil union, dating,

- family membership, or co-habitation), and would reasonably threaten or intimidate that person.
- iv. Interference with the freedom of another person to move about in a lawful manner by force, threat, intimidation, or other means without effective consent.
- v. Abusive or harassing conduct directed at a person or group *because of* membership in a protected category may result in an enhanced sanction.
- i. 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 by a member of a student group or organization of any hazing activity as described above 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 hall room, mailbox, or other College facility.
- d. Defacement, damage or destruction of property directed at a person or group *because of* membership in a protected category may result in an enhanced sanction.

#### **5. Compliance with Directives**

- a. Failure to comply with directives issued by an identified College official. A directive may be considered any written or verbal mandate.
- b. Failure to correctly identify oneself at all times and present this information courteously 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.

#### **6. Drugs, Narcotics, Controlled Substances, and/or Paraphernalia**

- a. Unlawful possession, use, purchase, or attempted purchase of drugs, narcotics, or controlled substance and/or paraphernalia.
- b. Unlawful manufacture, distribution, or intended distribution of drugs, narcotics, or controlled substance 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 substance.
- e. Disrupting the campus or off-campus community or engaging in any policy violation while under the influence of a drug, controlled substance, or narcotic.

- f. 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) 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.
- g. 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 on campus 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 on campus 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.
- i. 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) 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. Weapons 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.
- 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 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, 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 *Client Computing Usage Policy*  
<http://www.tcnj.edu/~steering/201011/Computer%20access%20agreement.pdf>

## **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. Complaint.** *See also Appendix D for a flow chart of the student conduct process.*

- 1. Filing a complaint.** Any member of the College community may file a complaint against a student for possible violations of the *Student Conduct Code*, including a representative from the Office of the Dean of Students 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. A complaint must be prepared in writing and submitted to the Director of Student Conduct. Any complaint should be submitted as soon as possible after the incident takes place, preferably within 30 days. However, the Director of Student Conduct has discretion to accept or issue a complaint and issue charges against a student regardless of when the complaint is submitted if the conduct poses a possible threat to the College community or to individual members of the College community.
- 2. Investigation.** The Director of Student Conduct will conduct an investigation to determine if the information in the complaint merits charges against a student or students, a formal admonishment, no charges, or if the incident can be addressed through an alternate dispute resolution process, including mediation.

**B. Charge(s).** Any charges will be presented to the accused student 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. Maximum time limits may be extended at the discretion of the hearing administrator for unforeseen circumstances.

**C. Conference.** The accused student will meet with an assigned hearing administrator for a conference to discuss the grounds for any charges, process, and sanctioning practices. The accused student will select whether he or she will participate in a formal or informal conduct hearing. An advisor of the accused student's choice may be present during the conference. If after notice an accused student does not attend a scheduled conference, the hearing administrator may postpone the conference, or review the information available and make a decision on responsibility including assigning any sanctions to the student if deemed appropriate.

**D. Informal hearing.** If the accused student selects an informal hearing to address any charges, the hearing administrator conducting the conference will immediately conduct the informal hearing. The accused student's advisor may remain present for the informal hearing, but may not represent the student or address the hearing administrator. The advisor's role is limited to providing support to the student by observing or advising the student outside of the 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 he or she determines that further review or clarification is necessary including, but not limited to, interviewing the complaining party and/or other witnesses.

- 1. Joint hearing.** In cases involving more than one accused student, the administrator or board may permit the hearing concerning each student to be conducted either separately or jointly.
- 2. Information.** The informal hearing provides an opportunity for the accused student to be heard and to provide information such as written witness statements. The student may accept or deny responsibility for any charges.

