

# **WESTCHESTER COMMUNITY COLLEGE'S STUDENT CODE OF CONDUCT**

## **MISSION STATEMENT**

The mission of Westchester Community College's Student Code of Conduct is to create an effective living and learning environment by enforcing policies, providing a disciplinary process, and providing sanctions that foster ethical development, personal accountability and civility toward others.

## **COLLEGE POLICY STATEMENT**

It is the policy of Westchester Community College to enforce a Student Code of Conduct, to be administered by the Vice-President & Dean of Students and his/her judicial affairs designee for the purpose of maintaining a campus environment that is conducive to learning, protects the college's educational purposes, maintains order on campus, and protects the rights of all members of the college community. Students enrolling at the college assume an obligation to conduct themselves in a manner compatible with the college's academic standards, general policies, and the Student Code of Conduct. Behavior, which adversely affects the student's responsible membership in the academic community, shall result in appropriate disciplinary action. The College will not tolerate any interference with the rights of any member of our college community, any defacement of college property or any disruption of any authorized college function. The Student Code of Conduct and the accompanying student disciplinary processes are intended to assist students in their personal development by providing a fair conduct review procedure that issues consistent penalties for behaviors that are incongruent with the College's expectations.

## **COLLEGE PRACTICE**

In furthering the educational aims of the college and maintaining compliance with the provisions of Article 129-A of the education law of the State of New York, the Student Code of Conduct, below, outlines the practices to be utilized in administering the student disciplinary system at Westchester Community College.

## **SECTION I: PHILOSOPHY**

The Code embraces several core philosophies: preservation of the freedom of speech and the right of peaceable assembly; respect for academic freedom and constructive criticism; a conviction that honesty and integrity are key values to the College community; and the belief that all members of the institution should be part of a campus environment that respects differences of culture, gender, religion, race, age, lifestyle, or ability.

## **SECTION II: RESPONSIBILITY FOR IMPLEMENTATION**

The President, as Chief Executive Officer of the College, has overall responsibility for implementation of the Student Conduct Code and the student disciplinary process. The overall management of the Code and the disciplinary process has been delegated to the Judicial Affairs Representatives of the College who consist of the Vice President and Dean of Students and his/her designee.

## **SECTION III: JURISDICTION**

The College will have jurisdiction over misconduct that occurs on College premises, rented facilities and/or at College-sponsored activities but may also address off-campus behavior if the College determines that the actions, or

the continued presence of the student hinders or disrupts the procedures or functions of the College. Off-campus criminal offenses that violate the Student Conduct Code may be subject to College disciplinary action. This disciplinary action may occur concurrently while the student is facing criminal charges; the charges are pending; have been reduced or have been dismissed.

## **SECTION IV: VIOLATIONS**

The subsequent behaviors are subject to disciplinary action under the Westchester Community College Student Code of Conduct but are not limited to the following infractions. A student or a group of students may be charged with any of the violations listed below as well as any institutional policy. In cases where a violation is committed by an individual student, any other students not directly involved but who participate in the activity by encouraging or condoning the act in any manner will also be subject to disciplinary action.

### **A. Academic Dishonesty**

Engaging in academic dishonesty in any form with respect to examinations, course assignments, research projects, grades, and/or academic records is prohibited.

1. **Cheating** - using or attempting to use unauthorized materials, information or study aids in any academic assignment.
2. **Falsification** - intentional and unauthorized falsification or invention of any information or citation in an academic assignment.
3. **Plagiarism** - deliberate and knowing use of someone else's work or ideas as one's own.

### **B. Drug and Alcohol Violations**

Possession, consumption or being under the influence of any controlled substance while physically present at any facility owned or rented by College is prohibited.

1. Attendance in class, or at any college-sponsored function, under the influence of alcoholic beverages, or narcotics and illegal drugs.
2. Unauthorized possession and/or use of alcoholic beverages, narcotics, prescription drugs or other controlled substances in violation of local, state or federal drug or narcotic laws.
3. Distribution, delivery or sale of alcoholic beverages, narcotics, prescription drugs or other controlled Substances in violation of local, state or federal drug or narcotic laws. 4. Possession or use of drug paraphernalia.

### **C. Computer Misuse**

Engaging in any unauthorized use of the College's hardware, software or network systems is prohibited.

1. Unauthorized access, entry or use of a computer, computer system, network, software, password, account or data.
2. Unauthorized alteration or tampering with computer equipment, software, network, or data.
3. Unauthorized copying or distribution of computer software or data.
4. Use of computing facilities or equipment to send obscene, harassing, threatening or abusive messages.
5. Use of computers to falsify records, tamper with records or commit any act of academic dishonesty.
6. Any other act in violation of the law and/or College policies and guidelines regulating computer-related use.

### **D. Disruptive Conduct**

Engaging in any behavior that disrupts any function of the College is prohibited.

