



Westchester
Community College

State University of New York

Student Code of Conduct

Student Code of Conduct

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INTRODUCTION

The Westchester Community College *Student Code of Conduct* creates an effective living and learning environment by setting standards, providing a student-centered disciplinary process, and offering sanctions that foster ethical development, personal accountability and civility toward others. 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 that 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.

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* outlines the practices utilized in administering the student disciplinary system at the College.

COLLEGE VALUES STATEMENT

1. To better ourselves and our relationships, we are committed to
 - **Personal Excellence** – Promote life-long learning, academic growth and intellectual development.
 - **Respect** – Support an environment of open, honest and collegial communication.
 - **Integrity** – Expect personal accountability through ethical behavior.
2. To better our community and collective efforts, we are committed to
 - **Collaboration** – Work together on the achievement of a common goal.
 - **Civic Engagement** – Advance active involvement in the life of the community.
 - **Innovation** – Encourage and empower a creative environment.
3. To better our society and our world, we are committed to
 - **Diversity** – Foster an inclusive community through acceptance and understanding.
 - **Environmental Sustainability** – Protect, preserve, and conserve resources for the future.
 - **Empathy** – Respond to each other's views and opinions without judgement.

**SECTION I:
Philosophy**

The *Student Code of Conduct* embraces several core philosophies: (1) protecting the rights of community members, including, but not limited to the freedom of speech and the right of peaceable assembly; (2) creating an environment that is conducive to learning, including respect for academic freedom and constructive criticism; (3) maintaining the safety and well-being of the community and its members and the conviction that honesty and integrity are key values of community; and (4) the belief that all members of the institution should be part of an inclusive campus environment that respects differences of culture, gender, gender identity, gender expression, sexual orientation, religion, race, age, and ability.

**SECTION II:
Responsibility for Implementation**

The Vice President & Dean of Student Access, Involvement and Success, as Chief Student Affairs 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 Associate Dean of Student Life and his/her designees. Any question of interpretation regarding the *Student Code of Conduct* shall be referred to the Associate Dean of Student Life or his/her designee for final determination.

**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. Should the Associate Dean of Student Life determine that a particular alleged act of off-campus misconduct falls within the jurisdiction of the College, the case will be referred to the College student conduct system.

SECTION IV: Definitions

The following selected terms are defined in an effort to facilitate a more thorough understanding of the *Student Code of Conduct*. Certain definitions have been adapted from Section 6439 NYS Education Law Article 129-B.

1. **Hearing Officer or Student Conduct Officer:** a College staff member who is authorized to determine the appropriate resolution of an alleged violation of the *Student Code of Conduct*, and/or to impose sanctions or affect other remedies as appropriate. Subject to the provision in this code, a Hearing Officer or Student Conduct Officer is vested with the authority to, among other duties, investigate a complaint of an alleged violation of the *Student Code of Conduct*; decline to pursue a complaint; refer identified disputants to mediation or other appropriate resources; establish the *Student Code of Conduct* alleged violations regarding a Respondent; approve an administrative agreement developed with a Respondent; conduct a hearing; impose sanctions; chair and/or advise a hearing.
2. **Business day:** any day, Monday through Friday, that the College is open.
3. **Code of conduct:** the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in the institution.
4. **Title IX Coordinator:** shall mean the Title IX Coordinator and/or his or her designee or designees.
5. **Bystander:** shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.
6. **Confidentiality:** means the condition of not wishing to have information passed on to anyone else. This disposition may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.
7. **Privacy:** means the disposition to prefer having their information secluded from as many people as possible. This condition may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a Reporting Individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the institution.
8. **Accused:** a person accused of a violation who has not yet entered an institution's conduct process.
9. **Respondent:** a person accused of a violation who has entered an institution's conduct process.
10. **Complainant:** A person who has filed and/or presenting disciplinary charges against a student.
11. **Reporting Individual:** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of misconduct, including reports of sexual misconduct.
12. **Designee:** an administrator, staff or faculty member who has responsibility for implementing the student conduct process or administering the student conduct system, in part or in whole.
13. **Associate Dean of Student Life:** refers to the person responsible for the overall coordination of the College student conduct system, including the development of policies, procedures, and education/training programs. This individual may serve as a Hearing Officer, Student Conduct Officer and/or as a Complainant.

14. **Member of the College community:** includes any person who is a student, instructor, or College staff member; any other person working for the College, either directly or indirectly (e.g., private enterprise on campus); or any person who resides on College premises. A person's status in a particular situation shall be determined by the Associate Dean of Student Life.
15. **Student:** any person, regardless of age, admitted, registered, enrolled, or attending any College course or College conducted program; any person admitted to the College who is on College premises or College-related premises for any purpose pertaining to his or her registration or enrollment.
16. **Student organization or student group:** an association or group of persons that has complied with the formal requirements for College recognition by the Department of Student Involvement and/or the Student Government Association.
17. **Support person/Advisor:** any person who accompanies a Respondent or Reporting Individual for the limited purpose of providing support, advisement and guidance. A support person/advisor may not directly address the Hearing Officers, question witnesses, or otherwise actively participate in the student conduct process, but may speak privately with the advisee during the proceedings.
18. **College or Institution:** shall mean Westchester Community College.
19. **College official:** any person employed by the College to perform administrative, instructional, or professional duties.
20. **Campus or College premises:** all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, either solely or in conjunction with another entity.
21. **Sanction:** a requirement or status that is imposed as a result of either accepting responsibility or being found responsible for violating the *Student Code of Conduct*.
22. **Sexual Misconduct:** means sexual harassment or sexual violence and encompasses a wide range of behavior for sexual purposes that is against another's will or at the expense of another. Sexual misconduct includes, but is not limited to sexual assault, intimate partner violence, stalking of a sexual nature, or any conduct of a sexual nature that is nonconsensual, or has the effect of threatening or intimidating another.
23. **Sexual Violence:** Includes sexual harassment, sexual assault, and domestic violence, dating violence, intimate partner violence and stalking.
24. **Sexual activity:** shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).
 - a. The term "**sexual act**" means:
 - (i) contact between the penis and the vulva or the penis and the anus and contact involving the penis occurs upon penetration, however slight;
 - (ii) contact between the mouth & penis, the mouth & vulva, or the mouth & anus;
 - (iii) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
 - (iv) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
 - b. The term "**sexual contact**" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person."

