



Student

Board of Trustees Policy

SUBJECT: Student Code of Conduct	NUMBER: 3.1
	DATE: August 16, 2021 Resolution # 21-87
	SUPERSEDES: August 17, 2020, Resolution #20- Resolution 16-94

This policy document directly relates to the Student Code of Conduct,
of the SUNY Schenectady Board of Trustees, as hereto attached.

Student Code of Conduct

I. POLICY STATEMENT

Students enrolling at SUNY Schenectady County Community College (“SUNY Schenectady” or the “College”) assume an obligation to conduct themselves in a manner compatible with the academic standards, policies, procedures, rules and regulations of the College and its entities. This SUNY Schenectady Student Code of Conduct (the “Code”) defines the expectations, rights and responsibilities of all members of the student body. Students are members of the College community and are expected to act responsibly and to not interfere with the rights, comfort, or safety of other members of the College community. All students are held accountable for their actions. Behavior that adversely affects the student’s responsible membership in the academic community shall result in appropriate disciplinary action.

II. NONDISCRIMINATION

SUNY Schenectady applies the protections set forth in this Code 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, criminal conviction, or other characteristic protected by law. Students may exercise civil rights and practice religion without interference by SUNY Schenectady’s investigative, criminal justice, or judicial or conduct process.

III. PURPOSE OF THE CODE

This Code 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 responses 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 of the Education Law of the State of New York, this Code outlines the practices to be utilized in administering the student disciplinary system at SUNY Schenectady.

Other SUNY Schenectady policies and procedures referenced in this Code include:

- Title IX Grievance Policy - <https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Human%20Resources/2.2-3-3.19-TitleIXGrievancePolicy.pdf>
- Sexual Assault, Relationship Violence, and Stalking Policies for Students and Employees (“Sexual Misconduct Policy”) - <https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Student/3.16-SexualAssault-RelationshipViolence-Stalking.pdf>
- Discrimination, Harassment, and Retaliation Policy and Complaint Resolution Procedure - <https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Student/3.15-Procedure-ResolvingComplaints-DiscriminationHarassmentRetaliation.pdf>

IV. PHILOSOPHY

The Code embraces several core philosophies: preservation of the freedom of speech and the rights 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 and appreciates differences. Procedures used to enforce standards contribute to teaching appropriate individual and group behaviors as well as protecting the rights of individuals and the campus community from disruption and/or harm. The disciplinary experience is intended to make clear to students the limits of acceptable behavior and to provide students who violate the Code an opportunity to more fully understand the rules and incorporate the experience into their personal growth and development. The disciplinary experience is designed to be both educational and corrective.

V. DEFINITIONS

- A. The term “**affirmative consent**” means 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.

- 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.
 - Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
 - Consent may be initially given but withdrawn at any time.
 - 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.
 - Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
 - When consent is withdrawn or can no longer be given, sexual activity must stop.
- B. The term “**Appeals Board**” means a board of between one and three members designated by the Vice President of Student Affairs to consider an appeal from a Hearing Board’s determination, and/or from the sanctions imposed by the Hearing Board. No members of a Hearing Board may serve on an Appeals Board reviewing the same or a similar complaint. No member of the Appeals Board may have a conflict of interest or bias against any party to a Code complaint.
- C. The “**Vice President of Student Affairs**” is the senior officer designated by the President of SUNY Schenectady to be responsible for the administration of the Code. The Vice President, or designee, is responsible for the day to day administration of the Code.
- D. The term “**business day**” is defined as any day from Monday through Friday, but does not include days when the College is closed.
- E. The term “**bystander**” shall mean a person who observes a Sexual Offense, crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of SUNY Schenectady.
- F. The term “**complaint**” means a complaint filed by or on behalf of a member of the College community.
- G. The term “**complainant**” means the College on behalf of an individual or department in SUNY Schenectady community, and/or the reporting individual. If the College brings the complaint on behalf of the reporting individual, the College shall be the complainant and the reporting individual shall be a co-complainant.
- H. The term “**crime of violence**” means murder, Sexual Offense, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, and arson.
- I. The term “**Hearing Board**” means a board of three members of the Hearing Board Panel designated by the Vice President. No member of the Hearing Board may have a conflict of interest or bias against any party to a Code complaint. The Vice President shall designate one member to serve as the Chair of the Hearing Board.
- J. The term “**Hearing Board Panel**” means a group of faculty, staff, and students designated by the Vice President of Student Affairs to hear complaints or charges brought under this code. Members of the Hearing Board Panel receive annual training in conducting reviews 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, SUNY Schenectady’s Title IX Grievance Policy and Sexual Misconduct Policy, and other issues related to sexual assault, domestic violence, dating violence, and stalking. The Vice President of Student Affairs will designate members of a Hearing Board from the Hearing Board Panel.
- K. The term “**member of the College community**” includes any person who is a student, faculty member, employee, SUNY Schenectady official, or volunteer. A person’s status in a particular situation shall be determined by the Vice President of Student Affairs.
- L. The terms “**respondent**” or “**accused**” are used interchangeably and mean the person accused of a violation pursuant to this Code.
- M. The term “**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 a violation.

