

## **New Definitions added to Code of Conduct due to Title IX requirements:**

### **Accused Student**

Any student accused of violating the Student Code of Conduct.

### **Complainant**

Any person who submits a statement alleging that a student violated the Student Code of Conduct.

### **Consent**

Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Lack of consent may also exist when the victim is unable to give consent, either because of the victim's use of drugs, alcohol, or other substances, or because of a mental disorder or developmental or physical disability.

### **Force**

The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

### **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 and/or by force.

### **Non-consensual Sexual Intercourse**

Any sexual intercourse, however slight, with any object, by a man or woman upon a man or a woman that is without consent and/or by force. Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

### **Retaliation**

Any action by any person that is perceived as intimidating, hostile, harassing, retribution, or violent that occurred as a result of the making and follow-up of a report of a violation of this code of conduct.

### **Sex Discrimination**

Sexual Discrimination includes all forms of: sexual harassment, sexual assault, and sexual violence by employees, students, or third parties against employees, students, or third parties. Students, College employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the College campus and whether or not the incidents occur during working hours.

### **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:

- Invasion of sexual privacy
- Prostituting another student
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STI or HIV to another student;
- Exposing one's genitals in non-consensual circumstances;
- Inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

### **Sexual Harassment**

Sexual Harassment is unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

### **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, and sexual coercion.

### **New Sections added to Prohibited Conduct:**

23. ELECTRONIC DEVICES - Any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. (This includes, but is not limited to, surreptitiously taking a picture of another person in a gym, locker room, or restroom.)

29. **GAMBLING OR SOLICITATION ON CAMPUS** - Students may not use College property for any activity prohibited by federal, state, local law or the Student Code of Conduct. Solicitation or the use of College facilities or resources for any personal gain or profit is prohibited. Examples of prohibited behavior include, but are not limited to engaging in any nature of business for personal benefit on College property or using College resources, gambling on College property.
30. **HARASSMENT** - A person is guilty of harassment when he or she:
- A. threatens or intimidates a person creating a rational fear within that person; or
  - B. engages in a course of conduct or repeatedly commits acts directed at another person which would seriously annoy a rational person; or
  - C. creates a condition which endangers or threatens the health, safety or welfare of another person; or
  - D. physically restrains or detains any other person, or removes any person from any place where he or she is authorized to remain; or
  - E. engages in name calling, religious, ethnic or racial slurs, hate language or obscene gestures which causes a person alarm.
34. **INSUBORDINATION / OBSTRUCTION** - Interfering with, or hindering the efforts of College officials, student staff or law enforcement officers performing the duties of their office, especially as they are related to the enforcement of College policy or the maintenance of safety and security.
43. **QUIET HOURS / COURTESY HOURS** - Excessive noise (including, but not limited to noise from speakers/audio devices, yelling in zones designated for quiet such as the Silent Zone in the Library or during quiet hours in the residence halls, or otherwise creating a disturbance) which disrupts the opportunity for academic success in or on campus facilities or grounds. Courtesy Hours are in effect 24 hours a day in the residence halls and at no time should noise reach a level that disturbs roommates, other residents or members of the community.
45. **REPEATED VIOLATIONS** - Repeated violations of College policy which, by themselves, would not warrant suspension or dismissal, but collectively indicate that the student may not be suited for on-campus living and/or attendance at the College.
46. **RETALIATION** - Acts of retaliation against those who file complaints with College officials or cooperate with investigations of alleged violations of the law or College policies.

52. SUBSTANCES - Use, possession or distribution of illegal/dangerous drugs as defined in the New York State Penal Law including marijuana, hallucinatory, **synthetic marijuana**, narcotic or other controlled substances and/or related paraphernalia except as expressly permitted by law. This also includes the illegal use or sale of prescription drugs. **All students found in rooms where illicit drugs are reasonably believed to be present or in use may be subject to College judicial action.**

### **Revisions to Sanction:**

3. Denial of Service: Request to leave a campus office/service for a specified period of time. **This may include suspension from campus social activities/events as deemed by the Dean of Students or his/her designee.**
12. Suspension from College: Termination of student/official organization status for a definite period of time. Suspensions will be noted on student's permanent record. **The Dean of Students will determine the grades that will be recorded for the student for that semester.**