25. **Domestic violence:** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
26. **Dating violence:** violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
27. **Stalking:** a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.
28. **Sexual assault:** is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape.
29. **Affirm Consent to Sexual Activity or Affirmative Consent:** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. (Section 6441 Education Law Article 129-B)
 - (i) Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
 - (ii) Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
 - (iii) Consent may be initially given but withdrawn at any time.
 - (iv) Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
 - (v) Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
 - (vi) When consent is withdrawn or can no longer be given, sexual activity must stop.

SECTION V: Violations

As members of the College community, students have an obligation to uphold the *Student Code of Conduct* as well as to obey federal, state, and local laws. The Associate Dean of Student Life or designee shall make the final determination on what constitutes a potential violation of the *Student Code of Conduct* and shall establish the specific behavioral allegations(s) as appropriate. 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. The College, in its sole discretion, reserves the right to report any possible criminal acts to appropriate law enforcement agencies

1. Academic Dishonesty

Conduct that includes, but is not limited to: plagiarism, cheating, multiple submission, forgery, sabotage, unauthorized collaboration, falsification, bribery or use of purchased research service reports without appropriate notation, and theft, damage, or misuse of library or computer resources. Attempts to commit such acts shall also constitute academic dishonesty.

2. Drugs & Alcohol

Possessing, using, distributing, delivery or selling alcohol, a controlled substance or dangerous drug, or any drug unlawful to possess i.e. marijuana, except as expressly permitted by law. Under the Influence of Alcohol, Controlled Substance or Dangerous Drugs in Class or at College Sponsored Activities. The possession, use or distribution of drug paraphernalia including, but not limited to: bongs, water pipes, or hypodermic needles that are not specifically required for the administration of prescribed medications. Possession and/or use of legal medication outside the parameters of the medical authorization. Possession and/or use of prescribed medication to someone other than oneself.

3. Smoking & Tobacco Use

The use of tobacco products, vaping devices, electronic cigarettes, and other nicotine delivery devices in any College facility or outdoor area. Westchester Community College is proud to be a tobacco-free, smoke-free, and vape-free campus.

4. Misuse of College Property

Unauthorized possession, duplication, or misuse of College property or other personal or public property, including, but not limited to, records, electronic files, telecommunications systems, forms of identification, or any unauthorized use of the College's hardware, software or network systems. This includes the 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.

5. Destruction of Property

Removing, destroying, or damaging College property, property under College administration/supervision, or the personal property of others. This includes attempted or actual damage to property.

6. Theft

Stealing property and/or services; possessing stolen property.

7. Unauthorized Entry or Use

Entering or using College facilities or property on or off college premises, belonging to individuals, College recognized groups, and/or corporate entities without proper authorization.

8. Disruptive Conduct

Unreasonable actions that impair, interfere with, or obstruct the orderly conduct, processes, functions or activities of the College, including those in, but not limited to: classroom or other instructional settings, administration, student conduct procedures, or other authorized activities, including public service functions. This can include: leading or inciting others to disrupt scheduled and/or normal activities within any College owned or rented facility; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus; participation in campus demonstrations which disrupt the normal operations of the College; and actions that infringe on the rights of other members of the College.

9. Threatening, Attempting or Actual Physical Harm or Violence

Intentionally, recklessly or attempting causing physical harm or violence to any person or reasonable fear of such harm. Students cannot justify such behavior as defensive if:

- i. The behavior is a physical response to a very provocation.
- ii. The student has the ability to leave the situation, but instead chooses to respond physically
- iii. In circumstances where such actions are punitive or retaliatory.

10. Harassment or Abuse of Another

Behaviors intended to bully, intimidate, insult, or create a hostile environment for another individual. These behaviors can be written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, directed at another individual. No individual shall post or distribute disparaging or compromising images of another, altered or otherwise or post denigrating text on, but not limited to, the following modes: internet websites or newspapers, without the express consent/authorization of the individual. Harassment based on protected class (i.e. race, color, national origin, sex, age, disability, creed, religion, sexual orientation, veteran status, etc) is prohibited; see **26. Hate or Bias-Related Crime** for additional information.

11. Endangerment

Acting to create or contribute to dangerous or unsafe environments anywhere on or off-campus. Reckless or intentional acts, which endanger, or put at risk, the welfare of oneself or others.

12. Solicitation

The disbursement of promotional/informational material on College property or on items or personal property on campus (i.e. motor vehicles), taking requests for donations, or the selling or vending of any merchandise or services without prior written consent from the appropriate College official.

13. Compliance

Failing to comply with the directions of an authorized local, state, federal or College official acting in the performance of his or her duties, or any other person responsible for a facility or registered function acting in accordance with their duties.

14. Forgery, Falsification, Fraud, & Dishonesty

Knowingly providing false or incorrect information to any College official or misrepresenting yourself to the institution. This includes altering, possessing, distributing, selling or misusing false documents, records, transcripts, stored data or instrument identification.

15. Fire and Safety

Engaging in behavior that disrupts any fire and safety systems, procedures and policies. This can include, but is not limited to: damage to, removal of or tampering with any fire safety system, firefighting equipment or other emergency warning equipment; intentional or reckless burning or setting fire to any building or piece of property owned or controlled by the College; failure to conform to safety regulations, failing to evacuate facilities in a timely fashion in an emergency situation or in response to fire alarms.

16. Weapons, Firearms, Explosives & Other Dangerous Objects

Possessing or using any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, switchblade knives, knives with blades five or more inches in length, explosives, fireworks or dangerous chemicals (except as authorized for use in class, or in connection with College-sponsored research or other approved activities). The term firearms include pellet guns, air guns, rifles, shotguns, handguns, multiple firing weapons and any weapon capable of firing a shot.

