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 Associate Dean of Students Life 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; local, state and federal law; and the Student Code of Conduct. Behavior which adversely affects the student’s responsible membership in the College 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 and Article 129-B 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, and 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 Associate Dean of Students Life 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.*

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.*

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.*

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.*

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.
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 form 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.*

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 from the student judicial process.
4. Failure to comply with a request to be interviewed by the Associate Dean of Student Life 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.*

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.*

1. Damage to, removal of or tampering with any fire safety system, 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.*

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.

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.
2. Conduct (not of a sexual nature) that threatens, intimidates, humiliates, or otherwise harms another member of the college community or visitors.

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

1. Repeatedly committing unwanted acts that alarm, cause fear, or seriously harass or annoy a member of the College community or family member.
2. Repeatedly engaging in unwanted communications, including electronic means, with any member of the College community in a manner likely to alarm, cause fear, or seriously harass or annoy that serve no legitimate purpose.
3. Repeatedly following another person without his or her consent.
4. Contacting any member of the College community after being asked or ordered not to contact this person.
5. Violating any provision of the New York State Stalking Law.

L. Physical, Verbal Endangerment and Domestic Violence-Title IX Code
Any form of physical or verbal abuse.

1. Physical violence or attempted physical violence toward another member of the College community or visitors.
2. Any verbal assault or abuse towards another member of the College community or visitors.
3. Threat of physical violence against another member of the College community or visitors.
4. Any action that endangers the health, safety or welfare of any member of the College community or visitors.
5. Engaging in 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.

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.
6. Use or operation of rollerblades, skates, skateboards, hover boards, bicycles, and similar items inside College facilities, unless expressly permitted.
7. Violation of any policy or guidelines pertaining to specific usage of a College facility.
8. 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

Any form of sexual misconduct or harassment.

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.

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 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: OFF-CAMPUS MISCONDUCT

Westchester Community College has a primary duty to supervise behavior on its premises, however there are instances where the off-campus behavior of students affects the Interest of the College and warrants disciplinary action.

Student behavior off the premises of the campus that may have violated any local, state, or federal law, or yields a complaint from others alleging law violations or student misconduct, will be reviewed by the College. Upon receipt of a complaint alleging off-campus student misconduct, the Associate Dean of Student Life or his/her designee will review the allegations and if necessary consult with the Vice-President and Dean of Student Access, Involvement and Success to determine the appropriate course of action by the College.

In cases in which criminal action is involved, such action and administration of the College’s conduct process will occur simultaneously. However, the College may defer action until the proceedings of the criminal action have been completed. A deferment will be considered by the Office of the Associate Dean of Student Life following a request by the respondent for a review of the circumstances. Students may also delay action by the Office of the Associate Dean of Student Life by seeking a Withdrawal, whereby the student would withdraw from the College until the criminal matter has been resolved.

Where there is a compelling reason (such as concern for the safety of other students), the Associate Dean of Student Life may, after an initial review of the evidence, impose the sanction of Interim Suspension, requiring that the student leave the campus pending a disciplinary hearing.
Student conduct committed off the campus which affects the Interest of the College is conduct which:
   a. Constitutes a violation of local, state or federal law;
   b. Indicates that the student may present a danger or threat to the health or safety of other members of the campus community;
   c. Significantly impinges upon the rights, property or achievements of other College community members or significantly breaches the peace and/or causes social disorder; or
   d. Is detrimental to the educational interests of the College.

Any off-campus student behavior that affects the Interest of the College, and violates the Code of Conduct is subject to the same disciplinary action as outlined in the Student Code of Conduct.

In accordance with Westchester Community College’s Student Code of Conduct procedures, students are entitled to contest any allegations and/or sanctions before a Judicial Hearing Board. The Judicial Hearing Board will review the referred incidents for off-campus misconduct in the same manner they do for violations that have occurred on the College’s premises. The Judicial Hearing Board may also consider whether or not the referred off-campus misconduct affects the College’s Interest and whether the behavior should be subject to College disciplinary process.

When students are found responsible for behavior off-campus that both meets the definition of affecting the Interest of the College, and violates the Code of Conduct, sanctions will be applied.

SECTION VI: 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

   1. **Verbal Warning**: is a verbal notice that a continuation or repetition of prohibited conduct may be cause for disciplinary action.

