

## **STUDENT CODE OF CONDUCT**

### **1. PURPOSE**

Sullivan County Community College is a public community college committed to providing access to opportunities in higher education for students in Sullivan County and beyond. SUNY Sullivan provides programs and resources that educate, inspire, and empower students and the broader community. Through excellence in teaching and learning, we prepare students for a diverse and interconnected world, and we support positive economic and social change within Sullivan County and beyond. We model sustainable actions and promote socially, environmentally, and economically responsible citizenship through an overarching culture of excellence. The Student Code of Conduct is an integral part of the educational mission, emphasizing the development of each individual's acceptance of his or her own personal and social responsibilities and to ensure fairness and due process for all students. Since behavior which is not in keeping with standards acceptable to the College community is often symptomatic of attitudes, misconceptions, and emotional crises; reeducation and rehabilitative activities are essential elements of the disciplinary process.

The Student Code of Conduct is designed to provide and help maintain an atmosphere within the College community that is conducive to academic pursuits. Serious action against a student, such as separation, is considered and invoked only when other remedies fail to meet the needs of the College's mission.

The College, however, recognizes its responsibilities to all members of the academic community – students, faculty, and staff, and the protection of personal and institutional rights and property is a primary focus of the process.

### **2. PRINCIPLES**

The College principles address the respect for the law, regulations and policies, and the respect for people.

a. Respect for the Law. Students are expected to respect and obey all regulations and policies of the College and all local, state and federal laws. If regulations, policies or laws are considered to be unfair or improper, it is expected that students will use appropriate, established, and lawful procedures to effect change.

b. Respect for Self and Others. Students are expected to conduct themselves in a manner which exemplifies respect for people of all races, religions, and ethnic groups, and to adhere to one's personal values without unduly imposing them on others. Respect for one's own mind and body, is essential. In interpersonal relationships, students are expected to respect the rights of others, particularly their right to refuse to participate in any activity. Students should take responsibility to serve as leaders in promoting compassion for others and challenging prejudice. All students enrolled in the College including all student residents, regardless of program affiliation, are

expected to know and adhere to the regulations and policies of the College, as well as local, state, and federal laws.

### **3. AUTHORITY AND JURISDICTION**

a. The authority for student discipline is derived from the Board of Trustees of the College. The Board of Trustees has vested in the President or the President's designee's authority to discipline a student or student group for violations of the Student Code of Conduct.

b. A student, registered organization or a person who has submitted an application for admission, housing, or any other service provided by the College which requires student status will be subject to the Student Code of Conduct for any conduct which occurs on College property, the property managed or owned by the Dormitory Corporation or the FSA, and/or at College-sponsored events or off campus under the conditions described in this policy.

c. The faculty shall have power to recommend rules of conduct which are subject to approval by the Board of Trustees, and shall appoint a judicial body, currently known as the Student Conduct Committee, as provided for in the Faculty by-laws.

d. Off-Campus Conduct: The College shall take disciplinary action against a student for violations committed off campus if any one of the following applies:

1. The off-campus conduct is specifically prohibited by law or violates this Code of Conduct.

2. The off-campus conduct demonstrates that the continued presence of the student on campus presents a danger to the health, safety, or welfare of the college community; is disruptive to the orderly conduct processes and functions of the college; or is intimidating or threatening to the college community or an individual within the college community.

3. The off-campus conduct is of such a serious nature that it adversely affects the student's suitability to remain a part of the college community.

### **4. DEFINITIONS:**

a. Academic days - Only those days when the College's classes are in session, excluding holidays and weekend days.

b. Advisor-any individual who provides the reporting individual (in cases of sex based offenses) or the respondent support, guidance or advice during hearings before the Student Conduct Committee.

c. Chair - One of the faculty, staff, or student members that is selected from the panel to chair the Student Conduct Committee.

- d. College, or SCCC, SUNY Sullivan – The term College, or SCCC, or SUNY Sullivan refers to Sullivan County Community College.
- e. College Official - The term "college official" refers to any person employed by the College to perform assigned teaching, administrative, professional or other responsibilities.
- f. Dean of Student Development Services – The person duly authorized by the President to oversee the administration of the disciplinary process and ensure the enforcement of the Student Code of Conduct. The Dean of Student Development Services may impose sanctions on a case-by-case basis upon students who have been found responsible for violations of the Student Code of Conduct or may hear appeals of students in cases that are heard by another judicial officer .The Dean of Student Development Services may take emergency measures against students who represent a threat to the health, safety, or welfare of the college community. The term “Dean” refers to the Dean of Student Development Services.
- g. Disciplinary Conference - The term “Disciplinary Conference” refers to the individual meeting with the student and the Dean or Judicial Officer after a Notice of Charges has been delivered. This meeting consists primarily of a discussion between the student and the Dean or Judicial Officer and affords the student the opportunity to choose Responsible or Not Responsible to the charges listed on the Notice of Charges and determine the next course of action.
- h. Hearing Officer refers to a member of the Student Conduct Committee who has been chosen to preside over a hearing to determine if a student has violated the Student Code of Conduct and sanction students when a violation has been committed. A Hearing Officer also presides over hearings when a student appeals the sanctions of the Dean or Judicial Officer.
- i. Judicial Officer refers to any college official appointed by the Dean of Student Development Services to investigate, present a notification of charges, to hold disciplinary conferences, and to sanction students on a case by case basis who have been found responsible for violations of the Student Code of Conduct. Judicial Officers, when assigned to adjudicate a case, also represent the college in Student Conduct Committee hearings.
- j. Reporting Individual- Any person who submits a statement alleging that a student violated this Code of Conduct.
- k. Respondent - The term "respondent" refers to any student who has been formally charged with an alleged violation of the Student Code of Conduct.
- l. Student - The term "student" refers to any person taking courses at SUNY SULLIVAN on any of its campuses or sites, either full-time or part-time, pursuing undergraduate, or certificate studies. Persons who withdraw after allegedly violating the Student Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with SUNY SULLIVAN or who have been notified of their acceptance for admission are considered

