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## STUDENT CONDUCT POLICY AND PROCEDURES

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### POLICY STATEMENT

The Student Conduct Policy sets behavioral standards for Empire State College students and defines the relationship between the College and its students. It affirms values essential to promoting individual intellectual and personal development and for creating an effective learning community. Empire State College expects students to conduct themselves in a responsible manner that is respectful of the rights, well being, and property of all members of the College community and that supports the College's educational mission. This policy complies with section 6450 of the Educational Law and section 535 of the Rules of the Board of Trustees of the State University of New York.

Students are expected to:

- treat students, faculty and staff of the College with civility and respect
- represent themselves and any documentation that they may present to the College in an honest manner
- respect College property and the activities conducted at College facilities or College-sponsored events
- uphold College policies, SUNY policies and all applicable laws.

ESC students should expect the same degree of civility and respect from other students, faculty and staff.

### SCOPE

A student is a person who is admitted or enrolled at Empire State College. The College has an interest in student conduct which occurs during a student's matriculation or enrollment at the College, including any breaks in enrollment permitted by College policy. Students are responsible for their own behavior and the behavior of their guests.

The College does not normally pursue alleged conduct violations that occur away from Empire State College facilities or events or that are not associated with the student's relationship with Empire State College. However, in situations when the safety of members of the College community may be endangered, the College may review such violations pursuant to the Policy on Student Conduct.

### COLLEGE REGULATIONS

The following behaviors by a student or any guest of a student, whether acting alone or with any other persons, violate the Policy on Student Conduct:

1. Conduct that threatens or endangers the mental health, physical health or safety of any person or persons or causes actual harm, including:
  - physical harm or threat of physical harm such as physical abuse, sexual assault, or coercion
  - harassment and intimidation, whether physical, verbal (oral or written) or nonverbal
2. Dishonest conduct not covered by the Empire State College "Academic Integrity Policy," including forgery; alteration, fabrication or misuse of identification cards, records, grades, diplomas, College documents; or misrepresentation of any kind to a College office or official
3. Disorderly conduct that interferes with the rights of others
4. Intentional or reckless disruption or interference with the activities of the College or its members
5. Theft of personal or College property or services, or illegal possession or use of stolen property
6. Vandalism or intentional or reckless damage to personal or College property
7. Unauthorized entry, use, or occupation of College facilities or the unauthorized use or possession of College equipment
8. Illegal purchase, use, possession, or distribution of alcohol, drugs, or other controlled substances

9. Failure/refusal to comply with the directions of College officials who are performing the duties of their office in relation to the maintenance of safety or security
10. Unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons, or hazardous materials
11. Interference with or misuse of fire alarms, elevators, or other safety and security equipment or programs, including but not limited to initiating, or causing to be initiated, any false report, warning, or threat of fire, explosion, or other emergency
12. Violation of a condition or sanction imposed (or agreed upon) due to a violation of the Policy on Student Conduct
13. Violation of any federal, state, or local law that poses a threat to the health, safety or well being of the College or its individual members.

## PROCEDURES

The following procedures are used only if there is an allegation of a breach of student conduct as defined in this policy.

The administrator of the center or program in which the student is matriculating, or in which the student is enrolled if the student is not matriculated at Empire State College, is responsible for administering student conduct procedures.

The standard for finding a student responsible for a violation of the Policy on Student Conduct is that there is clear and convincing evidence.

The College President or designee may place a student on interim suspension upon making a determination that such an action is necessary to maintain safety and order.

### A. Rights of the Parties

Students are entitled to equal care and fairness in the application of the Policy on Student Conduct. A student accused of a breach of student conduct and others in the College community have equally important interests. These procedures take into account the interests of all parties in order to reach a fair resolution.

1. Each party has the right to be informed of his or her rights through receipt of a copy of this policy.
2. Each party has the right to receive relevant information and documentation, including information that is favorable to the student accused of a violation or that may indicate that he or she may not be responsible.
3. Each party has the right to a meaningful opportunity to be heard and to respond to the information and documentation presented.