   2. **Official Warning**: is 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**: is 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 and a notation will be placed on their record.

4. **Suspension**: is 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, the student must file for a reinstatement to the College with the Associate Dean of Student Life where a review of the case will be conducted by the Vice President for Student Access, Involvement and Success. Once a student has been placed on suspension, he or she is not permitted on any College-owned property or at any off-campus College sponsored event or activity until the student suspension is completed and has been reinstated. Violating the terms of a suspension may result in criminal charges of trespassing as well as additional Code of Conduct violations. During periods of suspension, students may not earn credit towards a Westchester Community College degree and should consider withdrawing from all courses. Students are financially responsible for all tuition and fees acquired during a term in which the suspension occurs after the designated Drop/Add deadline.

5. **Immediate Interim Suspension**: is an involuntary separation of the student from the College for an indefinite period of time. In a situation where it is determined that a student’s continued presence on the Westchester Community College campus constitutes an immediate threat of harm to the student, other individuals, and/or College property, the Associate Dean of Student Life may suspend a student from the College pending a formal conduct hearing and after consultation with the Vice President for Student Access, Involvement and Success. During an interim suspension, the student shall be denied access to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible. Once a student has been placed on interim suspension, he or she is not permitted on any College-owned property or at any off-campus College sponsored event or activity. Violating the terms of a suspension may result in criminal charges of trespassing as well as additional Code of Conduct violations. During periods of suspension, students may not earn credit towards a Westchester Community College degree and should consider withdrawing from all courses. Students are financially responsible for all tuition and fees acquired during a term in which the suspension occurs after the designated Drop/Add deadline.

6. **Expulsion**: is an involuntary separation from the College for an indefinite period and will be invoked where extreme violations of the code of conduct occur. Expulsions from the College come from either the result of a judicial board hearing or when suspensions have been issued and a student is not granted a
reinstatement. All expulsions must to be approved by the Vice President for Student Access, Involvement and Success.

7. **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. **Mandated Counseling, Psychiatric or Threat Assessments**

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

C. **Administrative Withdrawal**

The College may require a student take an administrative withdrawal if there is sufficient evidence that the student is engaging in, or is likely to engage in, behavior that represents a real danger of harm to others, or behavior that substantially disrupts the learning environment and activities of the campus community. There are limits to the College's ability to care for students with serious physical or psychological conditions, and the College reserves the right to decide, in certain circumstances, when it cannot provide appropriate educational or other services to a particular student. In addition, students may be subject to administrative withdrawal from the College if after reasonable attempts to secure voluntary cooperation for psychological, threat or medical assessments have been exhausted. The recommendation for an Administrative Withdrawal will be made after a review from the Behavioral Intervention Team (BIT) and enacted by the Associate Dean of Student Life, if the BIT determines the student:

- 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 College’s normal operations;
- will be unable 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 Associate Dean of Student Life determines that the student, as a result of a 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 VII: 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. The opportunity to waive their rights to a formal hearing.
3. A closed prompt and impartial meeting with a designated judicial hearing officer.
4. An opportunity to present information in their defense.
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 IX.

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 hearing, which will include the charged student, a Judicial Affairs Officer, and a judicial hearing board.
4. A support person from the College, who is a full time employee of the institution, of his/her choosing. This support person may attend but may not participate or speak during the process.
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.

*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 IX.
C. Appeal Process

The following rights apply to a student who wants to file for an Appeal. Students will have the right to:

1. File a written appeal of the decision within 7 days of receiving the written decision of a formal hearing.

2. The appeal must contain at least one of “grounds for appeal” listed in Section VIII.C of the Student Code of Conduct.

3. Failure to file a written request for appeal within 7 days of the initial decision or list a “grounds for appeal” will render the original decision final.

4. If the appeal is granted by the Vice-President and Dean of Student Access, Involvement and Success, they may return it to the original Judicial Hearing Board and task them with reviewing the decision with the new information or ask for a new hearing with a new Judicial Hearing Board to correct the procedural problem.

5. If the original decision is upheld, this decision will be final. The results of any appeal will be communicated in writing to the respondent by Vice-President and Dean of Student Access, Involvement and Success.

SECTION VIII: 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. Any complaints filed against an employee will be forwarded to the appropriate College Official and will not be adjudicated through the student code of conduct procedures. A complainant shall submit an official complaint of an alleged violation by a student in writing to either the Security Office or the Office of the Dean of Student Life.