“students” as are persons who are living in SUNY SULLIVAN housing, although not enrolled in this institution. The term “student” will also refer to student clubs, groups and organizations.

m. Student Conduct Committee – The term Student Conduct Committee refers to one of the Standing Committees of the Faculty Council authorized by the College to determine whether a student has violated the Student Code of Conduct and recommend sanctions that may be imposed when a violation has been committed. This Committee is also authorized to hear appeals from students when not used as the original hearing body.

n. Affirmative Consent- 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. Furthermore, the expectation is that sex acts that occur in a student centered residence hall are between two consenting adults. Engaging in sexual activity with several students/partners at the same time can pose a variety of risks and in such cases, consent of all partners is questionable.

- 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.

**5. Violations of the Code of Conduct:** Any of the following actions constitute conduct for which a student, a group of students, or a student organization may be subject to disciplinary action.

- a. Violence or threat of violence to others or actions which endanger any member or guest of the college community; including but not limited to physical assault.
- b. Theft, conversion, misuse, damage, defacing or destruction of College property or of the property of members of the College community.
- c. Interference with the freedom of movement of any member or guest of the College.
- d. Interference with the rights of others to carry out their activities or duties at or on behalf of the College.

- e. Interference with academic freedom and freedom of speech of any member or guest of the College.
- f. Noncompliance with written, oral requests or orders of authorized college officials or law enforcement officers in the performance of their duties.
- g. Providing false information to college officials, forgery, the withholding of required information or the misuse or alteration of College documents or the College's name or logos.
- h. Misuse or duplication of any College key or access card to any college premises or services.
- i. Possession or use of firearms, explosives, ammunition, fireworks, weapons (to include but not limited to: knives, pellet guns, air guns, replicas of weapons, nunchaku sticks) or unauthorized possession or use of hazardous materials or dangerous chemicals on College premises.
- j. Actions which cause or attempts to cause a fire or explosion, falsely reporting a fire, explosion or an explosive device; tampering with fire safety equipment or failure to evacuate College buildings during a fire alarm.
- k. Disorderly Conduct - Breach of peace, such as causing a disturbance, being unruly, or conduct which is disruptive or upsetting.
- l. Soliciting, aiding, abetting or inciting others to participate in conduct which violates this regulation.
- m. Lewd, obscene, indecent behavior or voyeurism.
- n. Acts of verbal, written (including electronic communications) or physical abuse, threats, intimidation, bullying, harassment, coercion or other conduct which threaten the health, safety or welfare of any person.
- o. Conduct which constitutes unlawful discrimination or harassment and/or violation of the College Equal Employment Opportunity/Affirmative Action Policy or the Sexual Harassment Policy.
- p. Possession, use, delivery to, sale of, distribution of, controlled substances or drug paraphernalia; as defined in State of New York Statutes.
- q. Endangering the health, safety or welfare of members or guests of the College.
- r. Engaging in Hazing. Hazing is prohibited. Hazing is defined as an action or situation which recklessly or intentionally endangers the mental or physical health or safety of a person(s), for the purpose of initiation or admission into, affiliation with, or as a condition for the continued membership in a group or organization whether conducted on or off campus.
- s. Unauthorized use or abuse of College Computing Resources and/or violation of the Computer and Network Acceptable Use Policy. See Appendix A.
- t. Stalking: Engaging in a course of conduct directed at a specific person and causes a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional damage. This includes but not limited to: two or more acts by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates about a person or interferes with his or her property.
- u. Domestic Violence: a violent crime which entails a pattern of abusive behavior committed by a current or former intimate partner or spouse, a person sharing a child with the victim, and/or a person who cohabitates with or has cohabitated with the victim as a spouse or intimate partner. Domestic Violence can be physical, sexual, emotional, economic, or psychological actions or

threats of actions that influence another person. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