1. Actions that impair, interfere with, or obstruct the normal operations of the College.
2. Actions that interfere with the rights of other members of the College community.
3. Actions that impair, interfere with, or obstruct the orderly conduct, processes and functions within any classroom or other instructional setting. This includes interfering with a faculty member's or instructor's role to carry out the normal academic or educational functions of his/her class.
4. Participating in, leading or inciting others to disrupt scheduled and/or normal campus activities, events and programs.
5. Disturbance of any member of the College community or visitor.
6. Solicitation on campus without prior approval from appropriate College officials. This includes, but is not limited to, the disbursement of any forms of promotional/informational material on College property or on items (e.g. motor vehicles) on College property, requests for donations, or the selling or vending of any merchandise or services.
7. Use of any unauthorized vehicle on campus or failure to adhere to traffic regulations.

#### **E. Failure to Comply with Authority**

Failing to comply with the directions of any authorized College official is prohibited.

1. Failure to comply with a lawful order of a College official, including security personnel, in the performance of his/her duty.
2. Failure to comply with request to show proper identification to College officials or employees acting in the performance of their duties.
3. Failure to comply with the sanctions rendered during the student judicial process.
4. Failure to comply with a request to be interviewed by the Vice President and Dean of Students or his/her designee during the investigation of a conduct code violation.

#### **F. Falsification/Fraud/False Testimony**

Knowingly providing false or incorrect information to any College official or misrepresenting yourself to the institution is prohibited.

1. Falsification of information to the College, including false reporting of emergencies, knowingly making false accusations or providing misleading statements.
2. Providing the College with false documentation, including records and transcripts.
3. Providing false testimony during the disciplinary process.
4. Misuse, reproduction, alteration or forgery of any College related documents, records, identification, keys, access codes or property.

#### **G. Fire and Safety Violations**

Knowingly engaging in behavior that disrupts any fire and safety systems, procedures and policies is prohibited.

1. Damage to, removal of or tampering with any fire safety systems, firefighting equipment or other emergency warning equipment.
2. Intentional or reckless burning or setting fire to any building or piece of property owned or controlled by the College.

#### **H. Gambling Violations**

Any unauthorized gambling on campus is prohibited.

1. Participation in games of chance or gambling on campus for money or other items of value except as provided by law.

### **I. Violations committed by Guests or Family Members**

Any guests or family member brought or invited to the College by a student are subject to the same code of conduct the enrolled student. In addition:

1. Students are responsible for informing their guests or family members about campus regulations and conduct policies. Students may be held accountable for inappropriate behavior committed by their guests and family members.
2. Students, who sign a release form authorizing a third party to speak freely to College officials on their behalf, can be sanctioned if that third party violates the student code of conduct.

### **J. Harassment**

Any form of harassment is prohibited.

1. Conduct (not of a sexual nature) that creates an intimidating, hostile, or offensive campus, educational or work environment for any member of the college community or visitors. This includes behavior directed at others based on race, gender, religion, sexual orientation, disability, national origin or personal beliefs.
2. Conduct (not of a sexual nature) that threatens, intimidates, humiliates, or otherwise harms another member of the college community or visitors. This includes behavior directed at others based on race, gender, religion, sexual orientation, disability, national origin or personal beliefs.

### **K. Stalking-Title IX Code I**

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to causes a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage is prohibited.

1. Repeatedly committing acts that alarm, causing fear, or seriously annoying other person(s)
2. Repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her that serve no legitimate purpose.
3. Repeatedly following another person without his or her consent.
4. Contacting a person after being asked or ordered not to contact the person.
5. Violating any provision of the New York State Stalking Law.

### **L. Physical, Verbal Endangerment and Domestic Violence-Title IX Code II**

Any form of physical or verbal abuse is prohibited.

1. Physical violence or attempted physical violence toward another person or group.
2. Any verbal assault or abuse towards another person or group.
3. Threat of physical violence against another person or group.
4. Any action that endangers the health, safety or welfare of any member of the College community or visitors.
5. Domestic violence-any violent action committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabiting with the victim as a spouse or intimate partner.

### **M. Misuse of Property/Facilities/Services**

Any form of destruction, vandalism or physical abuse to any College Facility or property is prohibited.

1. Theft of College property or property of a member of the College or visitor.

2. Damage, destruction, or defacement of College property or property of a member of the College or visitor.
3. Public posting, selling of, or in any other way, distribution of notes of class lectures, course handouts and outlines, and/or any other College-supplied materials without the express written permission of the instructor.
4. Unauthorized possession and/or use of College property or property of a member of the College or visitor, including knowingly being in possession of stolen goods.
5. Unauthorized entry into College facilities, including but not limited to buildings, classrooms, hallways, entryways, conference rooms, and campus grounds. Use or operation of rollerblades, skates, skateboards, bicycles, and similar items inside College facilities, unless expressly permitted. Violation of any policy or guidelines pertaining to specific usage of a College facility. The use of college computers to view pornography, obscene material, or any subject matter that would be reasonably offensive to others.

#### **N. Sexual Misconduct/Sexual Harassment/Sexual Assault/Dating Violence-Title IX Code III**

Any form of sexual misconduct or harassment is prohibited.