- N. The term “**Sexual Offense**” means sexual activity, sexual assault, relationship violence, and/or stalking, as defined in SUNY Schenectady’s Title IX Grievance Policy and/or Sexual Misconduct Policy.
- O. The term “**SUNY Schenectady premises**” includes all land, buildings, facilities, vehicles, and other property used, or in the possession of, or owned or controlled by SUNY Schenectady (including adjacent streets and sidewalks.)

VI. STUDENTS’ BILL OF RIGHTS

The State University of New York and SUNY Schenectady are committed to providing options, support and assistance to victims and survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All victims and survivors of these crimes and violations, 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, criminal conviction, or other protected characteristics have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

A. All students have the right to:

1. Make a report to:
 - An employee with the authority to address complaints, including the Title IX Coordinator, a Student Affairs employee, or a Human Resources employee;
 - Campus Security;
 - Local law enforcement and/or the New York State police;
 - Family Court or Civil Court.
2. Confidentially or anonymously disclose a crime or violation and have the report taken seriously;
3. Make a decision freely about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the College;
4. Be treated with dignity and receive courteous, fair, and respectful health care and counseling services, where available;
5. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or that you should have acted in a different manner to avoid such crime or violation;
6. Describe the incident to as few SUNY Schenectady representatives as practicable and not be required to unnecessarily repeat a description of the incident;
7. Be free from retaliation by the College, the accused, the respondent, and/or their friends, family and acquaintances;
8. Access to at least one level of appeal of a final determination;
9. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and; and
10. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

B. Options in Brief:

Victims/survivors have many options that can be pursued simultaneously, including option to pursue one or more of the following:

- Receive resources, such as counseling and medical attention;
- Confidentially or anonymously disclose a crime or violation;
- Make a report to:
 - An employee with the authority to address complaints, including the Title IX Coordinator, a Student Conduct employee, or a Human Resources employee;
 - Campus security;

- Local law enforcement; and/or
- Family Court or Civil Court.

A complete description of all options for victims and reporting individuals can be found in SUNY Schenectady's Sexual Misconduct Policy.

VII. JURISDICTION

The College will have jurisdiction over misconduct that occurs on College premises and/or at College sponsored activities. The College may also address off campus behavior if the College determines that the behavior, or the continued presence of the student engaging in such behavior impairs, obstructs, interferes with or adversely affects the mission, processes or functions of the College. The College will also have jurisdiction over Sexual Offenses that occur on or off campus, or while students are studying abroad.

VIII. STUDENT AMNESTY POLICY

The health and safety of every student at the State University of New York and SUNY Schenectady is of utmost importance. SUNY Schenectady 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. SUNY Schenectady strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to SUNY Schenectady officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SUNY Schenectady's officials or law enforcement will not be subject to SUNY Schenectady'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.