- v. Dating Violence: a violent act committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and the existence of the relationship shall be determined based on the victim's statement with consideration of the length of the relationship, the type of the relationship, and the frequency of the relationship.
- w. Sexually based offenses.
  - 1. Sexual Violence: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, including, but not limited to rape, sexual battery, sexual assault, and sexual coercion.
  - 2. Non-Consensual Sexual Contact: Any intentional sexual touching, however, slight, with any object, by a man or a woman upon a man or a woman that is without consent or by force.
  - 3. Force: Using physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation, and coercion that overcome resistance or produce consent.
  - 4. Sex Discrimination: Sex discrimination includes all forms of sexual harassment, sexual assault, and sexual violence by employees, students, or third parties against employees, students, or third parties. A student who commits sex discrimination constitutes a violation of this Code of Conduct. Other forms of sex discrimination will be handled by the appropriate college officials.
  - 5. Sexual Exploitation: Sexual exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
    - a. Invasion of sexual privacy;
    - b. Prostituting another student;
    - c. Non-consensual video or audio-taping of sexual activity;
    - d. Going beyond the boundaries of consent (such as allowing other persons to watch consensual sexual acts;)
    - e. Engaging in voyeurism;
    - f. Knowingly transmitting an STI or HIV to another student;
    - g. Exposing one's genitals in non-consensual circumstances;
    - h. Inducing another to expose their genitals;
    - i. Sexually based stalking and or bullying
- x. Any act which could constitute a violation of any local law or ordinance, State of New York or Federal law.
- y. Misuse of Alcoholic Beverages.
  - 1. Underage possession and/or consumption of alcoholic beverages is prohibited. Possession of drug or alcohol paraphernalia is also prohibited.

2. The consumption of any alcoholic beverage in public places on the campus is prohibited except where specifically authorized by the President. All buildings, lobbies, walkways, Residence Hall Facilities, and grounds of the campus are, for the purpose of this rule, considered to be public places. The Paul Grossinger Dining Room is exempt from the public places restriction.
  3. Violation of the Alcohol Policy as set forth in either the Student Code of Conduct or the Residence Hall Handbook.
  4. Hosting – Allowing underage drinking; allowing excessive drinking or allowing an intoxicated person to leave and/or operate a motor vehicle.
- z. Inappropriate Conduct at College-Sponsored Events – Students are expected to govern their behavior at all College-sponsored events and conduct themselves within the guidelines of the Student Code of Conduct. This applies to events that are held on or off campus.
- aa. Violation of Disciplinary Probation - failure to abide by conditions of probation.
- bb. Obstruction of Student Code of Conduct Process – Acts that disrupt or interfere with the College disciplinary process, including but not be limited to:
1. Failure to appear at an official college hearing when proper notification has been provided; (nothing in this subsection shall be construed to compel self-incrimination).
  2. Knowingly falsifying, distorting or misrepresenting information before a disciplinary proceeding;
  3. Deliberate disruption or interference with the orderly conduct of a disciplinary proceeding,
  4. Knowingly initiating a complaint/referral without cause;
  5. Use of threats, coercion, or intimidation to discourage an individual’s participation in or other proper participation or use of the disciplinary process;
  6. Tampering with information to be used in a Hearing;
  7. Attempting to influence the impartiality of a member of the disciplinary process prior to or during the course of the disciplinary proceeding;
  8. Harassing, intimidating, coercing, retaliating, or in any way discriminating against an individual because of the individual’s informal or formal complaint or participation in the disciplinary process;
  9. Violating and/or failing to comply with or fulfill disciplinary sanctions.
- cc. Disruptive Conduct - Any other action that impairs, interferes with or obstructs the mission, purposes, order, academic atmosphere, operations, processes and/or functions of Sullivan County Community College.
- dd. Any unauthorized use of electronic or other devices to make an audio or video record of any person while on College premises without his/her prior knowledge or without his/her effective consent when such recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room or restroom.
- ee. Violation of any College Policy or Regulation published in hard copy or available electronically on the College’s website.

- ff. Violation of Housing and Residential Life policies and procedures as outlined in either the Housing Contract or Housing Guidebook.
- gg. Failing to report behavior that violates the Student Code of Conduct and which endangers the safety or welfare of the college community and guests.

**6. Court proceedings outside of the College:**

- a. College disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Dean of Student Development Services or Judicial Officer. Determinations made or sanctions imposed under this Student Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of College rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
- b. Any admission of guilt, responsibility or against the student's interest made by a student at off-campus proceedings shall be conclusive for College purposes.
- c. A verdict of guilty, a plea of guilty, a plea of no contest (nolo contendere) or similar plea in a court of law by a respondent will operate as a conclusive finding that the student is "responsible" for the purpose of SUNY SULLIVAN disciplinary proceedings.
- d. The College may amend its charge(s) based on information obtained through an outside proceeding where that information is relevant to activity adversely affecting the College community.

**7. Students' Rights Accused of a Code of Conduct Violation.** A student against whom disciplinary action may be taken shall have the following rights.

- a. The right to be notified in writing of the charges against him/her.
- b. The right to a disciplinary conference within 3 (three) academic days after the College provides the student with a notice of charges. The Dean or Judicial Officer may decide that a disciplinary conference cannot be scheduled within such time due to a health, safety, or welfare emergency or other extenuating circumstances. In such cases, a disciplinary conference will be scheduled as soon as that emergency lifts or extenuating circumstances clear or at the request of the student. This provision shall not constitute the indefinite postponement of the student's due process rights. All efforts shall be made to ensure the student's due process rights are exercised.
- c. The right to a fair and impartial hearing on the charges by a duly constituted panel of the Student Conduct Committee.
- d. The right to present information and witnesses relevant to his or her defense at the hearing.
- e. The right to have an advisor of choice be present at said conferences and/or hearings. The advisor may not present statements, arguments, or question witnesses or participate directly in any hearing, but may speak privately to their advisee during the proceeding. The advisor or the advisee may request a brief recess to consult which will be granted at the discretion of the

Hearing Officer. Members of the Student Conduct Committee may not serve as a student's advisor at the hearing.