1. Any physical sexual act perpetrated against a person's will or where a person is incapable of giving affirmed consent. Such acts include, but are not limited to, rape, sexual battery, and sexual coercion.
2. Conduct of a sexual nature that creates an intimidating, hostile or offensive campus, educational or working environment for another person. This includes unwelcome sexual advances or requests for sexual favors, inappropriate sexual or gender-based activities, comments or gestures, or other forms of verbal or physical conduct or communications constituting sexual harassment.
3. Obscene or indecent behavior, which includes, but is not limited to, indecent exposure or the display of sexual behavior that would reasonably be offensive to others; disorderly, lewd, indecent, or obscene conduct or expression.
4. Any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.

#### **O. Weapons/Firearms/Explosives**

Unauthorized possession or use of weapons is prohibited.

1. Possession, storage or use of firearms and other weapons, including non-lethal weapons.
2. Possession, storage or use of firecrackers, gunpowder, ammunition, explosives or incendiary devices, or other articles or substances which could endanger health or safety.

#### **P. Other Violations**

Violation of any other College policy or regulation can be subject to disciplinary action, including:

1. Violation of any other published or posted College regulations not specifically mentioned in this Section, including, but not limited to, the WCC Catalogue; WCC's Drug and Alcohol Policy; WCC Classroom Conduct Policy; WCC Smoking Policy; WCC Sexual Assault Policy; WCC Policy on Human Diversity; and WCC Sexual Assault Policy.

2. Aiding and abetting another in any violation of College policies, regulations and codes. 3. Attempting or intending to commit any violation outlined in the Student Conduct Code.

## **SECTION V: SANCTIONS FOR MISCONDUCT**

The purpose of College discipline is to be corrective and educational as well as punitive. The disciplinary experience is intended to make clear to students the limits of acceptable behavior and to give students who violate the rules an opportunity to more fully understand the rules and incorporate the experience into his/her overall development. Assigned discipline may include a combination of sanctions for a particular incident. The sanctions which may be incurred include, but are not limited to, the following:

### **A. Sanctions for Students**

1. **Verbal Warning:** notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
2. **Official Warning:** An official written statement of the College's disapproval of a student's actions and a warning that any future violation(s) will be dealt with more severely.
3. **Disciplinary Probation:** An official notice that the student's conduct is in violation of the Student Conduct Code but does not warrant suspension or permanent dismissal. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student commits another conduct code violation during the probationary period. During the Probation period, a student may be excluded from some programs and curricular or extra-curricular activities.
4. **Suspension:** An involuntary separation of the student from the College for a definite period of time and/or until certain conditions for readmission are met. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission. Once the suspension is completed, student must file for a reinstatement to the College with the Vice-president and Dean of Students.
5. **Expulsion/Dismissal/Administrative Withdrawal:** An involuntary separation from the College for an indefinite period. The conditions of readmission, if permitted, would be stated in the Order of Expulsion.
6. **Other Secondary Sanctions** may be imposed instead of or in addition to those specified above. Secondary sanctions include, but are not limited to:
  - a. **Restitution** (compensation for loss, damage or injury)
  - b. **Community Service**
  - c. **Educational activities** such as a reflective writing assignment or attendance at an event directly related to the violation committed.
  - d. **Restrictions** (temporary or permanent loss of privileges or the use of a College facility or service)

### **B. Counseling and/or Psychiatric Assessments**

In addition to any sanctions assigned, a student may also be required to undergo a mandated counseling sessions or a psychiatric evaluation or assessment. Issuance of sanctions may be postponed pending the results of counseling sessions or a psychiatric assessment. In certain cases, re-instatement to the college could be contingent to a psychiatric evaluation clearing the student to return to the College.

### **C. Involuntary Administrative Withdrawal**

Student may be subject to involuntary administrative withdrawal from Westchester Community College if after reasonable attempts to secure voluntary cooperation for psychological or medical evaluations have been exhausted. Students may become subject to this policy through referral to the Vice President for

Student Affairs by way of the Behavioral Intervention Team. A student will be subject to involuntarily administrative withdrawal from the College if in the judgement of the Vice President for Student Affairs, there is a substantial and significant possibility that the student, as a result of a physical or psychological condition:

- will engage in behavior which poses a danger of causing physical harm to others;
- will engage in behavior which would cause significant property damage;
- will engage in behavior that impedes the lawful activities of other members of the College;
- will directly and extensively interfere with the Colleges' normal operations;
- will be inability to satisfy personal needs (e.g., nourishment, shelter) such that there is a reasonable possibility that serious physical harm or death might occur within a short period of time.

If the student has engaged in an activity that subjects him or her to the College's disciplinary process, the matter will be handled through the College's student conduct process unless the Vice President for Student Affairs determines that the student, as a result of psychological condition:

- Lacks the capacity to comprehend and participate in the College's disciplinary process, and/or □ Does not understand the nature or wrongfulness of the conduct at the time of the offense.

## **SECTION VI: RIGHTS OF CHARGED STUDENTS IN DISCIPLINARY PROCEEDING**

### **A. Informal Hearing**

The following rights apply to a student conduct proceeding for an Informal Hearing. Students will have the right to:

1. A written statement of the charges against them.
2. A prompt and impartial meeting with a judicial affairs officer.
3. An opportunity to discuss and attempt to resolve the charges by mutual agreement.
4. Take the proceeding to a Formal Hearing, if a resolution cannot be found with an Informal Hearing.
5. A written statement of the outcome of the proceedings.