IX. VIOLATIONS.

- A. **Referrals.** Complaints, incidents, or referrals regarding student behavior as hereinafter described in paragraph "B" should be reported to the Division of Student Affairs (Room 222, Elston Hall). The Vice President of Student Affairs, or designee, will review each report and determine the action to be taken.
- B. **Behavior Subject to Discipline.** All of the following behaviors are a violation of the Code and may subject a student to disciplinary action as set forth below. A violation occurs when there is evidence of a student having committed actual misconduct, attempting to commit misconduct but not completing the violation (i.e. offering to sell illegal substances to an individual who does not buy them or trying to steal an item but stopping or being stopped before removing the item from its location), assisting or convincing another person to commit misconduct, and misconduct or attempted misconduct by a student's guest.
 1. **ACADEMIC MISCONDUCT.** Commission of an act which violates the academic integrity of SUNY Schenectady as detailed in section G-2 of the Academic Code, including, but not limited to, academic cheating; plagiarism; the sale, purchase or exchange of papers, or research; or theft of another's work from any source is a violation of the Code.
 2. **ALCOHOLIC BEVERAGE VIOLATION.** Except for appropriate classroom activities or approved student activities, the possession and/or consumption of any alcoholic beverage is a violation of this College Code. Possession and/or consumption of alcoholic beverages by students participating in a College club or College sponsored trip or an off-campus activity is also prohibited. Any action that involves the forced consumption of alcohol for the purpose of initiation into or affiliation with any organization is also strictly prohibited, and will be subject to disciplinary action.
 3. **DRUGS AND/OR DRUG PARAPHERNALIA.** Possession or use of any illegal federal or state controlled substance, drug, or drug paraphernalia are prohibited on campus and at campus sponsored events. Such possession or use will be reported to local and state authorities and will also be subject to disciplinary action by the College. Students are also prohibited from using or possessing cannabis and cannabis products on campus and/or at campus sponsored events. Any action that involves the forced consumption of illegal drugs for the purpose of initiation into or affiliation with any organization is also strictly prohibited, and will be subject to disciplinary action. The College will cooperate with local and state authorities on any cases of suspected illegal use, possession or distribution of state-controlled drugs.
 4. **COMPUTER MISUSE.** Engaging in any unauthorized use of the College's hardware, software, or network systems is prohibited, including:

- A. unauthorized access, entry, or use of a computer, computer system, network, software, password, account or data,
 - B. unauthorized alteration or tampering with computer equipment, software, network, or data
 - C. unauthorized copying or distribution of computer software or data, use of computer facilities' equipment to send obscene, harassing, threatening or abusive messages or images,
 - D. use of computers to falsify records, tamper with records or commit any act of academic dishonest;
 - E. Any other act in violation of the law and/or the College policies and guidelines regulating computer-related use.
5. **CRIMINAL ACTS.** Any alleged criminal act committed by a student off campus, which is of such serious nature that it threatens the health or safety of the College community, is a violation of this Code.
 6. **DEMONSTRATIONS.** Any individual or group behavior which endangers life, public or private property or violates local, state or federal law is a violation of the Code.
 7. **DISCRIMINATION.** It is a violation of the code to engage in unlawful Discrimination, as defined in SUNY Schenectady's Procedure for Resolving Complaints of Discrimination, Harassment, and Retaliation.
 8. **DISHONESTY.** The falsification of information which includes any form of providing false or misleading information in writing, orally, or electronically in a manner which has the intent or effect of deceiving college personnel, or altering or falsifying official College records or documents; and/or the misrepresentation of oneself as an agent of the College is a violation of the Code.
 9. **DISRUPTIVE CONDUCT.** Any behavior that substantially threatens, harms, or interferes with the peace and good order of the College community, students, visitors, personnel and/or other College processes and functions, including but not limited to, lewd, indecent, or obscene conduct or expression; unreasonable and disruptive noise; public intoxication; or prohibited athletic activity on College owned or controlled property or at a College sponsored or supervised function is a violation of the Code.
 10. **FAILURE TO COMPLY.** The willful obstruction and/or the failure to comply with the directions of any College officials acting in performance of their prescribed duty; failure to provide valid student identification upon request of a College official; failure to comply with all regulations regarding student conduct on campus, and/or any violation of a College policy or procedure is a violation of the Code.
 11. **FIRE SAFETY VIOLATION.** Violation of campus safety regulations, including but not limited to, setting unauthorized fires, tampering with fire safety and/or firefighting equipment or rendering such equipment inoperable, pulling or turning in a false fire alarm, tampering or improper use of campus emergency phones, falsely reporting a hazard, or failure to evacuate facilities upon the sounding of a fire alarm or drill is a violation of the Code.
 12. **GAMBLING.** Gambling for money or prizes except for approved college activities is prohibited on College owned or controlled property or at any College sponsored or supervised function is a violation of the Code.
 13. **HARASSMENT.** It is a violation of the code to engage in sexual or other unlawful Harassment, as defined in SUNY Schenectady's Procedure for Resolving Complaints of Discrimination, Harassment, and Retaliation.
 14. **IDENTIFICATION CARD VIOLATION.** SUNY Schenectady identification cards should be carried at all times and must be produced, upon request, to any college personnel. The use of an identification card by anyone else other than the rightful owner is a violation of the Code.
 15. **REMOVAL OF LIBRARY BOOKS AND MATERIALS.** Removal of books or other materials from the College Library in violation of the normal checkout procedures is a violation of the Code. Students with such materials and books in their possession will be considered as knowingly participating in the use of stolen materials.
 16. **RETALIATION.** It is a violation of the code to engage in unlawful Retaliation, as defined in SUNY Schenectady's Procedures for Resolving Complaints of Discrimination, Harassment, and Retaliation, Sexual Misconduct Policy, and in the Title IX Grievance Policy.
 17. **SANCTION VIOLATION.** Violations of a College judicial sanction including, but not limited to, failing to meet the terms of the sanction, failure to complete a specified condition or assignment of a sanction, or violating the Student Code of Conduct when on disciplinary probation is a violation of the Code.

