

## Proposed Changes to Student Handbook/Student Code of Conduct

*Approved by Student Code of Conduct Review Committee on April 26, 2013*

*Reviewed and approved by SUNY Legal on April 29, 2013*

### **Currently:**

No definition listed for support person.

### **Proposed Change:**

Definition added to definition section in 15.0 for support person:

**Support Person: The student is offered the opportunity to have a supporter from the College community (i.e., a currently enrolled student or current employee with the exception of administrators or those directly involved in the judicial process such as Residence Life staff members, University Police officers, hearing board members, or judicial conduct staff members) to provide assistance and support during the formal hearing with the Conduct Board. Upon request, the College will supply the names of potential supporters from the College community. The supporter should not include lawyers. (Further guidance provided in 15.9 about the role of a support person).**

### **Currently:**

15.0 Definition: Dean of Students: An administrative officer of the College who is responsible for student discipline and issues related to the Student Code of Conduct. The Dean of Students **serves as the** adjudicating judicial officer.

### **Proposed Change:**

15.0 Definition: Dean of Students: An administrative officer of the College who is responsible for student discipline and issues related to the Student Code of Conduct. The Dean of Students **or his/her designee serves as the** adjudicating judicial officer.

### **Currently:**

**15.4 Article IV: 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.)

### **Proposed Change:**

**15.4 Article IV: 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.)

### **Currently:**

15.9 2 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.**

### **Proposed Change:**

15.9 2 B. Notified of the right to obtain **a support person** and the right to refuse to answer questions. **If a support person will be present, the guidelines outlined in 15.9 3(B) must be followed.**

**Currently:**

15.9 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.**

**Proposed Change:**

15.9 3 B. As an option, **bring one support person with them to the hearing. The student is offered the opportunity to have a supporter from the College community (i.e., a currently enrolled student or current employee with the exception of administrators or those directly involved in the judicial process such as Residence Life staff members, University Police officers, hearing board members, or judicial conduct staff members) to provide assistance and support during the formal hearing with the Conduct Board. Upon request, the College will supply the names of potential supporters from the College community. The supporter should not include lawyers. The student is responsible for contacting the supporter to obtain their approval to serve in this role. The student shall submit the supporter's contact information to the adjudicating officer at least two full College business days prior to the hearing. The supporter may: (a) attend the formal hearing with the student; and, (b) advise the student during the formal hearing in writing or quiet conversation (recess(es) may be permitted for supporter to discuss matters with student). The supporter cannot: (a) investigate the Code of Conduct charges outside of the stated conduct procedures; (b) present or prepare the student's case on behalf of the student; or, (c) ask questions or respond to the Conduct Board or respondent(s)/witness(es) on behalf of the student during the formal hearing. The student is responsible for preparing and presenting their own case. Any supporter who violates these rules may be asked to leave the formal hearing.**

**Currently:**

15.9 1. Requests for adjournments must be made in writing with justification at least 24 hours before the scheduled hearing

**Proposed Change:**

15.9 1. Requests for adjournments must be made in writing with justification at least 24 hours before the scheduled hearing **with the exception of "conflict of interest" adjournments raised at the hearing.**

**Currently:**

**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.

**Proposed Change:**

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 Summary Action the accused party and the adjudicating Judicial Officer come to agreement on the violation[s] of the Code of Student Conduct and the appropriate disciplinary sanction[s]. 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. Please note: 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.

**A student may choose to have a support person present when meeting with a judicial officer, however, the student is expected to speak directly with the judicial officer and not through a support person at the meeting. Support persons may be permitted only in instances where the student has granted permission for the support person to join the meeting. A FERPA waiver may be required by the judicial officer prior to allowing the support person to join the meeting. Any support person who is disruptive or does not permit the student to speak directly with the judicial officer may be asked to leave.**

**Currently:**

15.4 Article IV 49. SEXUAL HARASSMENT - **A person is guilty of sexual harassment when his or her behavior is contrary to College policy as described below:** (based on Equal Employment Opportunity Commission and Office of Civil Rights regulations) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to, or enduring such conduct, when rejection is made either explicitly or implicitly a term or condition of instruction, employment, or participation in a College activity; or
- B. Submission to, or rejection of, such conduct by an individual is used as the basis for making academic or personnel decisions affecting an individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creates an intimidating, hostile, or offensive College environment

**Proposed Change:**

**15. 4 Article IV 49 Sexual Misconduct**

**The act of consent requires spoken words or behavior that indicates, without doubt to either party, a mutual agreement to participate in sexual intercourse or other sexual activities. Indicators of consent do not include silence or past or present sexual relationship[s]. A person is deemed incapable of consenting when that person is mentally defective, mentally incapacitated, physically helpless (whether induced by drugs, alcohol, or otherwise), or asleep. The use of alcohol or other drugs cannot be considered an excuse for rape or sexual assault. Rape or sexual assault can be committed by a friend, acquaintance, or stranger. Sexual misconduct can be defined as one or more of the following:**

**A. Forcible Rape: forcing or coercing someone to have vaginal, penile, oral, or anal penetration/sexual intercourse. Rape may involve the use or threat of force, violence, or immediate and unlawful bodily injury. The perpetrator does not need to use a weapon or produce physical harm; the threat of force, expressed or implied, is sufficient to categorize the act as rape. Rape also occurs when the victim is incapable of giving legal consent**

because the victim is less than 17 years of age; mentally incapacitated; physically helpless (including drug or alcohol intoxication); mentally incompetent, or asleep.

**B. Acquaintance Rape/Date Rape:** sexual intercourse undertaken by a friend, date, or acquaintance without consent. Acquaintance rape includes sexual intercourse that occurs through force, as a result of threat[s], physical restraint or physical violence, or without consent.

**C. Sexual Abuse:** forcing or coercing a man or woman to engage in any sexual contact other than intercourse under the circumstances previously mentioned in the description of Forcible Rape or Acquaintance Rape including taking non-consensual advantage of another person for one's own or another's benefit. sexual

**D. Sexual Harassment:** (Based on Equal Employment Opportunity Commission and Office of Civil Rights regulations): Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (a) submission to, or enduring such conduct, when rejection is made either explicitly or implicitly a term or condition of instruction, employment, or participation in other College activity, or (b) submission to, or rejection of, such conduct by an individual is used as the basis for making academic or personnel decisions affecting the individual; or, (c ) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive College environment.