*\*Title IX Code violations cannot be adjudicated through an Informal Hearing. Such cases are adjudicated through a Title IX judicial board hearing described in Section VIII.*

### **B. Formal Hearing**

The following rights apply to a student conduct proceeding for a Formal Hearing. Students will have the right to:

1. A written statement of the charges against them and a list of their rights.
2. A prompt and impartial hearing.
3. A closed meeting, which will include the charged student and a judicial affairs officer or the charged student, judicial hearing board and a judicial affairs officer.
4. A support person from the College, who is a full time employee of the institution, of his/her choosing. This support person can attend the Formal Hearing but may not participate.
5. Present any witness and/or pertinent, supportive documentation in their defense. The number of witnesses may be limited to avoid dilatory tactics.
6. Written statement of the outcome of the proceeding, and a description of the appeal procedure.
7. Have the right to appeal the decision.

8. The decision of the Vice-president and Dean of Students is final and cannot be appealed.

*\*Title IX Code violations cannot be adjudicated through a Formal Hearing. Such cases are adjudicated through a Title IX judicial board hearing described in Section VIII.*

### **B. Reinstatement Hearing**

The following rights apply to a student conduct proceeding for a Reinstatement Hearing after being placed on Immediate Interim Suspension or suspension.

- I. Reinstatement for students placed on Immediate Interim Suspension, students will have the right to:
  1. A written statement of the charges against them and a list of their rights.
  2. A closed hearing, which will include the charged student; the Vice-president and Dean of Students; and the judicial affairs officer who handed the suspension.
  3. Adequate notice of a scheduled meeting.
  4. Present any witness and/or pertinent, supportive documentation in their defense. The number of witnesses may be limited to avoid dilatory tactics.
  5. A support person from the College, who is a full time employee of the institution, of his/her choosing. This support person can attend the Formal Hearing but may not participate.
  6. A written statement of the outcome of the proceeding.
- II. Reinstatement for students placed on suspension, students will have the right to:
  1. A closed hearing, which will include the charged student; the Vice-president and Dean of Students; and the judicial affairs officer who handed the suspension.
  2. Adequate notice of a scheduled meeting.
  3. Make a statement of why he/she should be permitted to be reinstated.
  4. Present any character reference and/or pertinent, supportive documentation to support the reinstatement.
  5. A written statement of the outcome of the proceeding.

### **C. Appeal Process**

The following rights apply to a student conduct proceeding for an Appeal. Students will have the right to:

1. File a written appeal of the decision (the appeal MUST include one of the “grounds for appeal” listed in Section VII.D.) within 5 school days of receiving the written decision.
2. A prompt and impartial hearing through the Office of the Vice-president and Dean of Students.
3. Adequate notice of a scheduled meeting.
4. Present new information including witnesses and/or any other pertinent, supportive documentation that was not available in the original defense.
5. A closed hearing, which will include only the charged student; the Vice-president and Dean of Students; and the judicial affairs officer who adjudicated the original hearing.
6. A written statement of the outcome of the proceeding.

## **SECTION VII: COLLEGE DISCIPLINARY PROCEDURES**

### **A. Reporting**

Any member of the college community may initiate a complaint against a student for an alleged violation of the Student Conduct Code with a judicial affairs officer. A complainant shall submit the complaint to one of these

offices within a reasonable amount of time from the date he/she becomes aware of the alleged violation. For purposes of this Code, an incident report generated by the Security Office or an Incident Report Form submitted in writing or electronically by a member of the College will be considered a complaint to be reviewed by a judicial affairs officer for possible Student Conduct Code violations. In some instances, verbal reports will also be accepted for review in cases when the student is immediately brought in by security or if a complainant is unable to submit a complaint in writing and/or in a timely manner.

## **B. Charges and Notice**

A designated judicial affairs officer will investigate each complaint, and if the circumstances surrounding the complaint indicate that a violation of the Student Conduct Code may have occurred, disciplinary charges may be issued. The student will be notified of the charges in writing or electronic mail, and the proceeding they have to attend such as an Informal Hearing, Formal Hearing, at Title IX Hearing or a Reinstatement Hearing if they are placed on Immediate Interim Suspension because of the severity of the charge.

1. Proper written notice to a student will include the following:
  - I. Specific conduct code(s) violated;
  - II. The proceeding the student has been assigned;
  - III. Amount of time the student has to respond to the notice;
  - IV. Consequences of not responding to the notice within a specified time limit; and
  - V. Copy of "Rights of Charged Students in Disciplinary Proceedings"
2. The student will be given adequate time to schedule the hearing but may be restricted from attending an activity, class or event if the disciplinary charge is connected to that endeavor.
3. The Judicial Affairs Officer may go forward with disciplinary action against a student if the student fails to appear at his/her scheduled hearing or fails to respond to reasonable attempts to notify the student of the charges against them.
4. The College reserves the right to serve a student with an Immediate Interim Suspension and suspend a student in advance of the formal process if the College can substantiate that such separation from the college is necessary to protect the safety and well-being of the college community and any member thereof.
5. If a student is placed on Immediate Interim Suspension, he/she will be notified in writing and must schedule a reinstatement hearing with the Vice-president and Dean of Students in order to get re-instated to the College.