### **Change in Sanctions:**

- ~~4. Disciplinary Probation: Letter of probation placed on file in the Office of the Dean of Students indicating that future violations may result in suspension or dismissal from the College. Students/organizations may also be suspended from specified College activities, areas and/or functions that do not relate directly to the student's academic program.~~
- ~~9. Residence Hall Probation: Letter of warning is placed on file in the Residence Life Office and the Office of Dean of Students that any further violations of the Code of Student Conduct could result in loss of campus housing privileges including the loss of priority selection of room and/or residence hall for the following year.~~

### **Revised to:**

4. Disciplinary Warning: This is meant as a warning that the student's status at the College is in jeopardy. Future violations of the Code of Conduct may result in the student's removal from the residence halls, loss of certain social privileges or suspension from the College.
5. Disciplinary Jeopardy: This is meant as a strong warning that the student is in jeopardy at the College. The next incident will likely result in the student's suspension from the residence halls and/or College and loss of certain social privileges.

6. **Disciplinary Probation:** The student is not permitted to live on campus for a specified period of time and is additionally restricted from the residence halls during that time period. If the student is found in the residence halls during that time period, he/she will be arrested for criminal trespass by the University Police Department. Further, the next incident will result in the student's immediate suspension from the College for a period of one academic year.

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**2011-12 Wording:**

5. Dismissal from the College: Permanent termination of student status at SUNY Canton or withdrawal of official college recognition of an organization. Dismissals will be noted on student's permanent record.

**2012-13 Change in Wording to Expulsion:**

7. Expulsion: Permanent termination of student status at SUNY Canton. Expulsion will be noted on the student's permanent record. The Dean of Students will determine the grades that will be recorded for the student for that semester.

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**2011-12 Wording:**

12. Suspension from College: Termination of student/official organization status for a definite period of time. Suspensions will be noted on student's permanent record.

**2012-13 Addition to Sanction:**

14. Suspension from College: Termination of student/official organization status for a definite period of time. Suspensions will be noted on student's permanent record. **The Dean of Students will determine the grades that will be recorded for the student for that semester.**

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**Additions to this notification:**

*Notification of Parents and Campus Officials/Offices:* The College is committed to a goal of student maturity and self-direction. The College also recognizes that some students have developed these qualities to a greater extent than others. In some cases, where a student has shown a pattern of irresponsible behavior and has not responded to College assistance or resources, parents/guardians may be notified. When a student is suspended, parents/guardians may be contacted. All parental notification shall comply with the provisions of the Family Educational Rights and Privacy Act. Students are urged to discuss all conduct violations with their parents or guardians. **The College also reserves the right to notify the appropriate College offices (which may include, but is not limited to: EOP, Residence Life, Athletics, Counseling, University Police, administration) as well as academic advisors and division deans as applicable when students have been placed on disciplinary**

probation, interim suspension, residential suspension, College suspension or expulsion. All campus notification shall comply with the provision of the Family Educational Rights and Privacy Act.

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**Additions are in red. Wording changed back to “Board” instead of “Committee.”**

**15.6 Article VI: Adjudication**

Every student has the right to appear before a Judicial Hearing **Board** if they choose to exercise it. **The Judicial Officer can also elect to present a case to the Judicial Board even if it is against the wishes of the student being charged.** Students may also elect to be adjudicated through summary action. In this case the accused party and the adjudicating Judicial Officer can come to agreement on the violation of the Code of Student Conduct and an appropriate disciplinary sanction. The agreed-upon disciplinary action is written up and both parties sign agreeing to the resolution. In so doing, the offender is relinquishing all rights to appeal once the summary action form is signed.

**Failure on the part of the student to meet with the Judicial Officer to discuss a disciplinary matter is in itself a violation of the Code of Student Conduct and is subject to disciplinary action.**

**15.7 Article VII: Disciplinary Hearing Boards**

**1. Student Faculty Hearing **Board****

The Student Faculty Hearing **Board** will hear disciplinary cases and/or cases involving violations of the Code of Conduct. The **Board** has the following responsibilities: hears all evidence related to the case in question; seeks answers to all questions pertaining to statements and evidence presented; reaches a finding regarding responsibility for charges against the student after full discussion of the case in closed session and presents the finding to the Dean of Students within 24 hours after the hearing concludes, or the next business day if the hearing concludes on a Friday. **Any sanctions given will be provided to the student in writing within five class days.**

The Student Faculty Hearing **Board** has the authority to impose all the sanctions listed in Article V. The Student Faculty Hearing **Board** also acts as a hearing body of first jurisdiction at the request of the President or the President’s designee in cases where the safety of persons or property of the College community is believed to have been threatened. In appeal cases heard by the Student Faculty Hearing **Board**, their decision is final except when suspension or **expulsion** from College is recommended. **In such cases, only suspension or expulsion (Article V, Sec. 7 & 14)** are subject to review by the President or the President’s designee.