- f. The right to question all adverse witnesses by appropriate mechanisms, unless the student has waived a hearing. Appropriate mechanisms may include written submission of questions to the hearing chair of the hearing who will then determine if the question is appropriate. If so, the chair will direct the question to the witness.
- g. The right to not be forced to present testimony which would be self-incriminating. However, the College is not required to postpone disciplinary proceedings, pending the outcome of any outside criminal or civil case.
- h. The right to request an appeal of the sanction imposed as long as appropriate appeal procedures are followed.
- i. The right to have his or her status remain unchanged pending final disciplinary action except in cases involving the health, safety or welfare of the College community.

**8. Students' Rights.** A student who is a victim of sexual assault, domestic violence, dating violence, and/or stalking has rights afforded them. SUNY Sullivan values the dignity of individuals and will take the necessary measures to ensure that individuals who report offenses are treated in a compassionate manner. The State University of New York and SUNY Sullivan are further committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in college and campus programs, activities, and employment. All victims/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, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad.

Throughout conduct proceeds, the respondent and the reporting individual will have:

- a. The right to make a report to local law enforcement and/or state police.
- b. The right to have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
- c. The right to make a decision 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 institution.
- d. The right to participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard. Throughout conduct proceedings, the respondent and the reporting individual will have:
  - 1. The right to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in SUNY Sullivan's Student Code of Conduct, as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
  - 2. The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual

violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

3. The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
4. The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
5. The right to request a postponement of disciplinary conferences and/or hearings for reasonable cause. Such requests must be made in writing to the Judicial Officer or the Dean of Student Development Services and must include the reason for the request.
6. The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
7. The right to be accompanied by an advisor of choice who may assist and advise a reporting individual or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. The advisor may not present statements, arguments, or question witnesses or participate directly in any hearing, but may speak privately to their advisee during the proceeding. The advisor or the advisee may request a brief recess to consult which will be granted at the discretion of the Hearing Officer. Members of the Student Conduct Committee may not serve as a student’s advisor at the hearing.
8. The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
9. The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
10. The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
11. The right to make a statement of impact during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

12. The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
  13. The right to written or electronic notice about the sanction(s) that may be imposed on the respondent based upon the outcome of the conduct proceeding. For students found responsible for sexual assault,<sup>1</sup> the available sanctions are suspension with additional requirements and expulsion/dismissal.
  14. The right to appeal the findings/sanctions on the same grounds afforded to the respondent (see Chapter 14: Appeals) in cases of sexual harassment, sexual assault, rape or violence. The Appeal will be considered by a duly constituted panel of the Student Conduct Committee.
  15. The right to choose whether to disclose or discuss the outcome of a conduct hearing.
  16. The right to 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.
- e. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
  - f. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
  - g. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
  - h. Be free from retaliation by the institution, the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
  - i. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College. This means that we will not schedule meetings or hearings on days of religious observance (for instance, holding a hearing on a Friday night when the reporting individual or respondent is a religious Jewish person), require a student to undergo medical procedures that they say are forbidden by their religion, or otherwise require a reporting individual to have to choose between their religion or belief system and reporting to the institution.
  - j. To request changes in housing and/or class schedule which would enhance the safety and security of the victim when those changes are reasonably available.

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<sup>1</sup> Sexual assault is defined to be a Code of Conduct violation consistent with the Federal definition of rape adopted by the Department of Education in Final Regulations (<http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>, page 62789), from the Uniform Crime Reporting system of the Federal Bureau of Investigations. "The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim." Consent for these purposes is the consent definition in these policies and the legislation.

## 9. Emergency Measures

- a. The Dean of Student Development Services, or other Judicial Officers duly assigned by the Dean of Student Development Services, has the authority to take appropriate immediate action against a student who poses a significant danger of imminent or serious physical harm to others at the College, or where the Dean or Judicial Officer determines that an emergency exists which affects the health, safety or welfare of a student or the college community.

Emergency Measures include but are not limited to, one or more of the following:

1. Interim Suspension. A student under interim suspension may not attend classes, may not be on or come onto College property, may not participate in any College activities or organizations, and may not use College facilities, equipment or resources.
  2. Interim Suspension from College Housing. A student under interim suspension from College Housing may not reside in College Housing and may not come into College Housing facilities and/or adjacent areas of College Housing.
  3. If the Dean or Judicial Officer determines that other interim measures are more appropriate to protect the health, safety, or welfare of the student or the College community, the Dean or Judicial Officer may:
    - i. restrict or bar attendance of any or all classes;
    - ii. restrict or bar access or contact with individuals;
    - iii. restrict or bar access to College property, places, facilities or equipment;
    - iv. restrict or ban participation in College activities or organizations; or
    - v. otherwise restrict or ban access to College resources or conduct.
- b. A student subject to Emergency Measures shall be furnished:
    1. Written notice of the Emergency Measure and the reason(s) for the action.
    2. The opportunity to participate in disciplinary proceedings or to present relevant information for consideration of his/her case.
  - c. Emergency Interim Measures may be taken at any time prior to the conclusion of the College Disciplinary process including during the appeal process.
  - d. A hold on registration may immediately be placed on all students who have Emergency Measures taken against them, which prevents the student from accessing, changing or altering his/her course registration and/or admission status.
  - e. Review of Emergency Measures.
    1. Pertinent to No Contact Order: Both the respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request. Institutions may establish an appropriate schedule for the respondent(s) and the reporting individual to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual.