NOTE: Possession of any rifle, shotgun or firearm in or upon any building or grounds of the College is a crime under New York state law. Any person doing so is subject to arrest and incarceration in addition to any sanctions incurred through the College's conduct process.

17. Gambling

Any unauthorized gambling on campus, including but not limited to participation in: games of chance, illegal lottery and policy for money or something of value; promoting or advancing gambling; gambling using College computing/network facilities; possessing gambling devices or gambling records.

18. Parking and Motor Vehicle Violations

Violating college policies and regulations and/or local, state, or federal law governing the possession or use of motor vehicles on campus. Violations of this policy include but are not limited to:

- i. Use of an unauthorized vehicle on campus
- ii. Failure to adhere to traffic regulations;
- iii. Driving under the influence of alcohol or other drugs.
- iv. Causing damage to College property or personal property while operating a motor vehicle

19. Student Group Violations

Students are expected to know and abide by the policies and procedures governing their membership in a student club or organization. Prohibited conduct by officers/members of recognized student clubs and organizations may result in referral to the conduct process for individual students or entire student groups.

Full policies governing student groups can be found at www.sunywcc.edu/clubs and can be discussed in person in the Department of Student Involvement in Student Center 108, 914-606-6731 or at getinvolved@sunywcc.edu.

20. Hazing

Any reckless or intentional conduct in connection with the initiation into, or affiliation with, any organization which degrades, humiliates or endangers the mental or physical health of any person, regardless of the person's willingness to participate. It can also include activities that damage, destroy or remove any public or private property.

21. Violations committed by guests, friends, or family members

Any violations to the code committed by guests, friends, or family members invited to the campus or on behalf of a student. Students are responsible for informing their guests, friends or family members about campus regulations and conduct policies before they invite them on-campus. Therefore, any behavior can be sanctioned if that third party violates the *Student Code of Conduct*.

22. Aiding & Abetting in Code Violations

Aiding and abetting another in any violation of College policies, regulations and codes.

23. Prohibited Recreational Activities

The use or operation of rollerblades, skates, skateboards, hover boards, bicycles, and similar items inside College facilities or on College grounds, unless expressly permitted.

24. Student Computer & Communications Technology

Violating the College's Student Computer & Communications Technology Use Policy which can be found <http://www.sunywcc.edu/cms/wp-content/uploads/2012/02/Westchester-Community-College-Technology-Use-Policy-Student.pdf>.

25. Hate or Bias-Related Incident/Crime

Intentionally selecting a person against whom an offense is committed or intended to be committed because of a belief or perception regarding the race, color, national origin, ancestry, ethnicity, gender, gender identity or expression, sexual orientation, religion, religious practice, age, physical or mental disabilities, including learning disabilities, and past/present history of a mental disorder, regardless of whether the belief or perception is correct.

Intentionally committing an act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, ethnicity, gender, gender identity or expression, sexual orientation, religion, religious practice, age, physical or mental disabilities, including learning disabilities, and past/present history of a mental disorder, regardless of whether the belief or perception is correct.

26. Sexual Harassment

Unwelcome verbal or physical conduct of a sexual nature that creates an intimidating, hostile or offensive campus, educational or working environment for another person. This includes but is not limited to 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.

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.

27. Stalking

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. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as the internet, pagers, cell phones, or other similar devices. Examples include, but are not limited to:

- i. Repeatedly committing unwanted acts that alarm, cause fear, or seriously annoy a member of the College community or family member that serve no legitimate purpose.

- ii. 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 annoy that serve no legitimate purpose.
- iii. Repeatedly following another person without his or her consent.
- iv. Contacting any member of the College community after being asked or ordered not to contact this person.

28. Intimate Partner Violence

Intimate partner violence includes dating violence and domestic violence, both are defined below. Intimate partner violence can occur in relationships of the same or different genders.

Dating Violence

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.

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. Includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

29. Rape, Sexual Assault & Sexual Exploitation

Any form of non-consensual sexual activity or sexual assault, including:

Sexual Assault I

Sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) without the active consent of the victim.

Sexual Assault II

Touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the active consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.

Sexual Exploitation

Nonconsensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; inducing incapacitation with the intent to sexually assault another person;

30. Abuse of the Student Conduct System

Abusing the Student Conduct System, including but not limited to:

- i. Failure to obey the summons of a Conduct Body or College official.
- ii. Failure to comply with sanction(s) imposed under the *Student Code of Conduct*.
- iii. Knowingly alleging a violation of the *Student Code of Conduct* without cause.
- iv. Attempting to discourage an individual's proper participation in, or use of, the conduct system.
- v. Influencing or attempting to influence another person to commit an abuse of the conduct system.

31. Retaliation

Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System.

An intentional act taken against an individual who initiates any sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report.

32. Other Violations

Violation of any other College policy/regulation or violation of any local, state, or federal law.

Felony or Misdemeanor Arrests: It is the obligation of every student to notify the Associate Dean of Student Life of any felony or misdemeanor arrests occurring at any time after the student pays his/her/their admissions deposit through graduation or separation from the institution, regardless of geographic location of the arrest or specific crime alleged. Failure to do so may result in conduct charges by the college. The College may review the facts underlying the arrest to determine if there is a concomitant policy violation.