The Student Faculty Hearing **Board** is comprised of:

- A. Students - provided by SGA, **one of which will serve on each hearing.** They are appointed for a one-year term; one will be assigned or selected by the chairperson for each hearing as available. Students must be full-time matriculated students, must have cumulative

honor point indexes of not less than 2.00, except for first-semester freshmen, and must not have incurred a penalty for campus misconduct other than admonition, ~~or have been convicted of an offense other than a traffic violation while members of the student body.~~

B. Faculty - provided by the Faculty Assembly, **one of which will serve on each hearing.** The faculty members must be employees who must have worked at the College for at least one year. ~~, or have been convicted of an offense other than a traffic violation while members of the faculty.~~

C. Administration - are members of the non-teaching professional staff, one of which is assigned to each hearing as available and will serve as the chair of the **Board** for that hearing. They are **appointed** by the College President for three-year terms. The professionals must be employees who have worked at the College for at least one year, ~~or have been convicted of an offense other than a traffic violation while members of the professional staff.~~

The Student Faculty Hearing **Board**, by two-thirds vote of all members, may remove any student or faculty member from office for just cause, in accordance with committee due process. If a representative is removed from office, the vacancy shall be filled in the same manner as the original office holder.

## **2. Residence Hall Hearing Board**

There shall be a standing central Residence Hall **Hearing Board** (RHHB) composed of ~~five~~ **six** students, one from each of the residence halls who are nominated by the hall staff and one Resident Assistant nominated by the Resident Assistants who will serve as Chair of the **Board**. The Director of Residence Life or his/her designee will serve as the advisor to this **Board**. The RHHB will provide resident students with an opportunity to present cases before their peers, thus giving residents a greater degree of autonomy and "hands-on" judicial experience in communal living. When dealing with a disciplinary matter, students are afforded the right to appear before a Judicial Hearing **Board** (of the Judicial Officer's discretion) or the opportunity to accept summary action wherein they waive their right to appear before a Judicial Hearing **Board**. The Judicial Officer can also elect to present a case to the Judicial **Board** even if it is against the wishes of the student being charged. In accordance with the Code of Student Conduct, appeals of the RHHB's decision(s) will be heard by the Dean of Students or his/her designee except when suspension or **expulsion** from the College are involved in which case those are reviewed by the College President or his/her designee. The RHHB has the authority to impose all official sanctions listed in Article V except suspension **or expulsion** from the College.

## **15.8 Article VIII: Responsibilities of Administrative Officers**

1. The President/**Acting** President shall review all recommendations of the Student Faculty Hearing **Board** involving suspension or **expulsion** from the College (**Article V, Sec. 7 & 14**). Before reaching a decision, the President/**Acting** President may consult with the appropriate person(s) or parties. The President or his/her designee may summarily suspend a student/organization pending a hearing if the student/ organization (**Article V, Sec. 14**) is believed to constitute a clear and present danger to the safety of persons or property of the

academic community. The President or his/her designee shall allow the accused student/organization an immediate explanation in writing with respect to such suspension.

2. The Dean of Students or the Dean's designee has the following responsibilities:
  - A. Review and determine if sufficient evidence exists to charge the accused;
  - B. Notify the accused in writing of the nature of the charge(s). Notification will also include the nature of the Hearing Board, date, time, and location of the hearing, a statement of the student's rights, and information on the hearing procedures. The notice may be hand delivered; placed into a student's residence hall mailbox; sent by e-mail to the accused student's official College e-mail address, or mailed to the last known address of the student, either by certified mail or first class mail.
  - C. Works with the Chair of the Student Faculty Hearing Board to set the hearing date and time and composition of the Board.
  - D. Coordinate the follow-up to ensure that the sanction is carried out.