2. Pertinent to Interim Suspension: Both the respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request.
3. Pertinent to Interim measures/accommodations: Both the respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.

**10. Procedures for the Conduct of Disciplinary Proceedings.**

- a. Complaints. Any person or entity may request charges be filed against a student for alleged violation of law or College regulations or policies. An investigation may take place of the circumstances of the complaint. The complaint regarding a student's conduct must be submitted as follows:
  1. Filing a police report with the Office of Public Safety or requesting that a report from another law enforcement agency be sent to the Office of Public Safety and referral to the Dean or Judicial Officer; or providing a written and signed statement to the Dean or Judicial Officer. Written statements should include all information and evidence the person making the complaint can produce.
  2. Reports must be made to either law enforcement or the appropriate administrator within 6 months of the incident, or knowledge about the incident. No student may be charged with a violation to the Student Code of Conduct if the report is made past the 6 month period. This provision shall apply except in incidents involving patterns of behavior (i.e. stalking, sexual misconduct, domestic violence, etc.). These incidents must be reported within one (1) calendar year from the date of the incident or knowledge about the incident.
- b. When a complaint against a student is received, all other administrative processes and petitions related to the student at the College are suspended and may not be processed further until final disposition of the complaint or special permission by the Dean of Student Development Services.
- c. The Dean or Judicial Officer will determine if there are reasonable grounds to believe that the allegations of the complaint are true, and if true, would constitute a violation of the College's Code of Conduct.
  1. The Dean or Judicial Officer may conduct an Investigation Conference with the student. This conference shall include an explanation of the process, the student's rights and a review of the incident. No student shall be required to testify against him/herself.
  2. The Dean or Judicial Officer may conduct an investigation with others as related to the incident or complaint.

3. Nothing in this policy shall prevent the mediation of a complaint when deemed appropriate by the College.
  4. Nothing in this policy shall prevent the disposition of a complaint administratively by written agreement with mutual consent of the parties involved. Such disposition shall be final and there shall be no subsequent proceedings.
  5. If an alleged violation of the Code of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the Dean or Judicial Officer shall present in writing formal charges to the student.
- d. Notice of Charges. The notification of charges shall be in writing and include: the specific conduct code violations, a brief description of alleged offenses, the student's rights, and an invitation to attend a Disciplinary Conference; the date, place, and time of this Disciplinary Conference is also included. Email notification is considered written notice.
1. The Disciplinary Conference shall take place within three academic days, excluding holidays and weekends, from the date of Notice of Charges.
  2. If a hold on registration is not already in effect, as an Emergency Measure, upon issuing the Notice of Charges the Dean or Judicial Officer may place a hold on registration until final disposition of the complaint.
- e. Disciplinary Conference. After the Notice of Charges has been issued, a Disciplinary Conference shall be scheduled.
1. There are no witnesses called and it consists primarily of a discussion between the respondent and the Dean in an effort to resolve the matter.
  2. The Disciplinary Conference is not audio taped or recorded.
  3. At the conclusion of the disciplinary conference, the respondent may accept or deny responsibility to the student code of conduct violations on the Notice of Charges.
  4. If the respondent chooses to accept responsibility, or fails to attend the disciplinary conference, the authority may assess such sanctions as are deemed appropriate. This acceptance of responsibility or failure to appear shall constitute as the respondent's waiver of a formal hearing and right of appeal. The student retains the right only to appeal the severity of the sanction.
  5. Brief written decisions (including findings of fact) will serve as records of disciplinary conference and will be communicated in writing within 7 academic days of the Disciplinary Conference.
- f. Formal Disposition by Hearing: When a respondent denies responsibility, a hearing shall be scheduled within 5 (five) academic days after the date of the Disciplinary Conference.
1. A Formal Hearing is defined as any hearing before the Student Conduct Committee or a College Hearing Officer.
- g. Notice of Hearing. The notification of hearing shall be in writing and include:
1. The date, time and location of the Student Conduct Committee or Hearing Officer hearing.
  2. A copy of his/her rights and the hearing procedures.
  3. The respondent shall have the opportunity to challenge the impartiality of the hearing officer within an academic day after notification of the hearing. In the event

that a student has opted not to challenge the impartiality of a hearing officer within the allotted time, the Hearing Officer shall remain as scheduled. The student shall state in writing the basis for such challenge. A hearing officer or chair so challenged may be replaced by the Dean of Student Development Services for good cause shown.