B. Charges and Notice

1. 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 and will be summoned to attend either an Informal Hearing, Formal Hearing, or a Title IX Hearing, whichever is appropriate. If a student is placed on Immediate Interim Suspension because of the severity of an alleged violation, the student will be notified immediately in writing and restricted from the campus. When a student is charged with a violation of the student code of conduct, he/she will receive written notice of:
The code violation
- The proceeding the student has been assigned (Formal, Informal or Immediate Interim Suspension or Title IX hearing)
- The amount of time the student has to respond to the notice
- Consequences of not responding to the notice within a specified time limit
- 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 will make reasonable attempts to contact the student of the need to attend a hearing but, may go forward with disciplinary action against a student if the student fails to respond to the attempts from the judicial affairs officer to contact them, or fails to attend his/her scheduled hearing.

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.

C. Grounds Appeals

If the student disagrees with the determination of a formal hearing, the student may request that the Vice President and Dean of Student Access, Involvement and Success reconsider the decision. If an appeal is filed within the allotted seven days, any sanction decided by a judicial hearing board will not go into effect until the appeal process is concluded. The appeal must contain a discussion of the evidence and facts in support of at least one “grounds for appeal” listed below.

1. Significant procedural lapses
2. The appearance of substantive new evidence not available at the time of the original decision. (Note that deliberate omission of information in the original investigation is not grounds for appeal).

SECTION IX: PROCEDURES FOR REPORTING AND ADJUDICATING TITLE IX CODE VIOLATIONS

A. 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 he/she believes is in violation of Title IX is encouraged to report that conduct to the Title IX Coordinator or the Security Office. The student is also encouraged to file a report with 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 investigations and managing the hearing process that protects victim safety and promotes accountability. Should the accused be an employee of the College, an investigation will ensue and a report filed with the Human Resources Office. From there the College will follow the appropriate employment grievance procedures in accord with that person’s collective bargaining unit or terms of employment. The standard of evidence used in adjudication of these cases will be preponderance of evidence. The possible sanctions if a student is found responsible for a violation of the code of conduct with regards to sexual misconduct will be suspension or expulsion.

Retaliation of any kind against a student reporting sexual misconduct 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.

B. Pre-Adjudication:

The Title IX Coordinator 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 Student Access, Involvement, and Success of the need for an investigation and a hearing. The Vice-President and Dean of Student Access, Involvement, and Success shall then notify the President that such an investigation will take place. A no-contact order between the complainant and accused will be issued by the Title IX Coordinator. 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.

C. Investigation:

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 Coordinator for student concerns. He/she will determine whether there is sufficient information to proceed with an investigation.
If the accused/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.

The Title IX Coordinator will determine who will conduct the investigation to determine the facts of the case as completely as possible. The investigator 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 with whom to talk 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 Title IX Coordinator in decisions regarding the investigation process. The investigator will produce for the hearing panel (or Human Resources should the respondent be an employee of the College) a report of his/her findings, which will include a list of those interviewed and copies of any additional material referenced. The Title IX Coordinator will review the report and may request that additional information be gathered. The Title IX Coordinator will also ensure that the report does not contain material that is inadmissible in the decision process. 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 if they wish to do so. Responses will be included with the final report sent forward to the hearing panel for adjudication (or Human Resources should the respondent be an employee of the College).

D. Primary adjudication-Judicial Board Hearing:

Participants in Judicial Hearing Procedures

The Judicial Hearing Board is a closed hearing; it is not open to the public. The individuals who may appear before the Judicial Hearing Board are: the complainant; judicial appointed administrator*; the student respondent; any individual serving as an approved Advisor; the Title IX Coordinator and any individuals appearing as witnesses. Before and after giving testimony, witnesses may be excluded from the room or building where the hearing occurs. *A judicial appointed administrator will be appointed by the Title IX Coordinator to serve in the role of the complainant if the alleged victim cannot or will not present his or her own complaint.
Privacy Safeguard

All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing, private. No copies of documents provided are to be made or shared with any third parties. Any breach of this duty is subject to further disciplinary action by the College.