## **C. Disposition of Cases**

The disposition of case will be handled in the following formats listed below. The decision of which format to be used will be at the discretion of a designated Judicial Affairs Officer, unless it is a Title IX hearing or a Reinstatement hearing, where predetermined formats have been established.

1. *Informal Hearing*- a designated judicial affairs officer will meet informally with the student to discuss the alleged violation(s). An effort will be made to resolve the charges by mutual agreement between the parties, and an attempt will be made to determine the nature of the disciplinary action, if any. If a resolution is reached, a written report shall be filed. If a resolution is not reached the case will be moved to a formal hearing.
2. *Formal Hearing*- during a formal hearing, a designated judicial affairs official will meet formally with the student to address the alleged violation(s) or a judicial hearing board will be assembled to hear the case. The student will have the opportunity to respond to the charge(s); present documentation and witnesses in their behalf; provide information to refute the charges and cross examine witnesses. At the conclusion of the hearing, the judicial affairs officer or the judicial hearing board will make a decision and provided the student with the outcome in writing, including any sanctions. The student will have five school days to file an appeal of the decision to the Vice-president and Dean of Students, if he or she chooses.
3. *Reinstatement Hearing for Immediate Interim Suspension*- during a Reinstatement hearing, the Vicepresident and Dean of Students will meet formally with the student to address the alleged violation(s).

The student will have the opportunity to respond to the charge(s); present documentation and witnesses in their behalf; provide information to refute the charges. At the conclusion of the hearing, the Vice-president and Dean of Students will make a decision on whether the student may be re-instated and the conditions, if the reinstatement is granted.

4. *Reinstatement Hearing for Suspension-* during a Reinstatement hearing, the Vice-president and Dean of Students will meet formally with the student. The student will have the opportunity to make his/her case for reinstatement; present documentation and character references in their behalf. At the conclusion of the hearing, the Vice-president and Dean of Students will make a decision on whether the student may be reinstated and the conditions, if the reinstatement is granted.
5. *Title IX Hearing-* during a Title IX hearing, a special judicial hearing board will be convened to address the alleged violation(s). The student will have the opportunity to respond to the charge(s); present documentation and witnesses in their behalf; provide information to refute the charges and cross examine witnesses. At the conclusion of the hearing, the judicial hearing board adjudicating the case will make a decision and provided the student with the outcome in writing, including any sanctions. The student will have five school days to file an appeal of the decision to the Vice-president and Dean of Students, if he or she chooses.

**D. Grounds for a non-reinstatement Appeal Hearing-**If the student disagrees with the determination of a case, the student may request that the Vice President and Dean of Students reconsider the decision. A written request of appeal must be submitted within five school days of the student receiving a written decision. The appeal must contain a discussion of the evidence and facts in support of the appeal; it must contain at least one of the “grounds for appeal” listed in Section VII.D.1; and a recommended solution. Failure to file a written request within the allotted time or list a grounds for appeal will render the original decision final. Any sanction decided by a judicial affairs officer or judicial board will not go into effect until the appeal process is concluded. The decision of the Vice President and Dean of Students shall be final.

1. *Grounds for Appeal-* The following are the only grounds for an appeal:
  - a. There were procedural or processing errors in the case.
  - b. There were procedural errors in the interpretation of College rules and regulations serious enough to deny the student a fair disciplinary proceeding.
  - c. There is new evidence of a substantive nature not previously available at the time of the original proceeding, which would have materially affected the decision.
  - d. The severity of the sanction is disproportionate to the violation(s) committed.
  - e. The decision of the judicial affairs officer or judicial board was not supported by the evidence presented at the original proceeding.
2. *Disposition of an Appeal Hearing-*
  - a. Once the Vice President and Dean of Students accepts the appeal request, an appeal meeting will be scheduled on a timely matter.
  - b. During the appeal meeting, the presiding officer will be the Vice-president and Dean of Students. He/She has the right to interject or ask questions at any time during the hearing.
  - c. The student will initiate the meeting by presenting his/her case to the Vice President.
  - d. The judicial affairs officer (whoever presided in the original proceeding or presented in the judicial board hearing) will present any counter arguments.
  - e. Once both parties have presented and the Vice-president has asked all his/her questions, he/she will go into closed session to reach a decision on the case.
  - f. When the meeting reconvenes the Vice-president will present his/her decision. The Vice president may uphold the decision, alter the sanctions imposed in the Formal Hearing, or dismiss the case against the student. The decision rendered by the Vice-president will be final.

## **E. Additional Policies & Procedures**

### **1. Policy for the review of no contact order**

The campus will promptly review existing no contact orders at a party's request, including requests to modify the terms of or discontinue the order. The parties can submit evidence to support their requests. If the campus finds it appropriate, it can even make a schedule for parties who seek to use the same facilities without running afoul of the no contact order.

### **2. Policy for review of an interim suspension**

The campus will promptly review existing interim suspensions at a party's request, including requests to modify the terms or discontinue it. Parties can submit evidence to support their request.

### **3. Policy for review of interim measures/accommodations**

The campus will promptly review existing interim measures and accommodations at the request of the party who is affected by that interim measure or accommodation. The parties can submit evidence to support their request.