### 15.9 Article IX: Procedures for Judicial Hearings

#### For all Campus Judicial Boards:

1. Charges of alleged misconduct (under Article IV) may be brought against any student or organization.
2. Before a student's/organization's case is presented before a campus Judicial Board (except when the Maintenance of Public Order Committee has jurisdiction), the procedures below must be followed: A student/organization must be:
  - A. Given written notice of the charges and access to all written statements expected to be used during the hearing.
  - B. Notified of the right to obtain an advisor and the right to refuse to answer questions. If an advisor will be present, notification must be given to the Dean of Students in writing 24 hours prior to the start of the hearing.
  - C. Notified of the time and place of the hearing and given at least four calendar days from the time the student receives their charge letter and notice of hearing date and time, as well as access to all written statements to be used at the hearing in order to prepare a defense. The student/organization may waive, in writing, the right to a four-calendar day waiting period.
3. The College recommends that all students and organizations adhere to the following procedures:
  - A. Take four calendar days to prepare their defense; and
  - B. As an option, bring one advisor with them to the hearing. An advisor may be any individual that the student designates, such as a parent/legal guardian, or member of the faculty, staff, or student body. Advisors may not actively participate in the hearing or they will be asked to leave.

NOTE: Attendance at hearings is limited to those directly involved or those requested by the hearing officer or Board to attend. The hearing officer or Board will take reasonable



measures to assure an orderly hearing, including removal of persons who impede or disrupt proceedings.

4. A student/organization who fails to appear before the **Judicial Board** as requested forfeits the opportunity to present their case to the **Board**. The hearing will be conducted as scheduled and the **Judicial Board** will act on information, material, and testimony presented to the **Board**.
5. A hearing body shall not be bound by the strict, technical rules of judicial evidence, but may hear or receive any testimony or evidence which is relevant to the charges and will contribute to the rendering of an impartial and fair judgment by the **Hearing Board**.
6. The accused may submit a written statement, may invite relevant witnesses to attend, and may ask questions of witnesses called by others. The College may present witnesses as well as question those presented by the accused. **Witnesses shall be defined as parties who were present at the alleged incident. Character witnesses are not permitted.**
7. At the conclusion of the review, the Student Faculty Hearing **Board** shall determine (by simple majority vote) whether the student has violated each section of the Student Code of Conduct, which the student is charged with violating.
8. **Any sanctions given will be provided to the student in writing within five class days. In cases of suspension or expulsion, the Hearing Board will determine the grades that will be recorded for the student for that semester.**
9. The Dean of Students shall keep record of the substance of the hearing. Such records remain the property of the College. Only College judicial affairs staff may record judicial meetings or proceedings. No other recordings are permitted. Such records often contain personally identifiable and sensitive information about participants. **The names of the specific members serving on a Judicial Board are to remain anonymous, with the exception of the Hearing Officer conducting the process.** The Dean of Students may report the findings to the College community without revealing personally identifiable information.
10. **Adjournments:** The chairperson shall have the authority to adjourn or postpone hearings if, in his/her opinion, extenuating circumstances are justifiably raised by the accused student(s), the Dean of Students or designee or individual judicial **Board** members. Requests for such adjournments must be made in writing with justification at least 24 hours before the scheduled hearing. The judicial **Hearing Board** may adjourn the hearing, imposing temporary sanctions, and schedule sanctioning for a later date.
11. **Appeals:** A request for an appeal may only be submitted when the student believes:
  - A. A procedural error occurred during the process, which had a direct impact on the finding.
  - B. That new information has come to light, which has a direct impact on the finding.
  - C. The finding or sanction imposed is unfair or inappropriate.

Appeals of a decision of the campus judicial process shall be directed in writing by the respondent to the President or designee (Vice President for Student Affairs) within four class days of the respondent's receipt of the written decision.

Appeals of the decisions of the **RHHB** shall be directed in writing by the respondent to the Dean of Students within four class days of the respondent's receipt of the written decision.

**Appeals decisions are final within the campus judicial system.**

12. In extenuating circumstances, or when the College is in recess, the Dean of Students or designee has the authority to convene an emergency Student Faculty Hearing Board; similarly, the Director of Residence Life or designee has the authority to convene a temporary Residence Hall Hearing Board. This Board may be composed of one faculty member and one staff person when a student representative is not available.