### B. Initial Review

1. Any member of the College community may file a signed, written complaint alleging a serious breach of student conduct. The complaint must be submitted in writing to the appropriate College administrator (as defined above) within 30 calendar days of the occurrence of the event or discovery thereof. The complaint must describe the alleged violation and include any available documentation.
2. The College administrator who receives a complaint first determines if there are grounds for the allegation and whether the allegation falls within the scope of the Policy on Student Conduct. If the administrator determines that the allegation is groundless or the alleged violation does not fall within the scope of this policy, the administrator so notifies the complainant in writing. The administrator may address the concern through discussion with the student or other appropriate means and will make every effort to resolve the matter informally when appropriate.
3. If the administrator determines that the allegation falls within the scope of this policy, the administrator determines the appropriate next step. There are two options:
  - a. If the administrator determines that the alleged violation does not potentially warrant a sanction of suspension or expulsion from the College, the next step is a review conference with the student.
  - b. If the administrator determines that the alleged violation is serious enough to potentially warrant a sanction of suspension or expulsion from the College, the next step is referral to the Student Conduct Committee for a hearing.

In either case, the administrator notifies the student in writing within 15 calendar days of receipt of the complaint. The written notice indicates who filed the complaint; summarizes the student's alleged violation of College policy and the nature of the information and documentation presented against the student; and includes a copy of the Policy on Student Conduct. The written notice also indicates whether the next step is a review conference or referral to the Student Conduct Committee for a hearing.

### C. Review Conference

1. The review conference includes the College administrator and the student who has been charged with a violation and may take the form of a meeting, telephone conference or videoconference. The conference usually takes place within 15 calendar days of the written notice to the student.
2. In the review conference, the administrator reviews the allegation and the College's Policy on Student Conduct with the student and gives the student an opportunity to respond.
3. Following the review conference:
  - a. The administrator determines whether or not there are grounds for the action and may dismiss the charge.
  - b. The administrator may resolve the issue administratively by mutual consent of the parties in a way that is acceptable to the administrator. The administrator provides a written summary of the issue and its disposition to the student and the complainant and maintains a copy for the center or program records.
  - c. The administrator may redefine the alleged violation as potentially warranting a sanction of suspension or expulsion from the College, and refer the case to the Student Conduct Committee for a hearing.
  - d. The administrator may determine that the student is responsible for a violation for which a written warning is appropriate. In this case, the administrator may impose the sanction of a written warning as described in section E.
4. The center or program administrator is responsible for producing an accurate record of the review conference and for forwarding a copy of any written warning to the VPAA.

### D. Student Conduct Committee Hearing

1. Student Conduct Committee. The Student Conduct Committee (SCC) considers alleged violations of the Policy on Student Conduct that may warrant a sanction of suspension or expulsion from the College. The SCC consists of three members, two of whom are Empire State College faculty members and one who is a currently enrolled student. Each center or program has procedures for constituting the SCC and establishing a faculty member as the hearing officer. If a member of the SCC is a party to a complaint or has a conflict of interest, he or she recuses himself or herself. A substitute member who is not involved in the case replaces the original member.
2. The responsible College administrator refers cases to the SCC. The administrator sends a copy of the notice of the complaint to the SCC, the student and the complainant. The administrator also designates staff support for the hearing.
3. The hearing officer is responsible for procedural decisions, correspondence, and coordinating and chairing the hearing.
4. SCC Hearing. A SCC hearing takes place within 30 calendar days of the referral, not counting College "no appointment periods". The hearing may take the form of a meeting, conference call or videoconference, at the discretion of the SCC.
5. The SCC is responsible for conducting a fair hearing of the facts and relevant information.
6. Each party has the right to have an advisor at a SCC hearing, but advisors may not question witnesses, address the SCC or participate directly in the hearing.
7. Each party has the right to refuse to answer questions.
8. The hearing officer must require all witnesses to swear or affirm that the information they provide will be truthful.
9. A single, verbatim record (e.g. transcript or recording) is made of the hearing. It and any copies made for safekeeping remain the property of the College. The College provides supervised, post-hearing access to the record, but does not provide copies to the parties.
10. The SCC is responsible for obtaining and reviewing any supporting documentation it deems necessary from the student, the complainant and/or others.
11. Following the hearing, the SCC deliberates in closed session.
12. The SCC is responsible for determining whether the student violated the Policy on Student Conduct and for recommending an appropriate sanction. The SCC may:
  - a. Determine that there is no finding of misconduct, with the result that the case is closed
  - b. Determine that the student has violated the Policy on Student Conduct and recommend a sanction of expulsion, suspension, or written warning. Since alleged violations are referred to the SCC only when a sanction of suspension or expulsion from the College is potentially warranted, an SCC finding of misconduct normally results in a recommendation of either of those two sanctions. However, the SCC may recommend the lesser sanction of a written warning.
  - c. Determine that a violation has occurred which does not warrant even a written warning sanction, and refer the case back to the relevant administrator for resolution through a review conference.