Judicial Board Procedures

A three person panel will be drawn from a pool of staff trained in hearing Title IX cases to compose a Judicial Hearing Board by the Title IX Coordinator. The complainant and respondent will have the opportunity to state whether they feel a board member 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 Title IX Coordinator. This panel will hear the case and determine based on the preponderance of the evidence whether there has been a sexual misconduct violation by the student respondent. A majority of two votes is necessary for a positive or negative finding of culpability in a Title IX case. If the student respondent is found culpable, then the same panel will also determine the sanction.

The Judicial Hearing Board must review the Title IX Investigator’s Report containing all pertinent information regarding the incident in question prior to the date of the Judicial Board hearing. Additional Information may be offered in the form of written statements, documents, items, or oral information from the complainant, the respondent, and witnesses, to the Title IX Coordinator for review. The information will be forwarded to the Judicial Hearing Board once relevance to the case is established.

Notes may be taken by the participants in the hearing solely for their personal use. There will be a single verbatim recording made of the hearing which shall be the sole property of the Title IX Coordinator and this recording will be available only for review by the complainant, respondent or the College for the purpose of an appeal. The recording will not be released to any party nor will the Title IX Coordinator makes copies. If copies are requested, the party interested must supply a transcriber at their cost to transcribe at the College under the supervision of Title IX Coordinator or his/her designee. The recording will be maintained for a period of four (4) months from the date the appeal period has lapsed or until an appeal decision has been rendered, whichever is later.

A hearing will be called to order by the Judicial Hearing Board chair. The chair will orally explain the hearing process and will provide an opportunity for all parties to ask procedural questions prior to initial statements and the presentation of information.

If the complainant chooses not to present their own complaint, the following hearing procedure will be followed:

The Investigator will act as the Judicial Appointed Administrator and provide a brief opening statement and a summary of the investigation. The Judicial Hearing Board and
respondent may then make inquiries of the Investigator at this time. Questions from the respondent must be asked to the Board Chair, who will then ask the Judicial Appointed Administrator directly.

After the Judicial Appointed Administrator is finished, the respondent will be given an opportunity to make a brief statement. This is not meant to be a retelling of the event. The Judicial Hearing Board may pose questions to the respondent, followed by the Judicial Appointed Administrator. Questions from the Judicial Appointed Administrator must be asked to the Board Chair, who will then ask the respondent directly.

The Judicial Hearing Board may hear from witnesses on behalf of the Judicial Appointed Administrator and the respondent. Each witness will be questioned by the Judicial Hearing Board, the Judicial Appointed Administrator and the respondent. Questions from the Judicial Appointed Administrator and respondent must be asked to the Board Chair, who will then ask the witness directly.

At the conclusion of the presentation of all witnesses, the Judicial Appointed Administrator and respondent will each be given a brief final opportunity to address any outstanding issues of fact and submit additional written questions to the Title IX Coordinator. Title IX Coordinator will determine the appropriateness and relevance of the questions. If any questions are approved, the Judicial Appointed Administrator and respondent will be permitted to ask their questions in the same questioning format as previously used in the hearing with the respondent asking first followed by the Judicial Appointed Administrator.

At the conclusion of this process, the Judicial Hearing Board will excuse everyone from the room and deliberate for no more than an hour. At the conclusion of their deliberations they will reconvene, invite all parties to return and deliver their decision on the charge(s) and a sanction should they find the respondent culpable. The respondent, complainant and Judicial Appointed Administrator will received the decision in writing.

If the complainant chooses to present their own complaint, the following procedure will be followed:

The Investigator will provide a summary of the investigation. The Judicial Hearing Board, complainant, respondent may make inquiries of the Investigator at this juncture. Questions from the complainant and respondent must be asked to the Board Chair, who will then ask the investigator directly.

The complainant may supplement the information provided to the Judicial Hearing Board with a brief statement. This is not intended to be a retelling of the event. The Judicial Hearing Board and respondent may pose questions to the complainant. The respondent’s questions must be from a list of questions approved by the Title IX Coordinator and forwarded to the Judicial Hearing Board in advance of the hearing. Questions from the respondent must be asked to the Board Chair, who will then ask the complainant directly.
Should the respondent want to ask a follow up question, they must submit the question in writing to the Title IX Coordinator for approval during the hearing.