### **4. Policy for transcript notations**

Campuses must make a notation on the transcripts of students found responsible for crimes of violence. This is in line with the 2004 memo from Chancellor King saying the same thing. The notations are for suspension, expulsion, or withdrawal with charges pending.

### **5. Reporting aggregate data to NYSED**

The NYS Education Department will create a reporting mechanism for campuses to annually submit the following information:

- a. How many domestic violence, dating violence, stalking, and sexual assault incidents were reported to the Title IX Coordinator this year?
- b. From those incidents in paragraph (a), how many reporting individuals wanted to use the student conduct process for adjudication?
- c. How many of these cases were actually processed through the student conduct process?
- d. How many of the respondents in these cases were found responsible?
- e. How many of the respondents in these cases in paragraph (c) were found not responsible?
- f. What sanctions were imposed for each instance where a respondent was found responsible (paragraph [d])?
- g. How many cases closed before adjudication or before finding because the accused/respondent withdrew from the institution?
- h. How many cases closed before adjudication or before finding because the reporting individual withdrew the complaint?

### **6. Policy/instructions on how parties can review the case file**

In student disciplinary proceedings involving domestic violence, dating violence, stalking, or sexual violence, the campus will allow parties to review available evidence held by the campus in accordance with college/university policy. Parties can also present available evidence as appropriate under campus policies.

## **SECTION VIII: PROCEDURES FOR REPORTING SEXUAL VIOLENCE; PROVIDING RECOURCES, ACCOMMODATIONS AND PROTECTION; AND ADJUDICATING TITLE IX CODE VIOLATIONS**

### **I. Reporting:**

The following procedures have been adopted by Westchester Community College to receive, investigate, and resolve complaints of discrimination on the basis of sex and sexual misconduct. These procedures are designed to provide a supportive process for individuals who file complaints and to ensure a fair process for individuals who are accused of discriminatory conduct and sexual misconduct. Sexual misconduct, including domestic violence, dating violence, stalking, sexual exploitation, sexual assault and sexual violence, has been recognized as a form of discrimination in violation of Title IX.

Any student who experiences conduct that the student believes is in violation of Title IX is encouraged to report that conduct to a College Official. The student is also encouraged to make a report to the police for legal action if the conduct violates New York State or local laws. Both of these processes can happen simultaneously.

The College's procedures seek to ensure a prompt (within 60 days of initial reporting), fair, and impartial investigation and resolution. Procedures will be conducted by college officials who receive annual training on issues related to domestic violence, dating violence, stalking, sexual exploitation and sexual assault, as well as on conducting a hearing process that protects victim safety and promotes accountability. The standard of evidence used in adjudication of these cases will be preponderance of evidence. Possible sanctions if a student is found responsible for violation of the code of conduct with regards to sexual misconduct include the full range of disciplinary sanctions available at the college, including suspension and/or expulsion.

To report confidentially the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential report is available in the Options for Confidentially Disclosing Sexual Violence Policy [\[link\]](#)):

- [www.BIT@sunywcc.edu](http://www.BIT@sunywcc.edu) or (914)-606-7784.
- Counseling Office (914)-606-6721 or (914)-606-7784.
- Health Services (914)-606-6610.

To disclose confidentially the incident and obtain services from the New York State, New York City or county hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906), and assistance can also be obtained through:

- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <http://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>; □ GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>; and □ RAINN: <https://www.rainn.org/get-help>.
- Safe Horizons: <http://www.safehorizon.org/>.  
(note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Victims/survivors are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).

To report the incident to one of the following college officials who can offer privacy and can assist in obtaining resources (note that an official who can offer privacy may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator):

- Title IX Coordinator (914-606-8539);

- Campus Security (914)-606-6911; and
- Director of Student Support Services (914-606-6777).

To file a criminal complaint with Campus Security and/or with local law enforcement:

- Security office, (914)-606-6911, Student Center room 118
- Westchester County Police, (914) 864-7700, 1 Saw Mill River Parkway, Hawthorne, NY 10532

To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with Westchester Community College policy. If a victim/survivor wishes to keep his/her identity private, he or she may call Counseling Office anonymously to discuss the situation and available options (**[Link to applicable policy]**):

- Title IX Coordinator Saul Yanofsky, (914-606-8539), AAB 302a, saul.yanofsky@sunywcc.edu

When the accused is an employee, a victim/survivor may also report the incident to the Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the victim/survivor, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

- Human Resources Office, 914-606-6880, Administration Building room 111 You may withdraw your complaint or involvement from the College process at any time.

## II. Resources:

To obtain effective intervention services.

- Counseling Office, Student center Room 224, (914)-606-7784. There are no charges for our services.
- Health Services, Student Center room 200, (914)-606-6610. There are no charges for our services. Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available [TBA]. □ [off-campus centers and services, and their addresses, phone numbers, and web sites].
- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here:  
[http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf), or by calling 1-800-247-8035. Options are explained here:  
<http://www.ovs.ny.gov/helpforcrimevictims.html>.

## III- Protection and Accommodations:

- When the accused is a student, to have the college issue a “No Contact Order,” meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the

accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person.

- To have assistance from Campus Security or other college officials in obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the Order about the accused's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from Campus Security in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of Campus Security or, if outside of the jurisdiction or if Campus Security does not have arresting powers to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process.
- When the accused is not a member of the college community, to have assistance from Campus Security or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. While victims/survivors may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures:
  - Single Stop (914) 606-6725

#### **IV- Student Conduct Process:**

To file student conduct charges against the accused. Conduct proceedings are governed by the procedures set forth in the College handbook ( <http://www.sunywcc.edu/student-services/policies/title-ixsexual-harassmentsexualmisconduct/reporting-an-incident/> ) as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

Throughout conduct proceedings, the accused and the victim/survivor will have:

- The same opportunity to have access to an advisor of their choice. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;
- The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
- The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process and is not conducted by individuals with a conflict of interest.
- The right to receive written or electronic notice of any meeting or hearing they are required to or are eligible to attend.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- The right to review available evidence in the case file.

- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- The right to exclude prior sexual history or past mental health history from admittance in college disciplinary stage that determines responsibility. Past sexual violence findings may be admissible in the disciplinary stage that determines sanction.
- The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the sanction(s).
- The right to know the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding and the reason for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal. Director of Judicial Affairs (914)-606-6777, Student center Room 222 □  
The right to choose whether to disclose or discuss the outcome of a conduct hearing.

#### **V. Pre-Adjudication:**

- a. The Title IX Compliance Officer will review the complaint and determine if the case falls under the guidelines of Title IX procedures. If so, he/she will inform the Vice-President and Dean of Students of the need for an investigation and a hearing.
- b. A no-contact order between the complainant and respondent will be issued by the Vice-President and Dean of Student Affairs. This helps ensure the integrity and privacy of the process. In addition, reasonable accommodations to increase the complainant safety and well-being on campus will be considered.

#### **VI. Investigation:**

- a. If a student reports a sexual misconduct but does not wish to participate in the investigation and adjudication process, the situation will be reviewed by the Title IX Compliance Officer for student concerns. He/she will determine whether there is sufficient information to proceed with an investigation and adjudication without the participation of the complainant.
- b. If a respondent does not wish to participate in the investigation and adjudication process, the process will proceed without their contribution to the determination of the facts of the case. The respondent should note that the appeal process based on appearance of new information not available to the hearing panel does not apply in cases of deliberate omission of information by the respondent, including refusal by the respondent to participate in the investigation.
- c. The Director of Judicial Affairs will conduct the investigation to determine the facts of the case as completely as possible. He/she will take primary statements from the complainant and respondent, ask follow up questions, reach out to and collect statements from others who have evidence/information relevant to the question of violation of the code of conduct, and ask follow-up questions as needed. The complainant and respondent may each suggest questions to the investigator to be asked of others, and may also suggest others that the investigator speak with. Final decisions about whom to talk with and what to ask will be made by the investigator. All of those contacted by the investigator will be required to maintain the privacy of the investigation. The investigator will also pull together any additional evidence available. The investigator may consult with the Vice-President and Dean of Student Affairs in decisions regarding the investigation process. The statements of the complainant and respondent will be recorded (audio). The investigator will produce for the hearing panel a report of his/her findings, which will include a list of those interviewed and copies of any additional material referenced. The Vice-President and Dean of Student Affairs will review the report and may request that additional information be gathered. The Vice-President and Dean of Student Affairs will also ensure that the report does not contain material that is inadmissible in the decision process.

d. The investigator's report will be shared with the complainant and respondent once it is complete. The complainant and respondent each have 10 days following the receipt of the report to write a response to it if they wish to do so. Responses will be included in the official materials sent forward to the hearing panel for adjudication.

## **VII. Primary adjudication:**

**The decision about whether there has been a violation of the College's Code of Conduct regarding sexual misconduct will be made by a hearing panel of three staff members. The panel will be drawn from a pool of staff trained in hearing cases of this kind. If such a violation is found to have taken place, then the same panel also determines a sanction. Two "yes" votes are necessary for a finding that there has been a violation.**

a. For each case the panel will be appointed by the Vice-President and Dean of Student Affairs. The panel will ordinarily consist a member of the Division of Student Affairs plus two additional staff. The complainant and respondent will have the opportunity to state whether there are those they feel should not participate in the panel due to bias or any other reason which would prevent them from making a fair assessment of the evidence. The final decision on any such requests for recusal will be made by the VicePresident and Dean of Student Affairs.

b. The panel will start its deliberations by reading the statements gathered by the investigator and the investigator's report, along with the responses to the report (if any) from the complainant and respondent. After discussion, the panel will decide whether there are additional questions that need to be asked. If so, the investigator will go back to the parties to ask those questions.

c. The panel will decide whether there is a preponderance of evidence showing a violation of the college's code of conduct as regards sexual misconduct.

d. If the panel determines that there has been a violation of the code of conduct regarding sexual misconduct, the complainant and respondent will each have the opportunity to briefly address the panel, either in person, by phone or Skype, or in writing, before the sanction is determined. (The two parties would do this separately – neither one in the presence of the other. It is optional to make such a statement, not required.) This opportunity is not one in which the facts of the case are discussed or questions are asked by the committee. Rather, it is an opportunity for both parties to present directly to the committee in their own "voice" any additional information, including information about the impact of the incident in question. This opportunity is limited to 15 minutes or the written equivalent thereof.

e. The committee then determines a sanction. The decision and the sanction are communicated to both parties, simultaneously and in writing, by the Vice-President and Dean of Student Affairs.