- h. Postponement of Hearing. The student may request postponement of a hearing in writing to the Judicial Officer or Dean of Student Development Services. The postponement may be granted when the circumstances presented demonstrate that a postponement is necessary to ensure fairness to the process or on any other reasonable grounds. The Judicial Officer, Hearing Officer, or Dean may postpone the hearing on the College's behalf for administrative reasons.
- i. Review of Evidence. Throughout proceedings involving an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, the respondent has the right:
  - 1. to review and present available evidence in the case file, or otherwise in the possession or control of the college, and relevant to the conduct case.
  - 2. The college will not release such evidence into the possession of the respondent. The respondent may make arrangements to review said materials at the campus at a mutually agreeable time with the Dean of Student Development Services or designee. Copies of evidence may not be made, nor released.

## **11. Hearing Procedures**

- a. The hearing is not a legal proceeding. Formal rules of process, procedure, or evidence do not apply.
- b. Objectives of the Hearing. Requisite levels of due process and fairness will be provided to all participants during these proceedings. The hearing shall have the following objectives.
  - 1. Inform the student of the charges
  - 2. Give the responding student an opportunity to respond to the charges
  - 3. Review the facts of the case
  - 4. Determine if any violation of the Student Code of Conduct was committed based on preponderance of evidence—whether it is “more likely than not” that the violation occurred.
  - 5. Determine disciplinary sanction(s) to be imposed based upon the facts, as determined at the hearing.
- c. Witnesses. Witnesses at hearings will not be sworn in. Each witness will be admonished that he or she is required to tell the truth. A student giving untrue testimony at a hearing is subject to disciplinary charges. Witnesses may be called by the respondent, the complainant (in cases of stalking, domestic violence, dating violence, and/or a sexually based offense), a judicial officer, the Dean of Student Development Services, or the Student Conduct Committee.
- d. Advisor. The respondent and the reporting individual (in cases of stalking, domestic violence, dating violence, and/or a sexually based offense) may choose one advisor to be present at the hearing at the student's expense. The advisor/attorney may not present statements, arguments,

or question witnesses or participate directly in any Hearing, but may speak privately to their advisee during the proceeding. The advisor or the advisee may request a brief recess to consult which will be granted at the discretion of the Hearing Officer. Members of the Student Conduct Committee may not serve as a student's advisor at the hearing.

- e. Information. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Hearing Officer or the Student Conduct Committee at the discretion of the Hearing Officer.
- f. Burdens of Proof. The Student Conduct Committee shall determine whether it is more likely than not that the respondent violated the Student Code of Conduct by a preponderance of evidence.
- g. Hearings.
  - 1. All hearings before the Student Conduct Committee will be digitally recorded by the College. That recording will serve as the only official record of these proceedings and shall be the property of the College. No other recordings are permitted. Deliberations shall not be recorded.
  - 2. All hearings before the Student Conduct Committee will require that at least 3 members of the Committee be present, excluding the Dean or Judicial Officer.
  - 3. The following is a guide to the format of events for hearings. The Student Conduct Committee or Hearing Officer may change the order if necessary. The Student Conduct Committee may question any party or witness directly.
    - a. Review of Hearing procedures.
    - b. Reading of Charges
    - c. Opening statement and presentation of evidence by the College, followed by the opening statement and presentation of evidence by the respondent.
    - d. Questioning of College witnesses, followed by the questioning of respondent's witnesses.
    - e. Questions directed to the respondent and the College by the Student Conduct Committee.
    - f. Closing statement by the College, followed by the closing statement of the respondent.
    - g. Deliberation by the Student Conduct Committee (not taped)
    - h. Decision and/or imposed sanction(s) by the Student Conduct Committee.
- h. The Student Conduct Committee will find the student "Responsible" or "Not Responsible" for each of the alleged violations listed on the Notice of Charges.
- j. If the respondent fails to appear at the scheduled hearing (after proper notice), the student shall be found Responsible for each of the alleged violations listed on the Notice of Charges and may not appeal the finding of responsibility. The student retains the right only to appeal the severity of the sanction.
- k. The Student Conduct Committee shall send a notification in writing to the respondent and the complainant (in cases of stalking, domestic violence, dating violence, and/or a sexually based offense) of the outcome, the rationale for the outcome, and the sanction(s) imposed, within three (3) academic days of the conclusion of the hearing.

- I. The Student Conduct Committee may, up until the deliberation phase, suspend a hearing and request more information, including the calling of appropriate witnesses and collection of appropriate documents and or evidence. The hearing must reconvene within 2 academic days.

**12. Disciplinary Sanctioning is intended:**

- a. To make sure the student sanctioned has learned from the experience.
- b. To educate the student so he or she does not commit the violation again.
- c. To offer the student the opportunity to make good on a mistake.
- d. To ensure that College expectations regarding appropriate behavior are clear.
- e. To educate the student concerning how his or her behavior impacts others in the community.
- f. To protect the College community from people who may harm others in the community or who may substantially interfere with the educational mission of the College or other institutions. Students who are found responsible for stalking, domestic violence, dating violence, or a sexually based offense are subject to suspension or expulsion due to the extreme serious nature of these violations.
- g. To be imposed progressively with the exception of egregious violations. Past violations and the student's disciplinary history will be considered during sanctioning.