3. **Decision.** The hearing administrator will determine whether the student is responsible for any charges. The hearing administrator's determination shall be made on the basis of whether it is *more likely than not* that the accused student violated the *Student Conduct Code*. If the student is found not responsible for any charges, the process is concluded. If the student is found responsible for any charges, the hearing administrator will then assign any appropriate sanctions.
  4. **Appeal.** The accused student 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).
- E. Formal hearing.** If the accused student selects a formal hearing, then he or she has the opportunity to select an administrative hearing, a Community Standards Board hearing, or an All College Standards Board hearing. A student may choose an All College Standards Board hearing only if his or her case may result in suspension or expulsion in the event he or she is found responsible for any charges. 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.
1. **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 who has not previously served as a hearing administrator in the accused student's conduct process. The administrator will hear information presented by any parties and render a decision and sanctions if appropriate. A student may appeal the decision of the administrator to the Director of Student Conduct.
  2. **Community Standards Board.** The Community Standards Board is a student board chaired by a student representative and advised by the Assistant Director of Student Conduct. The Community Standards Board is comprised of four voting members; the student chair votes only in the case of a tie. The advisor to the board 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 Community Standards Board will not hear cases that may result in suspension or expulsion should the accused student be found responsible for any charges.
  3. **All College Standards Board.** The All College Standards Board is comprised of five members and is chaired by the Director of Student Conduct or designee of the Vice President for Student Affairs. The membership of the All College Standards Board includes two student representatives, one faculty member, one student affairs staff member, and an additional representative that can be either faculty or staff member. The Director of Student Conduct neither votes nor participates in deliberations, but may answer questions regarding procedural standards, policy, or sanctioning practices. The All College Standards Board will hear cases that may result in suspension or expulsion should the accused student be found responsible for any charges. A student may appeal the board's decision to the Vice President for Student Affairs.
  4. **Formal hearing guidelines.** Formal hearings shall be conducted according to the following guidelines.
    - a. **Private hearing.** A hearing is conducted in private. The person bringing the complaint, the accused student, 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 accused student, the administrator or board advisor may permit the hearing concerning each student to be conducted either separately or jointly.
- c. **Advisors.** The person bringing the complaint and the accused student may be assisted by an advisor of their choice, at their expense. Students must notify the Director of Student Conduct of whom they have designated as their advisor five business days prior to the scheduled hearing. A representative from the College's Office of the General Counsel may also be present at the hearing. Students are responsible for presenting their own information, and therefore advisors are not permitted to speak or to participate directly in any hearings. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing as delays will not normally be allowed due to the scheduling conflicts of an advisor.
- d. **Questions.** The person bringing the complaint, the accused student, and the hearing board or administrator may arrange for witnesses to present pertinent information. The parties 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 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 his or her discretion.
- e. **Additional information.** Relevant records, exhibits and written statements (including student impact 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.
- f. **Decline to provide information.** The accused student has the right to decline to provide any written or oral statements, answer questions posed in a hearing, or provide any information on his or her behalf. However, the hearing board or administrator may draw an adverse inference from the student's absence of information or refusal to answer questions.
- g. **Procedural questions.** All procedural questions are subject to the final decision of the chairperson of the board or administrator.
- h. **Majority vote and quorum.** A board will determine by majority vote whether the accused student has violated the policy as charged. For any board hearing, a quorum of three voting members is necessary. Quorum is not required for an administrative hearing as the decision is made by the administrator alone.
- i. **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 accused student 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.
- j. **Hearing recorded.** There will be a single verbatim record, such as a tape or digital recording of all formal hearings. Deliberations will not be recorded. The record will be the property of the College.
- k. **Decision in absentia.** If an accused student, 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 accused student's absence and will make a decision on the available information.
- l. **Special accommodation.** The board 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, audio tape, written statement, or other viable means as determined by the Director of Student Conduct to be appropriate.

- m. **Differing abilities accommodation.** The board or administrator will provide any reasonable accommodation for hearing participants who have a disability and are registered with, or notify the Office of Differing Abilities and the Office of the Dean of Students in a timely manner.