After the complainant is finished, the respondent will be given an opportunity to make a brief statement. This is not meant to be a retelling of the event. The Judicial Hearing Board and complainant may pose questions to the respondent. The complainant’s questions must be from a list of questions approved by the Title IX Coordinator and forwarded to the Judicial Hearing Board in advance of the hearing. Questions from the complainant must be asked to the Board Chair, who will then ask the respondent directly. Should the complainant want to ask a follow up question, they must submit the question in writing to the Title IX Coordinator for approval during the hearing.

The Judicial Hearing Board may hear from witnesses on behalf of the complainant and the respondent. Each witness will be questioned by the Judicial Hearing Board, the complainant and the respondent. Questions from the complainant and respondent must be asked to the Board Chair, who will then ask the witness directly.

At the conclusion of the presentation of all witnesses, the complainant and respondent will each be given a brief final opportunity to address any outstanding issues of fact and submit additional written questions to the Title IX Coordinator. Title IX Coordinator will determine the appropriateness and relevance of the questions. If any questions are approved, the complainant and respondent will be permitted to ask their questions in the same questioning format as previously used in the hearing with the respondent asking first followed by the complainant.

At the conclusion of this process, the Judicial Hearing Board will excuse everyone from the room and deliberate for no more than an hour. At the conclusion of their deliberations they will reconvene, invite all parties to return and deliver their decision on the charge(s) and a sanction should they find the respondent culpable. The respondent, complainant, Judicial Appointed Administrator and Title IX Coordinator will received the decision in writing.

E. Appeal:

Both parties have the right to request an appeal of the decision made by the Judicial Hearing Board. 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 7 days following the receipt of the written decision to indicate their intention to appeal. Requests for appeal, with reason, should be sent in writing to the Vice-President and Dean of Student Access, Involvement and Success. Any new evidence or proof of a procedural lapse should be included in the request. 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.
Once the appeal is received, the Vice-President and Dean of Student Access, Involvement and Success will convene a three panel Judicial Appeals Board (made up of three full-time College staff members) and task them with reviewing the decision with the new information or the original judicial board hearing process. The Judicial Appeals Board may uphold the original decision, reverse the decision or ask for a new hearing. If the original decision is upheld or reversed, this decision will be final. 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 Access, Involvement and Success.

F. Support:

Both the complainant and respondent have the right to have an advisor of their choosing present with them during the hearing. The advisor can be anyone the complainant and respondent choose including a lawyer or family member. The complainant and respondent may speak privately with their advisor at any time during the process without disrupting the process. However, the advisor cannot speak on behalf of their advisee, actively participate in the process, or interrupt any of the proceedings. If the advisor violates any of these rules, they will be immediately removed from the process.

Both parties have full access to the support services from the social workers in the Health, Wellness and Personal Counseling Center throughout the process.

G. SUNY 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:

i. How many domestic violence, dating violence, stalking, and sexual assault incidents were reported to the Title IX Coordinator per year?

ii. From those incidents in paragraph (i), how many reporting individuals wanted to use the student conduct process for adjudication?

iii. How many of these cases were actually processed through the student conduct process?

iv. How many of the respondents in these cases were found responsible?

v. How many of the respondents in these cases in paragraph (iii) were found not responsible?

vi. What sanctions were imposed for each instance where a respondent was found responsible

vii. How many cases closed before adjudication or before finding because the accused/respondent withdrew from the institution?

viii. How many cases closed before adjudication or before finding because the reporting individual withdrew the complaint?

ix. 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. Parties can also present available evidence as appropriate under campus policies.

H. Additional Conduct Proceedings

Throughout conduct proceedings, respondent and the complainant will have:

1. The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related
hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;

2. The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

3. The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.

4. The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.

5. 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.

6. The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by the Westchester Community College).

7. The right to present evidence and testimony at a hearing, where appropriate.

8. The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing.

9. The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.

10. The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses
11. The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate

12. The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.

13. The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.

14. Access to at least one level of appeal of a determination before a panel which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.

15. The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.

SECTION IX: SPECIAL DISCIPLINARY PROVISIONS GOVERNING ACTS OF ACADEMIC DISHONESTY

A. 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 division. 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.

B. 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 Associate Dean of Student Life. The Associate Dean 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.

C. 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 Associate Dean of Student Life 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.

D. 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.

E. 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 Associate Dean of Student Life 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 Maxient database indefinitely.

2. The release of student disciplinary records will be governed by applicable federal and state laws governing the privacy of educational records.