**13. Disciplinary Sanctions.** In light of the facts and circumstances of each case and the progressive discipline policy, the following sanctions or combination of sanctions may be imposed upon any individual student or student organization found "Responsible" for violations of this Code.

- a. Educational Activities - required attendance at educational programs, meeting with appropriate officials, written research assignments, planning and implementing educational programs, or other educational activities at the student's or student organization's own expense.
- b. Counseling Assessment and Recommended Treatment – referral for assessment and treatment to the College Counselors or another agency at the student's expense.
- c. Community/College Service - required completion of a specified number of hours of service to the campus or general community.
- d. Change in College Housing Assignment to include Suspension (held in abeyance), Suspension, and Dismissal. Students remain financially responsible for obligations under the housing contract. Changes in the housing assignment may include, but are not limited to:
  1. A mandated change in a rooming assignment,
  2. Residence Hall Suspension held in abeyance: A defined period of time during which a student's residence hall privileges are suspended, but are held in abeyance. The student may continue to live in the Residence Hall but if found "responsible" for another violation of the Student Code of Conduct, the suspension will automatically be imposed. A suspension may be held in abeyance for up to one year.
  3. Residence Hall Suspension: Termination of the housing contract for a defined period of time up to one academic year. The student must remove all belongings and vacate

college housing. The student is not allowed in college housing and is banned from the adjacent areas.

4. Dismissal: Termination of the housing contract for an indefinite period of time. The student is not allowed to live in college housing and must vacate the premises. The student is not allowed in college housing and is banned from the adjacent areas.
- e. Restitution - Payment made for damage or loss caused by the responsible student.
- f. Restriction or Revocation of Privileges. Temporary or permanent loss of privileges, including, but not limited to the use of a particular College facility, resources, equipment or visitation privileges.
- g. Disciplinary Warning - A disciplinary sanction in writing notifying a student that the student's behavior did not meet College standards. All disciplinary warnings will be taken into consideration if further violations occur.
- h. Disciplinary Probation - A disciplinary sanction in writing notifying a student that his or her behavior is in serious violation of College standards. This is a time of observation and review during which the student may be able to prove his/her ability to meet the standards of the college. Disciplinary Probation may not exceed one academic year. If the student is found "responsible" for another violation of the code of conduct during the period of Disciplinary Probation, the College will consider increasing the level of the subsequent sanction.
  1. Restrictive Disciplinary Probation- Some sanctions that may be placed on a student during a probationary period include, but are not limited to, restriction of the privilege to: participate in student activities or in student organizations; represent the College on athletic teams, student organizations or in other leadership positions; gain access to College Housing buildings or other areas of campus; use of College resources and/or equipment; or contact with specified person(s).
- i. Suspension - Mandatory separation from the College. During the period of suspension the student is barred from SUNY SULLIVAN and from accessing any courses and/or campus resources unless specific permission is granted by the Dean. Once the entire period of suspension has been served, the student may seek readmission. Specific conditions may be imposed upon the student before s/he is readmitted to the College. A suspended student shall not receive credit for the semester in which the suspension or dismissal occurred, and will be liable for all tuition and fees for that semester.
- j. Suspension held in abeyance- A student whose suspension is held in abeyance may attend classes and, if applicable, continue to live in the Residence Hall. A student, who is found responsible for a violation of the Student Code of Conduct during this period of suspension in abeyance, will be suspended. A suspension held in abeyance may not exceed one academic year.
- k. Revocation of Admission and/or Degree – Admission to or a degree awarded from SUNY SULLIVAN may be revoked for fraud, misrepresentation or other violation of SUNY SULLIVAN standards in obtaining the degree or for other serious violations committed by a student prior to graduation. The SUNY Sullivan Board of Trustees is the only entity which can revoke a degree which was previously awarded to a student.

- l. Withholding Degree – SUNY SULLIVAN may withhold awarding a degree otherwise earned until completion of the process set forth in this Student Conduct Code, including completion of all sanctions imposed, if any.
- m. Expulsion - Indefinite dismissal from the College. Should the student wish to readmit, s/he may do so by writing to the Dean of Student Development Services but only after 2 academic years have expired since the imposition of the expulsion. During the time of expulsion, the student is barred from SUNY SULLIVAN. An expelled student shall not receive credit for the semester in which the suspension or dismissal occurred, and will be liable for all tuition and fees for that semester.
- n. Deactivation of the Student Organization’s status at the College.
- o. Administrative Withdrawal from individual courses or all courses registered for at the College. Students remain financially responsible for tuition and fees.
- p. Other Appropriate Action. A disciplinary action not specifically set out above, but deemed proper by the Dean, Student Conduct Committee or Hearing Officer.
- q. Alcohol Abuse Sanction Guidelines: Depending on the amount of alcohol involved and those involving severe intoxication and/or police or emergency medical response, students, found responsible for offenses regarding the use, possession, sale or distribution of alcohol, may be sanctioned as follows at the discretion of College officials. These violations are per academic year.
  - 1. First Violation
  - 2. Completion of an educational program
  - 3. Parental Notification \*\* (Parental Notification may be implemented depending on the severity or nature of the first violation.)
  - 4. Completion of 5 - 15 hours of campus or community service
  - 5. Second Violation
    - a. Completion of an approved evaluation and treatment program at the student’s own expense.
    - b. Suspension from College Housing for a period of one year (may be held in abeyance)
  - 6. Parental Notification
  - 7. Disciplinary Probation for at least 1 semester
  - 8. Completion of 15 - 30 hours of campus or community service
  - 9. Third Violation
    - a. Suspension from the college and/or college housing for the remainder of the semester and up to one year.
    - b. Parental Notification
    - c. Disciplinary Probation for 1 year
    - d. Completion of up to 50 hours of campus or community service