SECTION VI:

Reporting Misconduct, Interim Administrative Action & Administrative Directives

A. Reports of Misconduct

- a. Any person may file a report regarding any student or registered student organization alleging misconduct. Reports shall be prepared in writing and directed to the Associate Dean of Student Life or designee. Individuals are encouraged to visit www.sunywcc.edu/incidentreportforms to file an incident report with the College.
- b. While timeliness for submitting a report is preferable, there is no deadline to file a report of alleged misconduct.
- c. The Associate Dean of Student Life or designee shall determine if a complaint alleges or addresses a potential violation of the *Student Code of Conduct* and will notify the accused of such allegations. The decision to continue a complaint through the conduct process is the decision of the Associate Dean of Student Life or designee.
- d. Generally, the Associate Dean of Student Life or designee will assign a Student Conduct Officer(s) to the case who will investigate and continue through the conduct process as deemed necessary and appropriate.
- e. The student conduct process may be initiated regardless of a student's current enrollment status. This includes conduct that occurs before classes begin or after classes end as well as during the academic year and during periods between terms of actual enrollment. If a student withdraws from the College, the college can place a hold on a student's account prohibiting them from re-enrolling in courses until the conduct process is completed or the college reserves the right to the pursue student conduct process following the withdrawal. Should suspension or dismissal take place as a result of the disciplinary process, these sanctions supersede a withdrawal from the College.
- f. If a student who has completed degree requirements is charged with a violation prior to graduation or the conferral of the degree, the student will be ineligible to graduate until student conduct action on the case is completed and eligibility to graduate is confirmed. If the student conduct action results in suspension, the student will be ineligible to graduate until the term of the suspension has been served.

NOTE: Reports of Sexual Misconduct are treated separately from other reports of misconduct. Information regarding reporting, responding to, investigating, and placing interim measures for reports of Sexual Misconduct and can be found in the College's Response to Sexual Violence policy found at: www.sunywcc.edu/titleix

B. Interim Administrative Action

- a. Interim administrative action is not a sanction, but is taken in an effort to protect the safety and well-being of the accused/Respondent, Reporting Individual, of others, of the College, or of property. Interim administrative action is preliminary in nature; it is in effect only until there is a final resolution of the student conduct matter up to and including the finalization of the appeal process.
- b. The Associate Dean of Student Life or designee may impose an immediate interim suspension, an interim removal from a class, an interim loss of recognition, and/or other necessary interim restrictions on the accused/Respondent prior to the adjudication of the alleged violation.
- c. In all cases, Interim Administrative Action may be taken when, in the professional judgment of the Associate Dean of Student Life or designee, the continued presence of

the student would constitute a danger to the safety or well-being of persons or property or if the student poses a definite threat of disruption of or interference with the normal operations of the college.

- d. During an Interim Suspension, students shall be denied access to college premises (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible.
- e. Should the accused/Respondent wish to appeal or modify the parameters of an imposed interim administrative action, they must do so in writing to the Vice President of Student Access, Involvement or Success or their designee in writing within three (3) business days of the receipt of the interim letter. The decision of the Vice-President or their designee is final.

C. Administrative Directives

- a. Administrative Directives are official directions/instructions of a College official acting in the performance of his or her duties. Students must comply with these directives. Examples of administrative directives include, but are not limited to:
 - i. **No Contact Order:** an official notification to the accused/Respondent that they must no longer contact another person(s), referred to as the protected individual/person. Continuing to contact the protected individual/person is a violation of college policy subject to conduct charges. If the accused/Respondent and the protected individual/person observe each other in a public place, it is the responsibility of the accused/Respondent to leave the area immediately and without directly contacting the protected person. The College may establish an appropriate schedule for the accused/Respondent to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the Reporting Individual.
 - ii. **Cease and Desist:** a written directive to both parties prohibiting contact with each other, either directly or through a third party.

A College official may issue a Cease and Desist Order between any two parties even if there is no investigation in progress and/or no conduct charges pending. A Cease and Desist Order can also be issued in cases in which conduct proceedings have concluded and did not result in a finding of responsibility.
 - iii. **Campus Restriction:** A student may be restricted from appearing in any or all of the buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community. Other restrictions may be imposed such as denial of access to specified campus services or programs.
 - iv. **Class Relocation:** A student may be relocated to another section of the same course if it is reasonably believed that the student poses a threat to the health, safety or normal operations of the campus community.
- b. Should a student wish to appeal or modify the parameters of an imposed Administrative Directive, they must do so to the Vice President of Student Access, Involvement or Success or their designee in writing within three (3) business days of the receipt of the interim letter. The decision of the Vice-President or their designee is final.

Section VII: Student Conduct Process

The student conduct process utilizes a “preponderance of evidence” standard of proof, which evaluates whether it is more likely than not that a violation occurred.

A. Administrative Conference

- a. The Administrative Conference is a meeting between a Respondent and a Student Conduct Officer to review a complaint/incident, explain the student conduct process, and possible options for resolving the matter. Prior to the scheduled meeting, the Student Conduct Officer may conduct an investigation into the charges and incident.
- b. Administrative Conferences will be scheduled around a student’s academic schedule.
- c. Generally, during an Administrative Conference, the Student Conduct Officer will ask the Respondent whether or not they accept responsibility for the charges.
 - i. A Respondent who acknowledges responsibility shall have the opportunity to resolve the case with the Student Conduct Officer by agreeing to an appropriate sanction. Respondents who agree to resolve the case in this manner shall have no right to appeal. If the Respondent does not accept an appropriate sanction from the Student Conduct Officer, but the Student Conduct Officer has determined that the preponderance standard has been met, a sanction may be imposed. Imposed sanctions may only be imposed in cases where sanctions will not result in suspension or expulsion. In such circumstances, where a sanction is imposed, the Respondent maintains the right to appeal the decision as described in Section X.
 - ii. If a Respondent does not acknowledge responsibility, but the Student Conduct Officer has determined that the preponderance standard has been met, a sanction may be imposed. Imposed sanctions may only be applied in cases where sanctions will not result in suspension or expulsion. In such circumstances, where a sanction is imposed, the Respondent maintains the right to appeal the decision as described in Section X.
 - iii. If a Respondent does not acknowledge responsibility and the Respondent is facing suspension or expulsion, a Hearing will be scheduled. The Student Conduct Officer reserves the right to refer any case to a Hearing should they choose.
- d. If the Respondent fails to attend a scheduled Administrative Conference, the Student Conduct Officer may impose a sanction if they feel the preponderance of evidence standard has been met using the information available. In such circumstances, where a sanction is imposed, the Respondent maintains the right to appeal the decision as described in Section X.
- e. Excluding the Student Conduct Officer, participants are prohibited from making their own recording (including, but not limited to audio, photographic, video, and/or written recording). It is up to the discretion of the Student Conduct Officer if they chooses to record the meeting. The College will maintain any audio recordings created as required by New York state law. Recordings are the property of the College. Upon written request, a Respondent may review the audio recording and make appropriate arrangements for it to be transcribed on College premises. Arrangements for a transcriber

and all associated costs involved in the transcription will be the sole responsibility of the requesting individual.

- f. Admission of any person into the Administrative Conference shall be at the discretion of the Student Conduct Officer. Generally, there will be no other individuals allowed in the meeting besides the Respondent and the Student Conduct Officer.
- g. The Respondent shall each have the right to:
 - i. Receive advance notice of at least five (5) calendar days of the date, time and location of the Administrative Conference they are required to or are eligible to attend. This notification will also include a written statement of the violations to the Student Code of Conduct that the Respondent is being charged with. Proper written notification shall be defined as hand-delivery by campus staff, delivery of information via electronic message to a student's assigned campus e-mail account, or delivery by the U.S. Post Office to a student's local off-campus address. Students shall be held responsible for the contents of mail for which they have refused receipt
 - ii. An opportunity to present truthful and accurate information about the incident.
 - iii. Request a delay or continuance of the administrative conference to review the information and evidence presented. The Student Conduct Officer will determine the validity of the request and if the delay will be granted. Delays of this nature can be made for up to five (5) business days from the date of the Administrative Conference.
 - iv. A written statement of the outcome of the meeting and a description of the appeal procedure (if applicable).
- h. Cases of sexual misconduct cannot be adjudicated through an Administrative Conference and will follow a conduct process described in Section IX.

B. Hearing

Note: Hearings involved sexual misconduct cases will have special procedures and processes described in Section IX.

At the discretion of a Student Conduct Officer or when the Respondent is facing suspension or expulsion a hearing will be scheduled. A Student Conduct Officer will generally serve as the Complainant at the Hearing.

a. Hearing Officers & Hearing Participants

- i. The Associate Dean of Student Life or designee will assign two to three Hearing Officers to conduct a hearing, with one individual being designated as the Hearing Chair. Hearing Officers are designated and trained by the Associate Dean of Student Life annually. Hearing Officers are College officials. They may conduct hearings on any type of alleged violation of the *Student Code of Conduct*. Hearing Officers may impose any sanction deemed appropriate.
- ii. The hearing participants generally include the Reporting Individual, Respondent(s), a Complainant, witnesses, two to three Hearing Officers, and any support persons/advisors.

b. Evidence

- i. An essential component of any hearing is the determination, using a preponderance of evidence, and the weighing of the facts that pertain to the

allegation(s). Therefore, it is vital that personal statements and other information be presented clearly and factually. All participants are expected to be respectful of each other's purpose in the hearing process and to conduct themselves according to the direction of the hearing body. In an effort to be as fair as possible to the Complainant and Respondent, student conduct procedures may be modified by the Hearing Officers.

Evidence, to include but not limited to written documents, photographs, videos, and witness names, to be presented by the Complainant(s) and Respondent(s) during any hearing should be sent to the Office of the Associate Dean of Student Life at least two (2) business days in advance of the scheduled hearing so it can be shared with the opposing party. The Hearing Officers may, in their sole discretion, exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The Hearing Officers will make the final decision related to the admissibility of all evidence. Information presented by a student during a hearing that indicates a potential violation of the *Student Code of Conduct* may be adjudicated at a future time. Character witnesses are generally not permitted.

c. Student Rights in a Hearing

When a student, the Complainant and Respondent shall each have the right to:

- i. Receive advance notice of at least five (5) calendar days of the date, time and location of any meeting or hearing they are required to or are eligible to attend. This notification will also include a written statement of the violations to the Student Code of Conduct that the Respondent is being charged with. Proper written notification shall be defined as hand-delivery by campus staff, delivery of information via electronic message to a student's assigned campus e-mail account, or delivery by the U.S. Post Office to a student's local off-campus address. Students shall be held responsible for the contents of mail for which they have refused receipt
- ii. A prompt and impartial hearing;
- iii. An investigation and adjudication 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.
- iv. Request a delay of a hearing date of up to five (5) business days due to a reasonable extenuating circumstance(s). The Associate Dean of Student Life or designee will determine the validity of the request and if the delay will be granted. Requests for a delay must be submitted at least two (2) business days prior to a scheduled hearing date;
- v. Be notified of the proposed evidence and information to be presented and to know the identity of witnesses who have been called to speak at the hearing or provide written testimony for the hearing when such information is known by the Associate Dean of Student Life or designee prior to the hearing.
- vi. Present evidence, testimony, witnesses, and witness statements when deemed appropriate and relevant by the Hearing Officers.
- vii. Ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present. This

method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. It will be left to the discretion of the Hearing Officers whether or not to ask requested questions of other parties.

- viii. One support person/advisor from the College, who is a full time employee of the institution, of his/her choosing. This support person/advisor may attend but may not participate or speak during the process. A student should select a support person/advisor whose schedule allows attendance at the scheduled date and time for the administrative hearing because delays will not normally be allowed due to the scheduling conflicts of a support person/advisor.
- ix. Be present at the pertinent stages of the hearing process as indicated by the Associate Dean of Student Life or designee. The deliberations of the hearing body are private.
- x. Respond truthfully and accurately to statements and other information presented at the hearing.
- xi. Present a written impact statement to the Hearing Officers to review if a finding of “responsible” is made and Hearing Officers are deliberating sanctions. Impact statements outline the reporting individual’s or respondent’s thoughts or opinions regarding an appropriate sanction. The Hearing Officers are not bound by these statements in determining sanctions.
- xii. Have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.

A student Respondent shall also have the right to:

- i. A written notification of the outcome of the hearing and a description of the appeal procedure no later than ten (10) business days after the hearing.
- ii. Appeal the decision (see Section X).

d. Hearing Procedures

A hearing is conducted differently from legal proceedings and shall generally be conducted in accordance with the procedures listed below:

- i. A hearing shall be closed and not open to the public. Admission of any person into the hearing room shall be at the discretion of the Hearing Officers. The Hearing Officers shall have the authority to remove any person whose presence is deemed unnecessary or obstructive to the proceedings.
- ii. When a hearing involves more than one Respondent, the Associate Dean of Student Life or designee may, at their discretion, permit the hearings to be conducted either separately or jointly.
- iii. If a Respondent, after receiving notification, does not appear for a hearing, the hearing will proceed without the Respondent and a finding will be made based upon the information available and sanction(s) imposed, if appropriate.
- iv. The Complainant and Respondent shall each have the opportunity to present opening statements, present evidence and ask relevant questions.
- v. The Complainant and the Respondent may arrange for witnesses to present pertinent information to the Hearing Officers. The Hearing Officers, the

Respondent, and Complainant reserve the right to question the witnesses in a manner prescribed by the Hearing Officers.

- vi. The Respondent, Complainant, and any witnesses will provide information to and answer questions from the Hearing Officers.
- vii. After the portion of the hearing concludes in which all pertinent information has been received, the Hearing Officers shall deliberate in private whether the Respondent has violated each section of *The Student Code of Conduct* which the student had been charged with violating.
- viii. The Hearing Officers' determination shall be made based on the preponderance of the evidence, meaning whether it is more likely than not that the Respondent violated the *Student Code of Conduct*.
- ix. When a student Respondent is found "responsible" for a violation(s), the hearing body shall continue private deliberations to impose appropriate sanction(s) and may review the student's academic transcript, student conduct history, and impact statement(s).
- x. All procedural questions are subject to the final decision of the Hearing Officers. Procedural questions may be asked at any point during the course of the hearing by any participant, with the exception of the support person/advisor.

e. Recordings

Hearings may be recorded by the College and, if recorded, the College will maintain the audio recordings as required by New York state law. Recordings are the property of the College. Participants are prohibited from making their own recording (including, but not limited to audio, photographic, video, and/or written recording). Upon written request, a Respondent or Complainant may review the audio recording and make appropriate arrangements for it to be transcribed on College premises. Arrangements for a transcriber and all associated costs involved in the transcription will be the sole responsibility of the requesting individual.

SECTION VIII: Sanctions

The following are sanctions that may be imposed on individuals and/or groups found in violation of *The Student Code of Conduct*:

- a. **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) could result in more severe sanctions which could include probation, suspension, or expulsion. This is not a referral, but rather a written instruction from the College to the student with the expectation that the student modifies future behavior in accordance with the Warning.
- b. **College Probation**: is a higher-level sanction issued for serious violations or a pattern of violations of the *Student Code of Conduct*. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student commits another violation during the probationary period. During the probation period, a student may be excluded from some programs and curricular or extra-curricular activities.
- c. **Course Withdrawal**: is an involuntary withdrawal from one or more courses for that current semester due to certain violation or a pattern of violations of the *Student Code of Conduct*. The student will receive a "W" on their transcript for the course(s) they are involuntary withdrawn from. This sanctions carries with it the penalty of forfeiting any tuition or fees associated with the course they is involuntary withdrawn from.
- d. **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. A student who is suspended is unable to register for and attend classes, participate in any College activities, or be present on College property. Suspension is a severe sanction and the student forfeits tuition and fees and does not receive academic credit for the semester in which the suspension occurred.

The student is not guaranteed readmission at the end of the designated period, but a review regarding eligibility for readmission is guaranteed if a student submits the necessary information. The student must apply in writing for reinstatement to the Vice President for Student Access, Involvement and Success. The student must provide evidence that all conditions for readmission are complete at the time of the request for reinstatement. The Vice President may also request additional information they believes will aid them in assessing the student's readiness for reinstatement. The Vice President shall determine if the student is ready for reinstatement. If reinstatement is granted, the student may reenroll for courses beginning the next academic term. If reinstatement is denied, the student will remain suspended for another definite period, determined by the Vice President, at which time they may reapply for readmission again at the close of that next period of time. The decision of the Vice President is final.

Students can submit requests for readmission by visiting www.sunywcc.edu/studentforms and clicking on the "Readmission After Disciplinary Suspension Request" link.

- e. **Expulsion**: is an involuntary and permanent separation from the College and will be invoked where extreme violations of the *Student Code of Conduct* occur. A student who is expelled is permanently prohibited from being on any property of the College, attend any events/activities of the College, and shall not be readmitted to the institution.

Expulsion is a severe sanction and the student forfeits tuition and fees and does not receive academic credit for the semester in which they were expelled.

- f. **Secondary Sanctions:** The following may be imposed instead of or in addition to those specified above. Secondary sanctions include, but are not limited to:
- i. **Restitution:** may be assigned when College property is damaged. An assessment of the damage will be made by the appropriate College department and/or personnel. The responsible student(s) may be billed as appropriate. Restitution for personal property cannot be resolved via the Student Conduct system.
 - ii. **Educational activities:** may be assigned, which can include, but are not limited to: reflective writing assignment, attendance at events, participation in alcohol/drug education programs, community service, and by-stander intervention programs.
 - iii. **Restrictions/Loss of Privileges:** to any and all College buildings or grounds, to specific College services or programs may be imposed.
 - iv. **Mandated counseling, psychiatric or threat assessments:** may be imposed on individuals who pose a threat to themselves or others. Assessments may be assigned for online programs, with on-campus resources, or through off-campus services at the student's expense.
 - v. **No Contact Order:** is a written directive prohibiting contact with a protected individual, either directly or through a third party. If the accused or Respondent and a protected person observe each other in a public place, it is the responsibility of the accused or Respondent to leave the area immediately and without directly contacting the protected person.
 - vi. **Parental Notification:** occurs when, in accordance with the Federal Educational Rights and Privacy Act (FERPA), students are under the age of 21 and found responsible for violations of the College's alcohol or drug policies. This notification will typically be in writing.
- g. **Sanctions for Hate or Bias-Related Crimes:** If a student is responsible for a violation that is directed toward an individual or group due to race, color, national origin, ancestry, ethnicity, gender, gender identity or expression, sexual orientation, religion, religious practice, age, physical or mental disabilities, including learning disabilities, and past/present history of a mental disorder, the Student Conduct Officer or Hearing Officer(s) may enhance the sanctions.
- h. **Student Club/Organization Violations:** If a student club/organization is found responsible for a violation, they may receive any sanction listed above and:
- i. **Loss of Recognition:** will result in loss of all College privileges for a student club/organization for a designated period and will require the group to reapply for College recognition. Conditions for future recognition may be specified.