#### F. Appeal Procedures.

1. **Accused student appeal.** An accused student 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 final and conclusive.
2. **Student complainant appeal.** A student who filed a complaint resulting in a student being charged with a violation under *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 final and conclusive.
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 responsibility 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 accused student, complaining party, 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 student was found to have committed.
  - d. **New information.** To consider new information, submitted by the appealing student within the prescribed five day period, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information was not known to the student appealing at the time of the original hearing.
3. **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 in the 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.

**G. Summer and End of Academic Year Cases.** Any incidents that are reported near the end of the spring semester and are unable to be heard before the last week of classes in accordance with the conduct process may be heard by an existing hearing administrator or board over the summer.

1. **Minor incident.** For a minor incident (where a finding of responsibility would result in a warning and/or educational sanctions), the accused student 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 or board, in conjunction with the incident report form, will consider this statement. The accused student will be notified of the administrator or board's decision via electronic communication. This process will also be utilized to handle such incidents that occur during summer sessions conducted at the College. If the accused student wishes to appeal the decision of the administrator or board, he or she 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 after classes have reconvened in the fall.

**H. 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. **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.
2. **Loss of privilege.** Denial of any specified privilege for a designated period of time.
3. **Restitution.** Compensation for loss, damage, or injury to College property. This may take the form of appropriate service and/or monetary or material replacement.
4. **Discretionary sanctions.** Work assignments, essays, presentations, research projects, conduct contracts, service to the College, or other discretionary assignments.
5. **Restorative justice.** Participation in a mediated discussion 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 justice process. Restorative justice and mediation programs will not be available to students accused or found responsible for any sexual misconduct.
6. **Master education plan.** Develop a master education plan with the aid of the Director of Student Conduct and mentor committee, agree to the terms of the plan, and to continuous evaluation.

7. **Parental notification.** Notification may be sent to parents or guardians of a student who is under 18 years of age, or financially dependent on his or her 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.
8. **Pending termination of housing.** This status serves as a housing probationary status assigned to a student for a specified period of time before his or her 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 the Dean of Students for five years after a student separates from the College.
9. **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 will 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 the Dean of Students for five years after a student separates from the College.
10. **Pending suspension.** This status serves as the disciplinary probation status assigned to a student for a specified period of time before he or she is suspended from the College. While on this status, any further violations of College policy may result in suspension from the College. In addition, this status constitutes a disciplinary record that will remain on file with the Office of the Dean of Students for five years after a student separates from the College.
11. **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 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, he or she must meet with the Dean of Students to show satisfactory completion of any assigned directives or to discuss stipulated conditions for his or her return. In addition, this status constitutes a disciplinary record that will remain on file with the Office of the Dean of Students indefinitely. Should a student wish to return to the College after the suspension period, he or she must comply with any academic standards and procedures then in effect.
12. **Interim suspension.** Immediate separation of a student from the College and/or housing by the Dean of Students pending a hearing. 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 physical or emotional safety and welfare. Students who have been suspended on an interim basis must have a conduct hearing within a practical period of the interim suspension.
13. **Expulsion.** Permanent dismissal 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 the Dean of Students 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.

#### **I. 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 the Dean of Students. 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. 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 his or her 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 complaint 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 complaining party.
- 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 the Dean of Students will provide students with copies of redacted incident reports, letters, and any forms or receipts in the student's file.
- 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 probationary 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.
- 5. Petition for administrative deletion.** Disciplinary records may be administratively deleted upon 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 the Dean of Students. Copies of letters distributed to other College departments, incident reports, police reports, and the results of previous background checks reported outside of the Office of the Dean of Students 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 and must be submitted in writing to the Dean of Students. Administrative deletion 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.

**J. 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 or against the criminal law defendant.

**K. 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 a complaint or incident is brought to the attention of the Office of the Dean of Students after an individual separates from the College, but includes conduct that allegedly occurred while an individual was a student, 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 the Dean of Student to request arrangements to adjudicate or dispose of the matter before the registration hold will be released.