**Amnesty Policy:** The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. SUNY Sullivan 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 Sullivan strongly encourages students to report incidents of 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 SUNY Sullivan officials or law enforcement will not be subject to SUNY Sullivan'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. The student, however, may be required to complete an alcohol and/or drug assessment, and/or educational classes on the detrimental effects of drugs and alcohol. In cases where students are under the age of 21 years, his/her parents or guardians will be notified.

- r. Drug Abuse Sanction Guidelines: Depending on the amount and type of illegal substance involved, the student may be suspended or expelled from the College, as well as prosecuted. At the minimum, a student may be sanctioned as follows:
  1. First Violation
    - a. Suspension from college housing for a period of one year (may be held in abeyance)
    - b. Disciplinary Probation for one year
    - c. Parental Notification
    - d. Completion of 15 hours of campus or community service
  2. Second Violation
    - a. Suspension from College Housing (may be held in abeyance) up to one year.
    - b. Suspension from the College (may be held in abeyance) up to one year.
    - c. Completion of an approved evaluation and treatment program at the student's expense
    - d. Completion of 25 hours of campus or community service
  3. Third Violation
    - a. Suspension from the college and/or college housing

Persons found to be involved in the sale of illegal drugs may be subject to expulsion from the College.

**14. Appeals.** A student may appeal the finding of the Student Conduct Committee hearing (Responsible/Not responsible) or the sanctions imposed by the Dean, Judicial Officer, or Student Conduct Committee.

- a. Standards for Appeal.
  1. Failure to receive the due process required by law.
  2. Severity of the sanction.
  3. New material or information that could not be discovered at the time of the hearing.
- b. All appeals must be received in writing within five academic days of the date of the Notice of Decision/Sanction to the Dean of Student Development Services for consideration by the appropriate appellate body. All appeals must specify the basis for the appeal.
- c. The burden of proof at the appellate level rests with the respondent.

- d. The student's pre-decision status will remain unchanged pending the appeal determination, except where the safety, health or general welfare of the student or the College community is involved.
- e. Appeals of decisions and/or sanctions imposed by the Judicial Officer are heard by the Student Conduct Committee. The final appeal is heard by the Dean of Student Development Services.
- f. Appeals of decisions and/or sanctions imposed by the Dean of Student Development Services are heard by the Student Conduct Committee. The final appeal is heard by the College President.
- g. After considering an appeal, the President, the Dean, or the Student Conduct Committee may reopen the hearing, order a new hearing with the same or different members of the Student Conduct Committee, uphold the prior decision or revise the sanction. The student shall be provided written notice of the decision from the appropriate entity within five (5) academic days.
- h. The final appeal is irrevocable and binding on all parties. There are no further appeals within the College.

**15. Disciplinary Records.**

- a. The record of student disciplinary proceedings are part of a student's educational record and are subject to educational records confidentiality laws. Conduct records, disciplinary records and law violations are kept in the Dean of Student Development Services. These files are separate from academic transcripts.
- b. Issuance of Transcripts, Flagging of Records, and Retention of Records in Cases of Disciplinary Action. The transcripts and future registration records of students subject to disciplinary action are flagged in accordance with the following guidelines:
  - 1. The Dean will flag the records where:
    - a. A student has committed disciplinary acts culminating in suspension and/or expulsion;
    - b. A student has failed to appear before the Dean, when reasonably notified as to his or her involvement in disciplinary matters;
    - c. A student with severe behavioral problems is no longer attending the College, and it is the determination of the Dean of Student Development Services that a complete review of his or her record is to be made prior to readmission.
  - 2. When a student requests issuance of his or her transcript to another educational institution, outside agency or individual, such transcript shall be issued subject to the following guidelines:

- a. If the student has had a disciplinary action taken against him/her which falls under paragraph (1) above and is the result of one or more of the following violations: A, I, R, or T, U, V, W the transcript will carry a notation of the judicial sanction imposed upon the student such as:
  - i. *“Suspended after a finding of responsibility for a code of conduct violation”* or
  - ii. *“Expelled after a finding of responsibility for a code of conduct violation.”*
- b. For the respondent who withdraws from SUNY Sullivan while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they *“withdrew with conduct charges pending.”*
- c. Transcript notations and appeals seeking removal of a transcript notation for a suspension may be requested by the respondent provided that such notation shall not be removed prior to one year after conclusion of the suspension. Such requests may be made to the Dean of Student Development Services. The decision of the Dean is final and is not subject to further appeal.
- d. Notations for expulsion shall not be removed.
- e. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed