



UNIVERSITY  
AT ALBANY  
State University of New York

# Community Rights & Responsibilities

## SECTION 1: INTRODUCTION

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*Community Rights and Responsibilities* is the official code of conduct outlining behavioral expectations for University at Albany students. The University has developed this code of standards and expectations, consistent with its purpose as an educational institution and requires that each student accept responsibility for his or her own behavior and consequences. These regulations and the procedures for their enforcement apply to all student conduct and behavior. Once a student is accepted as a member of the University community, they are responsible to uphold the standards outlined in this document. As such, students should be familiar with this document. These specific regulations should not be viewed as a comprehensive code of desirable conduct; rather they describe the minimum standards.

A copy of this document can be viewed and printed at [http://www.albany.edu/studentconduct/community\\_rights\\_and\\_responsibilities.php](http://www.albany.edu/studentconduct/community_rights_and_responsibilities.php) or you may request a hard copy from Community Standards in Campus Center 361. Questions about the contents of the code of conduct can be directed to Community Standards at (518) 442-5501 or at [communitystandards@albany.edu](mailto:communitystandards@albany.edu).

It should be understood that all rules of the Board of Trustees of SUNY, and all local, state and federal laws apply on the campus. The State of New York laws include, but are not limited to, the New York State Penal Law, the New York State Vehicle and Traffic Law, the New York State Education Law, and the Alcohol Beverage Control Law. Violations of these regulations may result in a referral to the Student Conduct System. In such cases, the University may commence the Student Conduct System procedure independent of criminal or civil court proceedings.

### 1. Philosophical Approach to Standards of Conduct

Because disciplinary actions must be commensurate with the seriousness of the offense and the total conduct record of the student, each case is determined on its own merits. Student conduct procedures and subsequent disciplinary outcomes are designed to find a balance between the interests of the individual student and the community.

### 2. Jurisdiction of the University's Code of Conduct

The student code of conduct shall apply to conduct that occurs on University premises, at University sponsored activities and to off-campus conduct that adversely affects the University community, the pursuit of its objectives, or neighboring communities. A student may be charged with violating local, state and federal laws and also the campus code of conduct as the student is subject to double jurisdiction, having obligations both to the State and the University. (See "Double Jurisdiction: What Does It Mean and What are the Implications?" for further information: [http://www.albany.edu/studentconduct/double\\_jurisdiction.php](http://www.albany.edu/studentconduct/double_jurisdiction.php).)

### 3. Inherent Authority for the Student Disciplinary Program

Section 356 of the Education Law empowers the University Council of each State-operated campus of State University of New York to make regulations governing the conduct of students, subject to the general management, supervision, control and approval of the Board of Trustees of the State University of New York. All programs for student welfare and conduct are entrusted to and administered by the President of the University at Albany on behalf of the University Council.

The President has delegated administration of programs for student welfare and conduct to the Vice President for Student Success. Enforcement of standards of conduct, University regulations, recommendations for new policies, or modification of policies or regulations affecting student welfare and conduct are initiated through the Office of the Vice President for Student Success. The Vice President has jurisdiction over the Student Conduct System.

In addition to *Community Rights and Responsibilities*, the rules, regulations, and procedures for *The Maintenance of Public Order* on campuses of the State University of New York, adopted by the Board of Trustees, are in effect at the University at Albany. (See Rules for the Maintenance of Public Order: [http://www.suny.edu/sunyp/documents.cfm?doc\\_id=351](http://www.suny.edu/sunyp/documents.cfm?doc_id=351).)