18. **SEXUAL OFFENSE.** It is a violation of the code to engage in a Sexual Offense, as defined in this Code, and in SUNY Schenectady's Sexual Misconduct Policy and Title IX Grievance Policy.
19. **SOLICITING.** The advertisement, solicitation or sale of any item or service on College property, unless a part of an approved club activity, is a violation of the Code unless the prior approval of the Vice President of Student Affairs, Vice President of Administration or College President has been secured.
20. **THEFT.** Theft or attempted theft of the property or services of the College, any organization, or any individual by means of taking, selling, deceiving, misappropriating, or misusing, as well as receiving and or possessing such stolen property is a violation of the Code.
21. **THREAT OF HARM.** Conveyance of threats or the commission of any act which results in, or which may result in, harm to any person or the damage to College property or the property of others by willful and deliberate means is a violation of the Code. This offense includes any form of harassment, physical assault, verbal abuse, threatening or attempting physical assault upon any person not to include dating violence, domestic violence or sexual misconduct, or threats to destroy College property or the property of others. Any action or behavior that endangers the health, safety or welfare of any member of the College community or visitors is a violation of this Code.
22. **TRESPASSING.** Unauthorized entry, use or occupancy of any building, structure, facility or college grounds is a violation of the Code.
23. **VANDALISM.** The intentional and/or reckless, but not accidental, destruction of property; damaging, destroying, defacing, tampering, misuse, or abuse of student, staff or College property, including rentals or leased facilities, is a violation of the Code.
24. **WEAPONS.** The threat of use or actual use of any weapon on campus is strictly prohibited and will be reported to local and/or state authorities. For purposes of this provision, a weapon is defined as:
 - A. anything within the definition of a weapon set forth in Penal Law 265.00;
 - B. any instrument, device, or object designed or specifically adapted for the purpose of inflicting physical harm or death;
 - C. any instrument, device or object possessed, carried, or used for the purpose of inflicting or threatening physical harm or death.
25. **IMPROPER CULINARY KNIFE STORAGE.** It is a violation of the code to have culinary knives outside of their cases when not in the culinary labs.
26. **EXPLOSIVES.** The possession, storage, or use of firecrackers or other explosive device of any description for any purpose is a violation of this Code.
27. **VIOLATION OF LAW.** A violation of any municipal, state or federal criminal law or engaging in behavior that is a civil offense, or a violation of any policy, procedure, rule, regulation or directive of the College or any of its affiliated entities is a violation of this Code, even if the specific conduct is not listed as a prohibited act in the Code. The College regards criminal conduct/civil offense as a violation of the Code regardless of whether the criminal violation/civil offense are pursued in a court of law. The College may, to the extent permitted by law (including without limitation to FERPA), inform law enforcement agencies of perceived criminal violations and may elect to defer internal disciplinary action until prosecution of the criminal violation has been completed. Proceedings under the Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the College.
 - Generally, proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus at the discretion of the Vice President of Student Affairs.
 - For Sexual Offense charges or complaints, however, the judicial or conduct process will run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external law enforcement entities while law enforcement gathers evidence, which should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay. Determinations made or sanctions imposed under this Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of SUNY Schenectady rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
28. **VIOLATION OF PRIVACY.** Making a video recording, audio recording, taking photographs, or streaming audio/visual of any person in a location where the person has a reasonable expectation of privacy, without that person's knowledge and expressed consent, is a violation of the code.

29. **BULLYING.** Repeated unwanted direct or indirect, written, verbal, electronic and or physical acts that may harm or humiliate another person are a violation of the Code.
30. **COVID-19 Related Violations.** Consistent and intentional non-compliance with the College's COVID-19 Safety Protocols to include:
- A. **Face Mask and Social Distancing Requirements:** For students found to have committed repeated and/or intentional violations of face mask/covering or social distancing requirements of the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a suspension from academic and/or housing access with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and/or housing suspension, or permanent dismissal from the institution.
 - B. **Contact Tracing:** For students who repeatedly fail to comply, whether intentionally or unintentionally (unless it can be shown that the student was genuinely not reached by contact tracers through no failure on their part), with COVID-19 contact tracing efforts conducted by the institution or the State or local Department of Health, the available sanctions shall include a suspension from academic and/or housing access with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and/or housing suspension, or permanent dismissal from the institution.
 - C. **Failure to Comply with Campus Health Protocols:** For students who fail to attend at least two scheduled appointments, without sufficient excuse, to obtain diagnostic or surveillance COVID-19 testing under the institution's published protocol, the institution shall undertake disciplinary action to enforce compliance, which may include interim suspension, or take administrative measures to electronically deactivate card access (or equivalent) and restrict access to any buildings with the exception of access required to obtain health care services pursuant to campus policy. For students whose access has been restricted, they shall be ineligible to attend live classes (though they may continue in remote coursework only, if available and as subject to campus policy and process), and their parking privileges on campus may be temporarily revoked such that their car may be ticketed or towed if parked on campus. Restricting access to the campus and revoking parking privileges are administrative actions that are not disciplinary in nature, and the affected student may revive full access by 6 obtaining a diagnostic or surveillance test or by submitting negative results of a diagnostic or surveillance test, as applicable. The institution shall notify the student of their reduction of access. Coming to campus or seeking access to a campus building or course without curing this deficiency shall be considered trespassing and may result in investigation and discipline. For students who fail to submit their daily health screening via the institution's supplied portal for at least three consecutive days, without sufficient excuse, the institution shall undertake disciplinary action to enforce compliance, which may include interim suspension, or take administrative measures to electronically deactivate card access (or equivalent) and restrict access to any buildings. For students whose access has been restricted, they shall be ineligible to attend live classes (though they may continue in remote coursework only, if available and as subject to campus policy and process), and their parking privileges on campus may be temporarily revoked such that their car may be ticketed or towed if parked on campus. Restricting access to the campus and revoking parking privileges are not disciplinary in nature, and the affected student may revive full access by submitting their daily health screening. Coming to campus or seeking access to a campus building or course without curing this deficiency shall be considered trespassing and may result in investigation and discipline.

A finding of responsibility and applied sanction of dismissal or suspension shall, consistent with SUNY policy, leave the respondent ineligible for refund of tuition, room, board, or fees, and the student will be responsible for all amounts owed.

X. DISCIPLINARY PROCEDURE

A. Initiation of the Disciplinary Process

1. Any member of the SUNY Schenectady community may file a complaint or charges against any student for misconduct. Any complaint or charges will be referred to the Vice President of Student Affairs.
2. The Vice President of Student Affairs will respond promptly to any complaint or charge filed. The Vice President of Student Affairs will also promptly respond upon knowledge that a violation of the Code may have occurred.

3. All charges shall be presented to the accused student in written form.
4. The Vice President of Student Affairs will determine (a) whether or not the alleged misconduct is within the purview of the Student Conduct Code; and (b) if so, the appropriate procedure.
5. Designation of an Appropriate Hearing Board
 - a. Cases Not Involving Sexual Offense Charges:

Upon receipt of a charge or complaint, the Vice President of Student Affairs or designee may conduct a review to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to SUNY Schenectady. Such disposition shall be final and there should generally be no subsequent proceedings. If the charges are not admitted and/or cannot be disposed of by mutual consent, the Vice President of Student Affairs will prepare written charges and refer the case to the Chairperson of the Student Affairs Committee or designee. The Chairperson of the Student Affairs Committee will appoint an appropriate Hearing Board and refer the charges to the Hearing Board for a hearing. If the student admits violating institutional rules, but sanctions are not agreed to, subsequent process, including a hearing if necessary, shall be limited to determining the appropriate sanction(s).
 - b. Cases Involving Sexual Offense Charges:

Upon receipt of a charge or complaint alleging a Sexual Offense, the Vice President of Student Affairs shall immediately forward the charge or complaint to the Title IX Coordinator for handling under the Title IX Grievance Policy and/or the Sexual Misconduct Policy.
6. The standard of evidence used to evaluate a charge or complaint is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student violated the Code.
7. If any disciplinary action is pending against a student, degrees, grade reports, and transcripts may not be issued until the matter is resolved.
8. If the student withdraws from SUNY Schenectady while student conduct proceedings are in process, the student does so with charges pending. The Colleges reserve the right to adjudicate those charges when/if the student returns to SUNY Schenectady.
9. A time shall be set for a hearing, not less than five (5) nor more than fifteen (15) business days after the student has been notified. Minimum and maximum time limits for scheduling of hearings may be modified at the discretion of the Vice President of Student Affairs.