The Associate Dean of Student Life or designee will place an administrative hold on a student's college account when the student fails to complete any sanctions by the assigned deadline. The hold will remain in effect until the assigned sanction(s) are completed.

Refer to the Sanctioning Guide available at www.sunywcc.edu/codeofconduct for more information about sanctions for specific code violations.

SECTION IX: Conduct Process for Sexual Misconduct

The following procedures have been adopted by Westchester Community College to adjudicate complaints regarding sexual misconduct from Reporting Individuals that include violations of the student code to include: (27) Sexual Harassment; (28) Stalking; (29) Intimate Partner Violence (dating violence and domestic violence); and (30) Rape, Sexual Assault, & Sexual Exploitation.

Conduct proceedings are governed by the procedures set forth in Section VI of this document as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions. Hearings involving cases of sexual misconduct will generally follow the procedures outlined in Section VII.B. *Hearings*; however, in the event that there is a conflict between any procedures set forth in this section (Section IX) with any procedures described in any other portion of this code (including Section VII), the procedures set forth in this section (Section IX) will control for cases of sexual misconduct.

All students involved in a hearing, where a student is accused of sexual misconduct will be afforded a hearing adjudicated in a fair, impartial, timely manner that provides a meaningful opportunity to be heard. All students will receive a process conducted by individuals without a conflict of interest, and who receive annual training in conducting hearings 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.

The Associate Dean of Student Life or designee will assign three Hearing Officers, who are College Officials to conduct the hearing, with one individual being designated as the Hearing Chair. Hearing Officers are designated and trained annually. The hearing participants may include the investigating officer, Respondent(s), a Complainant, Reporting Individual, witnesses, three Hearing Officers, the Title IX Coordinator and a support person/advisor for each Respondent or Reporting Individual.

Students who are found responsible for violations of sexual misconduct, including: (27) Sexual Harassment; and/or (28) Stalking; must at minimum receive a sanction of probation. Students who are found responsible for violations of sexual misconduct, including: (29) Intimate Partner Violence (dating violence and domestic violence); and/or (30) Rape, Sexual Assault, & Sexual Exploitation; must at minimum receive a sanction of suspension. Refer to the Sanctioning Guide available at www.sunywcc.edu/codeofconduct for more information about specific sanctions that can be imposed for violations of sexual misconduct.

A. Students’ Bill of Rights

The College is committed to providing options, support, and assistance to members of our community that are affected by sexual assault, sexual harassment, intimate partner violence and stalking, regardless of whether the crime occurred on campus, off campus, or while studying abroad. The rights enumerated in the Student’s Bill of Rights are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. To view a complete list of all of the rights afforded to students in the Student Bill of Rights, please visit: www.sunywcc.edu/studentbillofrights.

A. Policy for Alcohol and/or Drug Use Amnesty in Sexual Misconduct Cases

The health and safety of every student at Westchester Community College is of utmost importance. Westchester Community College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Westchester Community College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a Reporting Individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Westchester Community College's officials or law enforcement will not be subject to Westchester Community College's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault." (Section 6442 Education Law Article 129-B). Nothing in this section shall be construed to limit an institution's ability to provide amnesty in additional circumstances.

B. Student Conduct Process Involving Sexual Misconduct

- a. Reporting Individuals have the right to request that student conduct charges be filed against the accused.
- b. Conduct proceedings are governed by the procedures set forth in Section VI as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
- c. Throughout conduct proceedings, the Respondent and the Reporting Individual will have the right to:
 - i. 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. Advisors may not address the Hearing Officers during a disciplinary hearing, but may speak privately with the advisee during the proceedings.
 - ii. A prompt response to any complaint. The College will conduct timely reviews of all complaints of sexual misconduct. Absent extenuating circumstances, review and resolution is generally completed within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator, Associate Dean of Student Life, or a designee.
 - iii. 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, 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.
 - iv. 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. Respondents will 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.
 - v. 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.

- vi. Offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by the College), including the investigator's findings report, consistent with institution policies and procedures.
- vii. A range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition, if available.
- viii. 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.
- ix. 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.
- x. Written or electronic notice about the sanction(s) that may be imposed on the accused/Respondent 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.
- xi. Access to one level of appeal before a panel that is fair and impartial and does not include individuals with a conflict of interest (Section X.C.)
- xii. Choose whether to disclose or discuss the outcome of a conduct hearing.
- xiii. Have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination, unless otherwise required by law.

C. Interim Administrative Action Process Involving Sexual Misconduct

- c. Interim Administrative Action (Section VI.B.) may be taken and/or Administrative Directives (Section VI.C.) may be issued when, in the professional judgment of either the Associate Dean of Student Life or designee or the Title IX Coordinator or designee, it is deemed that the continued presence of a student would constitute a danger to the safety or well-being of persons or property or if the student poses a definite threat of disruption of or interference with the normal operations of the college.
- a. For cases involving sexual misconduct, both the accused/Respondent and the Reporting Individual shall, upon request, and consistent with college policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of interim administrative action(s), including potential modification and discontinuance, and shall be allowed to submit evidence in support of their request.
 - i. The request for review must be submitted in writing to the Vice President of Student Access, Involvement and Success or designee within three (3) business days of the receipt of the interim administrative action letter. The decision of the Vice-President or their designee is final.