## SECTION 2: DEFINITIONS

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1. **“Affirmative Consent”** is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
2. **“Appeal Review Board”** means any person or persons authorized by the Vice President for Student Success to consider an appeal.
3. **“Committee on Student Conduct”** means the Student Conduct Board authorized to hear Student Conduct referrals of graduate students or in cases of academic dishonesty.
4. **“Community Reengagement Program (CoRe)”** is a self-directed program designed for a student to demonstrate that, in the period following being placed on Disciplinary Probation, they have taken steps to become productive and engaged members of the University Community.
5. **“Course of Conduct”** is defined as a pattern of actions composed of two or more acts over a period of time.
6. **“Director of Community Standards”** means the person designated by the Vice President to administer *Community Rights and Responsibilities*.
7. **“Faculty Member”** means any person hired by the University to conduct classroom and/or research activities.
8. **“May”** is used in the permissive sense.
9. **“Member of the University Community”** includes any person who is a student, faculty member, University official or any other person employed by or contracted with the University. A person’s status in a particular situation shall be determined by the Vice President for Student Success.
10. **“Organization”** means any number of persons who have complied with the formal requirements for University recognition/registration.
11. **“Policy”** is defined as the written regulations of the University as found in, but not limited to, *Community Rights and Responsibilities*, Residence Hall License Agreement, and the Graduate and Undergraduate Bulletins.
12. **“Proceedings”** refers to the activities related to an institutional disciplinary complaint, including but not limited to, fact-finding investigations, formal or informal meetings, hearings, and appeals.
13. **“Reasonable Person”** refers to a hypothetical person who exercises average care, skill and judgment in conduct and who serves as a comparative standard.
14. **“Results”** means any initial, interim, and final decision by any University official or entity authorized to resolve disciplinary matters within the institution.
15. **“Sexual Misconduct”** encompasses a wide range of behavior for sexual purposes that is against another’s will or at the expense of another. Sexual misconduct includes, but is not limited to, sexual harassment, sexual assault, intimate partner violence, stalking of a sexual nature, or any conduct of a sexual nature that is nonconsensual, or has the effect of threatening or intimidating another.
16. **“Shall”** is used in the imperative sense.
17. **“Student”** is defined as: persons registered for courses, either full time or part time, pursuing undergraduate, graduate, or professional studies, as well as non-degree seeking students; individuals who confirm their intent to enroll in programs; those attending orientation sessions; between academic terms; taking online classes; auditing classes; residing in the residence halls; those that were enrolled on the date of an alleged incident; persons who are active but not enrolled at the University.
18. **“Student Conduct Administrator”** means any University official appointed by the Vice President to resolve student conduct referrals in lieu of a hearing or to review appeals.

19. **“Student Conduct Board”** refers to the authorized persons who hear undergraduate student conduct referrals, except alleged violations of academic dishonesty.
20. **“Student Conduct Body”** is an umbrella term that refers to the Student Conduct Board and the Committee on Student Conduct.
21. **“Student Conduct Referral”** means the University Student Conduct System Standard Case Form that includes a description of alleged misconduct and specific *Community Rights and Responsibilities* code violations.
22. **“Student Conduct System”** means the program established to maintain the integrity of the values of the University community by reviewing alleged violations of *Community Rights and Responsibilities*.
23. **“University”** means the University at Albany, State University of New York.
24. **“University Official”** includes any person employed by the University, performing assigned administrative or professional responsibilities.
25. **“University Premises”** includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University including adjacent streets and sidewalks. It includes properties under the authority of Student Association of the University at Albany, University Foundation and the University Auxiliary Services, Inc.
26. **“Vice President”** means the Vice President for Student Success, or designee, who, as the President’s designee, is responsible for the administration of *Community Rights and Responsibilities*.

## SECTION 3: PROHIBITED CONDUCT

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The behaviors listed in this section violate the University’s student code of conduct. This list is not exhaustive, but is intended to describe general types of behavior that may result in disciplinary action. These codes apply both to student behavior which occurs on campus or at University sponsored events as well as those occurring off-campus. Prohibited behavior includes not only completed actions, but also attempted violations of the student code of conduct.

A student who withdraws from the University shall not be exempt from disciplinary proceedings for behavioral infractions which took place prior to withdrawal. Campus disciplinary procedures shall be followed with the accused student receiving due notice of hearing. Any resulting sanction of suspension or dismissal will be notated on the undergraduate or graduate academic transcript, as well as the student’s conduct record.

### 1. Fire Safety

- A. Causing or creating a fire, regardless of intent (except as authorized for use in class, or in connection with University-sponsored research or other approved activities).
- B. Tampering with safety measures or devices, including but not limited to, alarm systems, fire extinguishers, exit signs, emergency phone systems, smoke or heat detectors, fire hoses, security systems, locked exterior doors, etc.
- C. Failing to conform to safety regulations, including but not limited to, falsely reporting an incident, failure to evacuate facilities in a timely fashion in emergency situations or in response to fire alarms, inappropriate use of the fire alarm system.

### 2. Weapons and Dangerous Objects

Possessing or using any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, switchblade knives, knives with blades five or more inches in length, explosives, fireworks or dangerous chemicals (except as authorized for use in class, or in connection with University-sponsored research or other approved activities). The term firearms include pellet guns, air guns, rifles, shotguns, handguns, multiple firing weapons and any weapon capable of firing a shot.

Permission to store a rifle, shotgun or firearm may be requested through the University Police Department (UPD) and is subject to written approval by the University Police Department. All weapons for which permission has been granted for storage on campus must be stored at the University Police Department and may be signed out by the owners through a log maintained by the University Police Department. ***You may NOT bring any weapon onto campus without prior written approval to do so.***

**NOTE: Possession of any rifle, shotgun or firearm in or upon any building or grounds of the University is also a crime under New York state law without written authorization from the President.** Any person doing so without authorization is subject to arrest and incarceration in addition to any penalty that may be assessed through the University’s Student Conduct System.

### 3. Threatening or Abusive Behavior

Intentionally or recklessly causing physical harm to any person or reasonable fear of such harm. Students cannot justify such behavior as defensive if:

- A. The behavior is a physical response to verbal provocation;
- B. The student has the ability to leave the situation, but instead chooses to respond physically;
- C. In circumstances where such actions are punitive or retaliatory.

### 4. Harassment

Conduct that is so pervasive or severe that it effectively denies the individual reasonable access to University resources or opportunities. (See the University's supplemental policy on Harassment/Sexual Harassment for further information: [http://www.albany.edu/studentconduct/harassment%20\\_sexual\\_harassment.php](http://www.albany.edu/studentconduct/harassment%20_sexual_harassment.php).)

### 5. Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

**Dating Violence** –Any act of violence, including physical, sexual, psychological, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of the interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.

**Domestic Violence** – Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

### 6. Stalking

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimate, annoy or alarm him or her. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

### 7. Endangerment

Acting to create or contribute to dangerous or unsafe environments anywhere on or off-campus. Reckless or intentional acts which endanger, or put at risk, the welfare of oneself or others are prohibited.

### 8. Sexual Harassment

Unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus. (See the University's supplemental policy on Harassment/Sexual Harassment for further information: [http://www.albany.edu/studentconduct/harassment%20\\_sexual\\_harassment.php](http://www.albany.edu/studentconduct/harassment%20_sexual_harassment.php).)

### 9. Rape, Sexual Assault and Sexual Exploitation

**Sexual Assault I**—By a stranger or acquaintance, sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) where active consent was not established. Where the victim purported to give consent, but the accused used

force, threat, intimidation, or the victim's mental or physical helplessness, the charge of Sexual Assault I also applies. Mental or physical helplessness would include, but not be limited to, sleep, as well as the inability to consent due to excessive alcohol or drug use or consumption.

**Sexual Assault II**—By a stranger or acquaintance, touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, where active consent was not established. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts. Where the victim purported to give consent, but the accused used force, threat, intimidation, or the victim's mental or physical helplessness, the charge of Sexual Assault II also applies. Mental or physical helplessness would include, but not be limited to, sleep, as well as the inability to consent due to excessive alcohol or drug use or consumption.

**Sexual Exploitation**—Nonconsensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; and inducing incapacitation with the intent to sexually assault another person.<sup>1</sup>

The University's Sexual Assault Prevention statement and Statement of Principles and Rights are set forth in the University's supplemental policy on Sexual Assault Prevention:  
[http://www.albany.edu/studentconduct/sexual\\_assault\\_prevention.php](http://www.albany.edu/studentconduct/sexual_assault_prevention.php).

## 10. Hazing

Hazing is any reckless or intentional conduct in connection with the initiation into, or affiliation with, any organization which degrades, humiliates or endangers the mental or physical health of any person, regardless of the person's willingness to participate. It can also include activities that damage, destroy or remove any public or private property. (See the University's supplemental policy on Hazing for further information:  
<http://www.albany.edu/studentconduct/Hazing.php>.)

## 11. Academic Dishonesty

Conduct including, but not limited to, plagiarism, cheating, multiple submission, forgery, sabotage, unauthorized collaboration, falsification, bribery or use of purchased research service reports without appropriate notation; and theft, damage or misuse of library or computer resources. Attempts to commit such acts shall also constitute academic dishonesty. Students assume full responsibility for honesty in academic exercises.

(Students should be warned that if found in-violation of academic dishonesty they may be subject to two types of sanctions. If the instructor is convinced that the student has been dishonest, he or she may administer an academic penalty. The student who disagrees with the judgment or penalty may appeal through established academic appeal procedures. Consult the appropriate department chair, school dean, or academic bulletins for details. At the same time the student may be subject to the proceedings and penalties of the Student Conduct System outlined in *Community Rights and Responsibilities*.)

The University's Standards of Academic Integrity are set forth here:  
[http://www.albany.edu/studentconduct/standards\\_of\\_academic\\_integrity.php](http://www.albany.edu/studentconduct/standards_of_academic_integrity.php).

## 12. Forgery, Fraud, Dishonesty

Altering or misusing documents, records, stored data or instrument of identification, or furnishing false information to any University, local, state or federal official.

## 13. Property Damage

- A. Removing, destroying or damaging University property, or property under University administration or supervision.
- B. Destroying or damaging the property of others, on or off-campus.

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<sup>1</sup> Sexual exploitation definition adapted from Students Active for Ending Rape, c 2003.

#### **14. Theft**

Stealing property and/or services; possessing stolen property.

#### **15. Unauthorized Entry or Use**

Entering or using facilities or property on or off-campus, belonging to individuals, University-recognized groups and/or corporate entities without proper authorization.

#### **16. Drugs**

Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), possessing, using, or distributing a controlled substance or dangerous drug, or any drug unlawful to possess, e.g. marijuana, except as expressly permitted by law. Drug paraphernalia including, but not limited to: bongs, water pipes, or hypodermic needles that are not specifically required for the administration of prescribed medications are not allowed on campus. Use of legal medication outside the parameters of the medical authorization is prohibited and prescription drugs on campus must have an authentic medical prescription. Resources for students with illegal drug related dependency are listed in Section 3 of the University's supplemental policy on Alcohol & Drugs: [http://www.albany.edu/studentconduct/alcohol\\_and\\_drugs.php](http://www.albany.edu/studentconduct/alcohol_and_drugs.php).

#### **17. Alcohol**

Consistent with New York State Law, individuals under the age of 21 years are prohibited from using, possessing, or distributing alcoholic beverages. Individuals over the age of 21 may use and possess alcohol as permitted by the law and University regulations. Open containers and public intoxication are prohibited. Students who are irresponsible in their use of alcohol or who provide alcohol to minors will be subject to this code regardless of the student's age. This applies to both on campus and off-campus behavior.

The entire policy governing the use of alcoholic beverages is available in University's supplemental policy on Alcohol & Drugs: [http://www.albany.edu/studentconduct/alcohol\\_and\\_drugs.php](http://www.albany.edu/studentconduct/alcohol_and_drugs.php).

#### **18. Obstruction or Disruption**

Obstructing or disrupting University activities, including but not limited to, teaching, research, administration, disciplinary procedures, or other authorized activities including public service functions. It can include participation in campus demonstrations which disrupt the normal operations of the University and infringes on the rights of other members of the University community by leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.

#### **19. Student Group Violations**

Students are expected to know and abide by the regulations governing their membership in a student organization (e.g. fraternities and sororities). Prohibited conduct by officers/members of student groups and organizations may result in referral to the Student Conduct System for individual students.

It is a violation of University policy for students to affiliate with organizations that have had their University recognition suspended or permanently revoked by the University. The definition of affiliation includes joining, rushing, pledging or being involved in any activity that would normally be associated with being a member of such organization.

Full policies are available at <http://www.albany.edu/involvement/leadyourgroup.shtml> and can be discussed in person at the Office of Student Involvement and Leadership, CC 130, (518) 442-5566 or email [involvement@albany.edu](mailto:involvement@albany.edu).

#### **20. Compliance**

Failing to comply with the directions of an authorized local, state, federal or University official acting in the performance of his or her duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities.



## 21. Parking and Motor Vehicle Violations

Violating University policies and regulations governing the possession or use of motor vehicles on campus. The Office of Parking & Mass Transit publishes these regulations at <http://www.albany.edu/pmts/>. Violations of this policy include but are not limited to:

- A. Purchasing a parking decal for a car that is registered in Department of Motor Vehicles to a resident freshman, a parent of a resident freshman or anyone else who lives at the same address as the resident freshman;
- B. Purchasing a decal for the vehicle of another student or the vehicle of a family member of another student unless they have the same permanent address;
- C. Altering any parking decal, temporary parking hang tag or any other documents relating to obtaining parking privileges in any manner;
- D. Using verbal or physical abuse, or threats of violence against any Parking and Mass Transit staff member; and
- E. Driving under the influence of alcohol or other drugs.

The Office of Parking & Mass Transit has the ability to fine or withdraw the right to use a vehicle on campus in addition to or in lieu of sanctions imposed through the campus Student Conduct System.

## 22. Smoking

Smoking is prohibited in all indoor University buildings, including campus residence halls. Smoking is prohibited out of doors in the following areas: within 30 feet of exterior ventilation intakes; within 10 feet of building entrances and open windows; and in all exterior stairwells.

## 23. Residence Hall Regulations

Failure to abide by Residence Hall Regulations as defined in the terms and conditions of the Residence Hall License. Complete text of the Residence Hall license is available at <http://www.albany.edu/housing/license.shtml>.

## 24. Disruptive Conduct

Impairing, interfering with or obstructing the orderly conduct, processes and functions of the University or surrounding community. This behavior includes, but is not limited to, excessive noise, abusive or obscene language in a public place, obstructing vehicular or pedestrian traffic and boisterous or threatening conduct which is unreasonable in the area, time or manner in which it occurs.

## 25. Responsible Use of Electronic Communication

The policy that outlines responsible use of University Information Technology policies is available at [http://www.albany.edu/its/its\\_policies.htm](http://www.albany.edu/its/its_policies.htm). Violations of this policy are subject to referral to Community Standards.

## 26. Hate or Bias-Related Crime

Intentionally selecting a person against whom a criminal offense is committed or intended to be committed because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation, regardless of whether the belief or perception is correct. (See the University's supplemental policy on Hate or Bias-Related Crime for further information:

[http://www.albany.edu/studentconduct/hate\\_or\\_bias\\_related\\_crime.php](http://www.albany.edu/studentconduct/hate_or_bias_related_crime.php).)

## 27. Gambling

Gambling, including, but not limited to, contests of chance, illegal lottery and policy for money or something of value; promoting or advancing gambling; gambling using University computing/network facilities; possessing gambling devices or gambling records is prohibited.

## 28. Abuse of the Student Conduct System

Abusing the Student Conduct System, including but not limited to:

- A. Failure to obey the summons of a Student Conduct Body or University official.
- B. Falsification, distortion, or misrepresentation of information before a Student Conduct Body.
- C. Disruption or interference with the orderly conduct of a student conduct proceeding.
- D. Knowingly instituting a student conduct referral without cause.



- E. Attempting to discourage an individual's proper participation in, or use of, the Student Conduct System.
- F. Attempting to influence the impartiality of a member of a Student Conduct Body prior to, and/or during, and/or after a student conduct proceeding.
- G. Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Body prior to, and/or during, and/or after a proceeding.
- H. Failure to comply with the sanction(s) imposed under the student code of conduct.
- I. Influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

## 29. Retaliation

- A. Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System.
- B. An intentional act taken against an individual who initiates **any** sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral. Information on how to report retaliation is found in the University's supplemental policy on Sexual Assault Prevention: [http://www.albany.edu/studentconduct/sexual\\_assault\\_prevention.php](http://www.albany.edu/studentconduct/sexual_assault_prevention.php).

## SECTION 4: STUDENT CONDUCT PROCEDURES

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### 1. Introduction

The Student Conduct System addresses charges that are brought against a student that allegedly violates the student code of conduct, *Community Rights and Responsibilities*. **The Student Conduct System utilizes a “preponderance of evidence” standard of proof. A preponderance of evidence standard evaluates whether it is more likely than not that a violation occurred.**

**University at Albany email is the official means of communication between Student Conduct Administrators and students on all matters pertaining to the Student Conduct System.**

### 2. Referrals

- A. When an incident occurs and there are allegations that a student violated the code of conduct, a Student Conduct Referral may be filed by any University faculty, staff and/or student.
- B. Individuals who wish to initiate a Student Conduct Referral must meet with a Student Conduct Administrator who will determine if the case has merit to move forward to a referral.
- C. If the case is deemed to have merit, then the Referring Party will be asked to put the allegations of misconduct in writing with sufficient detail to support a referral. Any charge should be submitted as soon as possible after the event takes place, preferably within the academic year in which the alleged infraction took place. While timeliness is preferable, there is no deadline by which a complaint must be filed as long as the referred party is a current student at the University at Albany.
- D. If there is an allegation of misconduct that the Student Conduct Administrator has determined has merit, the Referred Party will:
  - I. Be notified that a complaint has been filed against him/her via University at Albany email;
  - II. Have an opportunity to meet with a Student Conduct Administrator to review the Student Conduct Referral which includes the code violations;
  - III. Learn about the student conduct process and have questions answered;
  - IV. Give his/her perspective about the incident;
  - V. Provide witness information, if applicable;
  - VI. Sign the Student Conduct Referral indicating the referral and possible sanction outcomes have been reviewed; and
  - VII. Receive a copy of the Student Conduct Referral.
- E. After the Referred Party has received a copy of the Student Conduct Referral, the Referred Party has the option to take up to three calendar days to review their Student Conduct Referral and decide whether or not to accept

responsibility for the charges. After three calendar days the Referred Party must communicate their decision to the Student Conduct Administrator. The Student Conduct Administrator will determine the manner in which the case will be resolved and will communicate this to the Referred Party.

### 3. Resolutions

Resolutions are the manner in which student conduct cases are resolved. A description of each type of resolution follows:

#### A. Administrative Resolution

##### I. Sanction Agreement

The Referred Party acknowledges responsibility for violating the code of conduct and resolves the case with a Student Conduct Administrator by agreeing to an appropriate disciplinary sanction. The Referred Party may not file an application to appeal.

##### II. Imposed Sanction

If the Referred Party does not wish to accept an appropriate sanction from the Student Conduct Administrator, but the preponderance of evidence standard has been met, a sanction will be imposed. A sanction may also be imposed if the student fails to attend a scheduled meeting with the Student Conduct Administrator. The Referred Party maintains the right to file an application to appeal.

Imposed sanctions may only be applied in cases where sanctions will not result in removal from residence, suspension or dismissal.

#### B. Hearing before a Student Conduct Board or Committee on Student Conduct

When the Referred Party contests the referral and/or is facing removal from residence, suspension or dismissal from the University, or at the discretion of the Student Conduct Administrator, a hearing will be scheduled. The Student Conduct Administrator may later serve as the Referring Party at a Student Conduct Hearing. Community Standards will make every effort to schedule hearings around students' academic schedules only.

Hearings are conducted as follows:

##### I. Both the Referred Party and Referring Party:

- a. Receive written notice of a hearing date, time and place at least 5 calendar days in advance;
- b. Must represent themselves;
- c. May have **one** advisor present. The advisor may not address the Student Conduct Body but may speak privately with the advisee during the proceedings;
- d. Have the right to call witnesses who have direct knowledge of the incident;
- e. Hear the description of incident and conduct charges (the Referred Party will then make a plea to charges);
- f. Have the opportunity to make an opening statement;
- g. Have the opportunity to ask questions of each other and their witnesses;
- h. May be questioned by the Student Conduct Body;
- i. Have the opportunity to make a closing statement.

##### II. The Student Conduct System encourages student involvement in the conduct proceedings and relies on full and open discussion of cases with all parties concerned in order to render a fair judgment. The Student Conduct System is administrative in nature and, as such, is not considered a court of law where formal rules of process, procedure or technical rules of evidence apply. (See the University's supplemental policy "Double Jurisdiction: What does it mean and what are the implications?" for further information: [http://www.albany.edu/studentconduct/double\\_jurisdiction.php](http://www.albany.edu/studentconduct/double_jurisdiction.php).)

##### III. Referrals involving multiple students for the same incident will be resolved at one hearing.

##### IV. Hearings are regarded as confidential and closed to all but the principals of the case, their witnesses, their advisor and Community Standards. Student Conduct Body Members in-training may observe.

##### V. An official audio recording will be made of the proceedings. This recording is the property of the University and will not be duplicated or released. Participants are prohibited from making their own recording during

the hearing (including but not limited to audio, photographic and/or written recording). The Referred Party and Referring Party may submit a written request to Community Standards for permission to listen to the official audio recording in a supervised location on campus. An official written transcript can be provided by the University at the requesting party's expense.

- VI. It shall be the responsibility of the Student Conduct Body to determine the relevancy of testimony and written evidence.
- VII. Should the Referred Party or Referring Party fail to appear for a scheduled hearing, a finding will be made based upon the information available and sanction(s) imposed, if appropriate.
- VIII. The primary function of any Student Conduct Body is to determine, using a preponderance standard, whether the Referred Party has violated the provisions of *Community Rights & Responsibilities* and if so, recommend an appropriate sanction.
- IX. The Referred Party will be notified, in writing, of the final decision of the Student Conduct Body and of the right to appeal. Consistent with the provisions of the Family Rights and privacy Act (FERPA) regulations, and in cases involving sexual offenses or crimes of violence, both the Referred Party and the Referring Party will be notified of the final decision of the Student Conduct Body.
- X. The Referred Party's status at the University is not altered until the appeal decision is final. In certain cases, however, the Vice President may determine that the Referred Party's presence is a threat to the University community and uphold the sanction imposed by the Student Conduct Body until the appeal is final.

### **C. Cases of Sexual Misconduct**

Conduct proceedings are governed by the procedures set forth in this document as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions. The following student conduct procedures will be followed, for both the accused and the victim/survivor in cases of Sexual Misconduct, in addition to procedures described in Section 4.3A or 4.3B and Section 6.4.

- I. The respondent and the complainant may be assisted during the disciplinary hearings and related meetings by an advisor of their choice. An Advisor is any individual who provides the complainant or the respondent support, guidance, or advice. Advisors may not address the Student Conduct Body during a disciplinary hearing but may speak privately with the advisee during the proceedings.
- II. The right to a prompt response to any complaint. The University at Albany will conduct timely reviews of all complaints of sexual misconduct. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator or the Vice President for Student Success, or a designee of either of those individuals. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions requested by one party will not be longer than 5 business/school days.
  - a. The preliminary review of all complaints, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint.
  - b. The subsequent, comprehensive review and investigation of the complaint, including interviews with all involved parties and gathering of evidence, will usually be completed within twenty-one (21) days of receipt of the complaint.
  - c. Results of the complaint, via either a formal hearing or waiver of hearing will typically be issued within sixty (60) days of receipt of the complaint.
  - d. Appeals for cases of sexual misconduct will be conducted as per the procedures described in Section 6.4, "Appeals of Cases of Sexual Misconduct".
- III. The right to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

- IV. The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process and is not conducted by individuals with a conflict of interest.
- V. The right to receive written or electronic notice of any meeting or hearing they are required to or are eligible to attend.
- VI. 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.
- VII. The right to review available evidence in the case file.
- VIII. The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- IX. The right to exclude prior sexual history or past mental health history from admittance in college disciplinary stage that determines responsibility. Past sexual violence findings may be admissible in the disciplinary stage that determines sanction.
- X. 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.
- XI. The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- XII. The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the sanction(s).
- XIII. The right to know the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding and the reason for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
  - i. Community Standards, 518-442-5501, Campus Center Room 361.
- XIV. The right to appeal the preliminary decision of a Student Conduct Board. Appeal Rights are explained in Section 6.4, "Appeals of Cases of Sexual Misconduct".
- XV. The right to choose whether to disclose or discuss the outcome of a conduct hearing.