B. Interim Pre-Hearing Measures

1. Interim Suspension: In certain circumstances, the Vice President of Student Affairs, or designee, may impose a College suspension prior to the hearing before a Hearing Board.
 - An interim suspension may be imposed only: (a) to ensure the immediate safety and well-being of members of the SUNY Schenectady community or preservation of SUNY Schenectady property; (b) to ensure the student's own immediate physical or emotional safety and well-being; or (c) if the student poses an immediate threat of disruption of, or interference with, the normal operations of SUNY Schenectady.
 - During an interim suspension, students may be denied access to the campus, which may include in person, hybrid, and/or online classes and/or all other College activities or privileges for which the student might otherwise be eligible, as the Vice President of Student Affairs or designee may determine to be appropriate.
2. Additional Pre-Hearing Measures
 - No Contact Orders – The Vice President of Student Affairs has discretion to issue no-contact orders to the complainant and respondent, depending upon the nature of the charge or complaint.
 - Interim Measures – SUNY Schenectady shall provide a complainant with reasonable and available interim measures and accommodations that affect a change in academic, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, depending upon the nature of the charge or complaint.

C. **Hearing Procedures.** The following procedures are applicable to hearings before a Hearing Board:

1. The Vice President of Student Affairs shall designate a Chair who shall ensure compliance with these procedures.
2. Hearings normally shall be conducted in private.
3. Advisors:
 - The complainant and respondent each will have the option to have an advisor throughout the Code process.
 - The advisor cannot personally participate, except to ask cross-examination questions during the hearing.
 - If a student chooses to have an advisor who is not a member of the SUNY Schenectady community, the student must inform the Vice President of Student Affairs of the name of their advisor at least three business days prior to the scheduled hearing. Students who wish to have their advisors notified regarding the hearing date and other matters should also notify the Vice President of Student Affairs and provide their advisor's contact information.
4. The complainant, respondent, and their advisors, if any, shall be informed in writing of the day, time, and location for the hearing. Hearings will convene as scheduled unless the Hearing Board has been notified of and approves a request to reschedule. The hearing will proceed even if the complaint, respondent, advisors, and/or witnesses are not in attendance.
5. Parties and advisors in attendance at a hearing are not permitted to video or audio record the hearing. The Hearing Board shall ensure that the hearing is recorded. The record can initially be a tape recording; however, this tape recording should be transcribed following the hearing. The record and transcription of the hearing will be confidential, except as otherwise provided herein. The record shall be the property of SUNY Schenectady. The record, including the documents entered into evidence, will be transmitted to the Student Affairs Office along with the Hearing Board's report and recommendation.
6. Prior to the start of the hearing, if the parties wish to challenge the designation of any members of the Hearing Board, the student must raise this concern to the Vice President of Student Affairs, who will hear the reasons for such challenge and determine whether a member of the Hearing Board must be replaced.
7. Attendance at hearing:
 - The complainant, respondent, and their advisors, if any, shall be permitted to attend the entire portion of the hearing at which information is presented. They shall not be permitted to attend the Hearing Board's deliberations.
 - When requested, a student must appear before a Hearing Board for the purposes of providing information relevant to a Code proceeding. The College will change the date/time for such an appearance if the accused student provides a good reason why they cannot appear as directed. Failure to appear or willful failure or refusal to provide information, unless it will result in self-incrimination, may result in student conduct action. The Hearing Board may draw a negative inference from the failure or refusal to provide information, even if such failure or refusal is due to concerns about self-incrimination.
 - If an accused student, with notice, does not appear at a hearing, the information in support of the charges shall be presented and considered, even if the accused student is not present.
 - The Hearing Board may accommodate concerns for the personal safety, well-being and/or fears of confrontation of the complainant, accused, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or permitting participation by telephone, video tape, written statement or other means, where and as determined in the sole judgment of the Vice President of Student Affairs to be appropriate.
8. At the beginning of the hearing, the Chair shall delineate the hearing process. This includes informing the participants that the Hearing Board may remove and prohibit the participation of anyone disrupting the hearing. All questions regarding whether potential information will be admissible in the hearing and all procedural questions with respect to the hearing, shall be resolved by the Chair of the Hearing Board.
9. Formal rules of process, procedure, and/or technical rules of evidence, such as those which are applied in criminal or civil court, are not used in Code hearings.