SECTION X: Appeals

An appeal is a process to request the review of the original student conduct outcome. Resolutions reached by an Administrative Agreement are not eligible for an appeal, unless a sanction was imposed by the Student Conduct Officer. For Hearings, the Respondent has the right to submit one application for appeal. In cases of Sexual Misconduct, both the Reporting Individual and Respondent have the right to appeal and are governed by different appeal procedures per Section X.C. An appeal does not rehear a student conduct case, but rather, determines if the conclusion reached in the original case is valid based on substantiation of a procedural error, new evidence, or the severity of the sanction.

a. Grounds for Appeal

The application for an appeal may only be filed on the grounds below and must meet at least one of the three standards to be considered for appeal as determined by the Vice President of Student Access, Involvement & Success:

- i. **Procedural Error**: is when the hearing was not conducted in conformity with the policies and procedures detailed in the *Student Code of Conduct*, and as a result, the outcome of the case was significantly impacted. A procedural error and its impact on the case must be clearly described in the appeal.
- ii. **Sanction Severity**: is when a sanction(s) was not appropriate for the violation(s) of the *Student Code of Conduct*. Evidence must show that the sanction is inappropriate based on the infraction.
- iii. **New Evidence**: refers to new evidence that was unavailable during the original hearing or investigation that could significantly impact the original finding or sanction. A summary of the new evidence and its potential impact must be included. This does not include information available but not disclosed at the Hearing/Administrative Conference by choice (i.e. opting not to disclose or a Respondent not attending a Hearing/Administrative Conference).

b. Appeal Procedure for Cases Not Involving Sexual Misconduct

- i. An appeal must be submitted within five (5) business days of the decision of the Hearing Officers or a Student Conduct Officer. All appeals shall be in writing and shall be delivered to the Vice President of Student Access, Involvement & Success or designee. They shall determine if the appeal is timely and meets the grounds for appeal. The original decision and sanction will stand if the appeal is not timely or does not meet the grounds for appeal and the decision will be final.
- ii. If the grounds for the appeal are met and the appeal is timely, it will be reviewed based on the preponderance of evidence standard. Except as required to explain the basis of new information, an appeal shall be limited to a review of the student conduct file. The audio recording of the hearing shall be available to the Vice President for review as necessary.
- iii. After reviewing an appeal that is deemed both timely and having met the necessary grounds, the Vice President of Student Access, Involvement & Success may uphold the original decision, reverse the decision, add or remove sanctions, or charge another hearing with new Hearing Officers. If the original decision is upheld, reversed or if sanctions are added or removed, this decision will be final and binding upon all parties. If a new board is convened, the process will follow the same rules as the original process.

iv. Written notification will be sent to the Respondent.

c. Appeals for Sexual Misconduct

In such cases, the Reporting Individual and Respondent will receive written notification of the Hearing Officer's decision and either party can then submit an application for appeal within five (5) business days according to the procedures described above.

If one party submits an application for an appeal, the non-requesting party will receive notice that an appeal was submitted and may then submit either his/her own appeal or a written response to the requesting party's appeal within five business days of the notification. If both parties appeal, the appeals will be considered concurrently.

Appeals will be reviewed by a three-member appeal panel consisting of Vice-President and Dean of Student Access, Involvement and Success and two other designated College members of the Vice President's choice who were not involved with the original case. The appeal panel, by majority vote, may uphold the original decision, reverse the decision or charge another hearing with new Hearing Officers. If the original decision is upheld, reversed or if sanctions are added or removed, this decision will be final and binding upon all parties. If a new board is convened, the process will follow the same rules as the original process. The results of any appeal will be communicated in writing to the Reporting Individual/Complainant and the Respondent by Vice-President and Dean of Student Access, Involvement and Success. This letter will include the underlying decision, sanction, and rationales for decision and sanction.

SECTION XI:

Special Disciplinary Provisions Governing Acts of Academic Dishonesty

Academic dishonesty is both an academic matter between a student and his/her faculty member and a violation under the Student Conduct Code. 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 academic dean. Sanctions that can be assigned by a faculty member range from giving a reduced grade on the work in question to failing the student for the entire course. A sanction assigned by a faculty member is an academic sanction, not a disciplinary sanction and is independent of any disciplinary actions taken against the student by the College.

If the matter is resolved satisfactorily between the student and the faculty member, 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.

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*.

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 XII:

Student Disciplinary Files and Student Records

The Associate Dean of Student Life or designee will establish a student disciplinary file whenever a case is reported for a possible violation. The file of a student found to have violated the Student Code of Conduct will be retained for five years from the date of the sanction. Student conduct records may be retained longer or permanently if the student was suspended or expelled 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. The release of student disciplinary records will be governed by applicable federal and state laws governing the privacy of educational records.

For disciplinary complaints involving withdrawal prior to a disciplinary hearing or administrative conference, suspension, or expulsion, the student's academic transcript shall be noted as follows:

- *Withdrawal with Conduct Charges Pending:* For alleged policy violations, the Associate Dean of Student Life can direct that a hold be placed on a student's account who withdrew or leaves the college prior to the disposition of the alleged violation. The College also reserves the right to adjudicate a case regardless of a student's enrollment, per Section VI.A.e. Transcript comment reads: "Withdrew with conduct charges pending on (date)." The notation will remain on the transcript until appropriate disposition of the violation has been made.
- *Suspension:* Student receives W grade according to established guidelines. Transcript comment reads: "Suspended after a finding of responsibility for a Code of Conduct violation from (date) to (date)." For suspensions related to crimes of violence, hazing or other serious violations, the notation will permanently remain on the transcript. For others, the notation will remain on the academic transcript at least for the period of suspension plus one year. At that time, the student may petition to have the notation removed. The Associate Dean of Student Life may have the notation restored if the individual becomes involved in any disciplinary incident on campus or in any criminal action in connection with the College.
- *Expulsion:* Student receives W grades according to established guidelines. Transcript comment reads: "Expelled after a finding of responsibility for a Code of Conduct violation on (date)." Comment shall not be removed.

NOTE: If a finding of responsibility is vacated for any reason, any transcript notation shall be removed from a student's record.