## **VIII. Appeal:**

**Both parties have the right to request an appeal of the decision made by the hearing panel. The right to appeal is limited to (a) significant procedural lapses or (b) the appearance of substantive new evidence not available at the time of the original decision. (Note that deliberate omission of information by the appealing party in the original investigation is not grounds for appeal.) Each party has 5 days following the receipt of the written decision to indicate their intention to appeal. Requests for appeal, with reasons, should be sent in writing to the Vice-President and Dean of Student Affairs.**

a. If either the complainant or respondent wishes to have other people interviewed to determine whether they have substantive new information pertinent to the appeal that was not available at the time of the original decision, the following process will be followed. (1) The student will write to the Vice-President and Dean of Student Affairs describing whom they wish to have interviewed and on what topic. (2) The Vice-President and Dean of Student Affairs or her designee will ask the person whether they do, in fact, have information on that topic. (3) If they do, the Director of Judicial Affairs will ask them questions or request a written statement. The appeal process will be suspended until the completion of these steps.

b. Appeals will be granted only in cases where the procedural problems or new evidence are considered substantive enough to have had significantly affected the outcome of the initial hearing. If the appeal is

granted, its disposition is determined by the Vice-President and Dean of Student Affairs, who may uphold the decision or return it to the original hearing panel and task them with reviewing the decision either in whole or in part. An appeal may result in an increase in sanction, a decrease in sanction, or no change. The results of the appeal process are final.

c. The results of any appeal will be communicated simultaneously and in writing to the complainant and the respondent by Vice-President and Dean of Student Affairs.

## **VI. Support:**

a. Support. The complainant and respondent will each be assigned an advocate to help them navigate the process. Both the complainant and respondent have the right to have an advisor of their choosing present with them for all parts of the process, including any meeting with campus officials, the investigator and the hearing. The advisor can speak to the complainant/respondent at any time during the process but cannot ask questions or speak directly to the opposing complainant/respondent, the investigator or to the hearing panel during the hearing.

b. Both parties have full access to the support services in the Health Center and Counseling Services (Social Workers) throughout the process.

c. Retaliation. Retaliation of any kind against the student reporting assault or against any person participating in the investigation is strictly prohibited. Any retaliation will be treated as a new and additional violation of the code of conduct.

## **SECTION IX: SPECIAL DISCIPLINARY PROVISIONS GOVERNING ACTS OF ACADEMIC DISHONESTY**

1. Academic dishonesty is both an academic matter between a student and his/her faculty member and a violation under the Student Conduct Code subject to College disciplinary action. An act of academic dishonesty may and should be handled by the faculty member, the student, and, if appropriate, the faculty member's department head and/or the dean over that particular academic department.

Sanctions that can be assigned by a faculty member range from giving a reduced grade on the particular work in question to failing the student for the entire course. In addition, some academic departments and programs have their own policies for dealing with academic dishonesty. A sanction assigned by a faculty member and/or an academic department or program is an academic, not a disciplinary sanction.

2. If the matter is resolved satisfactorily between the student and the faculty member, and the faculty member decides not to refer the student for College disciplinary action, the faculty member may still report the incident to the appropriate judicial affairs officer. The judicial affairs officer will maintain a record of the reported incident and may elect to pursue College disciplinary action against a student who is reported to that office for a subsequent act of academic dishonesty.

3. If the faculty member decides that a stronger sanction is needed instead of or in addition to any academic sanctions assigned by that faculty member, the incident may be referred to the judicial affairs officer for review and possible College disciplinary action. Once the referral is made, the incident will be handled in the same manner as would any other allegation under the Student Code of Conduct.

4. In cases where the student denies the allegation of academic dishonesty, the faculty member may elect to postpone assigning any academic sanctions until after the student has gone through the College disciplinary process. If at the end of that process, the charge of academic dishonesty is upheld, the faculty member may then assign an academic sanction. The academic sanction is independent of any disciplinary actions taken against the student by the College.

5. Academic sanctions assigned by the faculty member in agreement with the student or assigned by the faculty member after the charge of academic dishonesty has been validated through the College disciplinary system cannot be grieved under the College's Grade Grievance Procedure.

## **SECTION X: STUDENT DISCIPLINARY FILES AND RECORDS**

1. The judicial affairs officer (Director of Student Development or the Director of Counseling) will establish a student disciplinary file whenever a case is referred for investigation of a possible conduct code violation. A student's file will be destroyed if the investigation indicates that no violation occurred. The file of a student found to have violated the conduct code will be retained for four years from the date of the sanction or until the student's graduation or transfer from the College, whichever comes first. Student conduct records may be retained longer or permanently if the student was suspended or permanently dismissed or if there is reason to believe the case could result in future litigation. The case summary will be retained on the Judicial Affairs database indefinitely.
2. The release of student disciplinary records will be governed by applicable federal and state laws governing the privacy of educational records.