10. The Hearing Board will be responsible for maintaining a disciplinary procedure that makes reasonable efforts to accommodate concerns for the personal safety, well-being and/or fears of confrontation of the complainant, the respondent, and/or witnesses during the hearing by providing security present at the hearing, permitting participation by telephone or other web-based access, permitting witnesses to submit written statements, and/or other means as determined by the Hearing Board to be appropriate.
11. The complainant and respondent will each have an opportunity to present information and evidence, answer questions from the Hearing Board, and question their witnesses. Complainants and respondents may not directly cross-examine the other party. They may have their advisors conduct the cross-examination, or submit questions to the Hearing Board in advance of or during the hearing to be asked of the other party. Throughout the hearing, the Hearing Board has the discretion to limit testimony to information relevant to the disposition of the charge or complaint, and prohibit repetitious or redundant testimony.
12. Pertinent records, exhibits, and written statements (including student impact statements, written statements made by members of the Colleges' community dealing with the impact that the accused student's conduct has had on a particular student or students or upon SUNY Schenectady students in general) may be accepted as information for consideration by a Hearing Board, at its sole discretion.
13. After the portion of the hearing concludes in which all pertinent information has been received, the Hearing Board shall determine, by majority vote, whether they believe that the respondent has violated each section of the Student Conduct Code which the student is charged with violating, using the preponderance of the evidence standard.
14. If the College withdraws a complaint, a College representative shall discuss the reasons for the withdrawal with the reporting individual and no Hearing Board hearing will be held. In the event that the complaint is withdrawn after a hearing is completed, the Hearing Board will not issue a determination.
15. The Hearing Board may consider mitigating and aggravating circumstances when choosing whether or not to recommend a sanction and the severity of the sanction, including without limitation any or all of the following:
 - Nature of the offense;
 - Severity of the damage, injury, or harm resulting from the offense;
 - Whether the respondent promptly took responsibility for their actions;
 - Present demeanor of the respondent;
 - Past disciplinary history of the respondent, which includes, without limitation, completion of or pending disciplinary sanctions from past cases;
 - The respondent's honesty, or lack thereof, and the cooperation demonstrated during the investigation of the complaint and subsequent disciplinary proceeding;
 - Whether the charge involved an action directed at another based upon race, religion, ethnicity, national origin, gender, age, physical or mental disability, sexual orientation or another protected characteristic under federal, state, or local law or College policy;
 - The recommendation of associated victims or parties to the incident; and
 - Any other factor deemed relevant by the Hearing Board.

D. Review by Vice President of Student Affairs:

The Vice President of Student Affairs may, following a review of the record, accept or reject the Hearing Board's determination of fact and the sanction recommendation. The Vice President of Student Affairs reserves the right to review and amend any decision of the Hearing Board. If the Vice President of Student Affairs determines that the accused student violated the Code, one or more of the following penalties may be imposed:

- **No action;**
- **Reprimand:** written reprimand with warning that continuation or repetition of misconduct may result in further disciplinary action;

- **Restitution:** compensation for loss or injury, reimbursement for damages to or the misappropriation of property, or other payment for expenses incurred as a result of the student's actions;
- **Mediation** and/or counseling referral;
- **Disciplinary Probation:** suspension of a student from any or all College programs or activities that do not relate directly to the student's academic performance;
- **Suspension:** discontinuance from classes and other designated privileges or activities for a definite period of time;
- **Expulsion:** termination as a student of the College for an indefinite period;
- **Degree Revocation:** The College reserves the right to revoke a degree when upon conclusion of an investigatory process it is determined that the degree was obtained by fraud;
- **Other Secondary Sanctions:** such sanctions may be imposed instead of or in addition to those specified above;
- **Community Service:** may include performance of no more than fifty (50) hours of unpaid work assignments per semester either on or off campus as specified. Assignments are assigned and supervised by an administrative officer of the College and may not be combined or in conjunction with any other volunteer or court ordered requirement;
- **Educational Activities:** such sanctions may include a formal apology in writing and/or in person; a behavioral contract specifying the behavioral requirements to be followed, a reflective writing assignment or attendance at an event directly related to the violation committed;
- **Restrictions:** temporary or permanent loss of the use of a College facility, service, and or the privilege of participating in any extra-curricular activity
- **Mental Health and Threat Assessments:** professional assessments may be imposed at the expense of the student;
- **Other Secondary Sanctions/Interventions:** such sanctions/interventions may be imposed instead of or in addition to those specified above.