13. The SCC transmits its written decision and rationale to student, the complainant and the referring administrator within 15 calendar days of the hearing. The SCC also transmits the verbatim record of the hearing session to the referring administrator within 15 calendar days of the hearing.

### E. Sanctions and Imposition of Sanctions

The relevant administrator is responsible for implementing any sanction for misconduct within seven calendar days of the decision. The administrator provides a written notice to the student and the complainant.

There are three possible sanctions. The sanctions of expulsion and suspension result in a loss of good standing with the College.

**Expulsion:** A student who is expelled from the College for disciplinary reasons is permanently excluded from all College activities, functions, facilities and buildings, and may not use any College resources.

**Suspension:** A student who is suspended from the college is excluded from all College activities, functions, facilities and buildings for the period of the suspension. The student is restored to good standing at the end of the suspension period.

**Written Warning:** A written warning describes the breach of conduct and directs the student not to repeat the conduct in question. A written warning indicates that the student has damaged his or her relationship with the College, but does not carry a loss of good standing. The center or program administrator addresses the written warning to the student, retains a copy and forwards a copy to the VPAA for retention on a permanent basis.

A suspension or written warning may be accompanied by restrictions on the use of specific College resources or facilities (e.g. use of computer resources or studio space). A restriction may be temporary or permanent. Information defining such restrictions must be included in the written notice to the student.

The existence of a prior written warning or suspension is taken into account in the event of a further allegation. Repeated violations may be a basis for determining that a sanction of suspension or expulsion from the College is potentially warranted and that a referral must be made to the Student Conduct Committee.

In addition to the sanctions specified above, the College may require the student to make restitution or compensate for any loss, damage or injury.

### F. Appeals

1. The student has the right to appeal a decision by the relevant administrator or by the SCC to the Vice President for Academic Affairs. Such appeals are not a rehearing of the complaint; rather, they provide a safeguard against errors or unfairness. The student may appeal the determination of responsibility, the sanction or both.

2. Appeal of a Determination of Responsibility. An appeal of the determination of responsibility is made only on the basis that significant new information or material is discovered or made available that could change the determination of responsibility; or a decision was made in error or contrary to the information and documentation presented; or a violation, mistake or substantive error occurred in the procedures followed that would have significantly altered the outcome of the hearing.

3. Appeal of a Sanction. A student who has been given a sanction and believes that the sanction imposed is inappropriate for the violation has the right to appeal to the Vice President for Academic Affairs.

4. The student must submit any appeal in writing to the Vice President for Academic Affairs (VPAA) within 30 calendar days of transmittal of the decision and must include an explanation or justification for the appeal.

5. The VPAA notifies other parties in the case within seven calendar days of receipt of an appeal. Those parties normally provide any written response within 15 calendar days. The VPAA normally provides a written decision and rationale within seven calendar days of receipt of responses to the appeal. The VPAA's decision is final.

6. If the student files a timely appeal, no sanction is imposed until the VPAA renders a decision, except that an interim suspension imposed to maintain safety and order would remain in effect.

### G. Maintaining Records

The Office of Academic Affairs maintains records of Student Conduct Committee proceedings for five years from the date of last enrollment or graduation date, whichever is later, except in cases resulting in suspension or expulsion, in which case the record is maintained indefinitely. If a student matriculates into another program at Empire State College, the record remains active.

## H. Review of Policies and Procedures

Changes to this policy are subject to approval by the appropriate governance bodies, the College President and the College Council. The Vice President for Academic Affairs approves procedural changes.

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