XI. NOTIFICATION

- A. Within five (5) business days of the receipt of the Hearing Board's written report and recommendation, the Vice President of Student Affairs will notify both parties simultaneously in writing of the result of the Code review, any sanctions imposed, the rationale for the result and the actual sanctions imposed, and the findings of fact, by mailing a copy of results by e-mail and certified mail to the last address provided to the College by the respondent and complainant. The parties will also be informed of their right to appeal the decision to an Appeals Board within two (2) business days of the decision, pursuant to the procedures set forth below.
- B. The decision of the Vice President of Student Affairs shall take effect immediately unless otherwise provided for in the student notification, and such decision shall be final except as provided for in the appeal process.

XII. APPEAL PROCESS

- A. A final determination by the Vice President of Student Affairs may be appealed by the respondent and/or the complainant to an Appeals Board within two (2) business days' receipt of the determination. Such appeals shall be in writing and shall be delivered to the Vice President of Student Affairs.
 - Upon receipt of an appeal, the Vice President of Student Affairs will confirm that the appeal is supported by one of the reasons listed in section C below.
 - If no appeal is submitted to the Vice President of Student Affairs within two (2) business days of the decision, the determination of the Vice President of Student Affairs will become final, unless the individual filing the appeal can establish good cause for the delay in filing the appeal.
- B. Appeals can be requested for one or more of the following reasons only:
 - To determine whether the penalty is inappropriate to the finding (including where a student admits to wrongdoing, and an agreement is reached on liability, but no agreement is reached regarding penalty);

- To determine whether the Vice President of Student Affairs' findings are supported by the evidence;
 - To determine whether the student's procedural rights were violated; or
 - To determine whether new evidence, which was unavailable at the original proceeding, has been discovered.
- C. If the Vice President determines that the appeal was not requested for one of the above listed reasons, the appeal shall be dismissed. If the Vice President of Student Affairs determines that the appeal falls within one of the above-listed reasons, a copy of the hearing transcript will be provided to the both parties as soon as it is available.
- D. Once the appellant receives the transcript, the appellant will have five (5) business days from receipt of the transcript to present their reasons for the appeal with supporting documentation. The other parties must be provided with notice of the appeal, with access to the same evidence made available to the appellant (including the transcript), and with the same opportunity to submit supporting documentation. However, the other parties are not required to submit supporting documentation.
- E. If the appellant fails to submit supporting documentation within five (5) business days after review of the transcript, the determination of the Vice President of Student Affairs will become final, unless the appellant can establish good cause for the delay in filing the submission.
- F. If a proper appeal and submission are filed, the Vice President of Student Affairs shall appoint an Appeals Board. The transcripts and all case documentation, including any appeals and submissions, shall be delivered to each member of the Appellate Board.
- G. The Vice President of Student Affairs shall convene an Appeals Board within ten (10) days of receiving the appellant's submission. The Appellate Board shall reach a determination within ten (10) business days of being convened.
- H. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents.
- I. The parties will be informed, in writing, of the result of the appeal. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

XIV. STUDENT DISCIPLINARY FILES AND RECORDS.

- A. **Cases Not Involving Crime of Violence Charges:** The Vice President of Student Affairs will establish a student disciplinary file whenever a case is referred for investigation of a possible Code violation. A student's file will be destroyed if the investigation indicates that no violation occurred. Other than in cases involving College suspension or expulsion, prohibition from professional practice or revocation of degree, or crimes of violence (including but not limited to Sexual Offenses), the file of a student found to have violated the Code will be retained for four years from the date of the disciplinary hearing decision. However, 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 campus database indefinitely. The record shall be maintained separate and apart from the student's permanent record by the Student Affairs Office.
- B. **Cases Involving Crime of Violence Charges:** If a student is suspended or expelled after being found responsible for a crime of violence (including, but not limited to, a Sexual Offense), SUNY Schenectady must make a notation on the student's transcript that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." If a student withdraws from SUNY Schenectady while such conduct charges related to crimes of violence are pending against the student, and declines to complete the disciplinary process, SUNY Schenectady must make a notation on the student's transcript that the student "withdrew with conduct charges pending." These transcript notations can be appealed by contacting the Title IX Coordinator at titleix@sunysccc.edu. Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for violence-related expulsions shall never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed.

Approved by Board Resolution #92-127, October 19, 1992
Amended per Board Resolution #94-32, May 16, 1994
Amended per Board Resolution #02-73, June 17, 2002
Amended per Board Resolution #03-74, June 16, 2003
Amended per Board Resolution #11-101, July 25, 2011
Amended per Board Resolution #14-130, July 28, 2014
Approved by the Student Government Association Senate May 3, 2016
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