**Additionally:**

- The burden of proof in all sexual misconduct cases is a "preponderance of the evidence" - whether it is more likely than not that the sexual misconduct occurred. If the evidence meets this standard, than the respondent MUST be found responsible of a violation of this code.
- Evidence to be presented by the complainant(s) and respondent(s) during any hearing on the charges must be shared with the opposing party at least two (2) business days in advance of the scheduled hearing. The University Official presiding at and/or hearing the case may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The University Official presiding at and/or hearing the case will make the final decision related to the admissibility of all evidence.
- When the accused is a student, the University will issue a "Cease and Desist" ("No Contact Order") meaning that continuing to contact the protected individual, either directly or through a third party, is a violation of University policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person.
- When the accused is a student and presents a continuing threat to the health and safety of the community, the accused student may be subject to a temporary suspension pending the outcome of a conduct process (see Section 5.2A regarding "Temporary Suspension").

- Retaliation, either directly or through a third party, against a person who files a sexual misconduct complaint, serves as a witness, or assists or participates in any manner in any investigation or conduct proceeding involving allegations of sexual misconduct is strictly prohibited and will result in a disciplinary referral (see Section 3, paragraph 29, which defines Retaliation as a violation of this code).
- In the event that there is a conflict between any procedures set forth in this section with any procedures described in any other portion of this code, the procedures set forth in this section will control for cases of sexual misconduct.
- Compliance with any of the above listed provisions does not constitute a violation of Section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

#### D. Alternative Dispute Resolution

##### I. Mediation

Mediation is a voluntary process that requires the commitment of all parties. It is appropriate when a violation arises out of a dispute between students. It is generally reserved for first time and less serious violations. The goal is to reach a written agreement to resolve the dispute and to prevent it from reoccurring. The Student Conduct Administrator will retain a record of the mediation efforts and the mediation agreement. If the parties fail to live up to the agreed settlement, or if mediation attempts fail to reach an agreement, a referral will be processed.

##### II. University Community Accountability Board (UCAB)

UCAB is a restorative justice practice, which presents an alternative to the traditional disciplinary process by engaging the responsible party, as well as the parties harmed by their behavior, in a dialogue that seeks to repair harm. The goal is to design a process which reintegrates the responsible party into the community. The student also plays a key role in deciding what he or she must do to repair the harm they may have caused by the behavior. The responsible party must acknowledge that his/her behavior violated the Student Code of Conduct and harmed another in order to participate in the UCAB process. This procedure is generally reserved for first-time and less serious violations. UCAB facilitators are selected from a pool of faculty, staff and students.

## SECTION 5: SANCTIONS & TEMPORARY ACTIONS

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A sanction is a requirement or status that is imposed as a result of either accepting responsibility or being found responsible for violating the student code of conduct, *Community Rights and Responsibilities*.

Disciplinary sanctions shall be communicated to students in writing via University email, which is the official means of communication between Student Conduct Administrators and students.

**Sanctions are determined by the seriousness of the code violation and are not necessarily progressive. For example, a student with no prior disciplinary record may be assigned a sanction commensurate with the offense up to and including removal from residence, suspension or dismissal.**

### 1. Sanctions

#### A. Conduct Warning

A written notice to a student that the behavior is counter to the expectations in the student code of conduct. A Conduct Warning is issued for low level behavior infractions. This is not considered a formal referral, rather a written understanding between the administrator and student with the expectation that the student modifies future behavior.

## B. **Disciplinary Warning**

This is a lower level sanction issued as a result of a formal Student Conduct Referral. A student is placed on Disciplinary Warning for a period of three months excluding winter and summer intersessions. This serves as a stronger notice to a student that the behavior is counter to the expectations in the student code of conduct. Having an active Disciplinary Warning can impact your ability to hold positions with campus offices and/or organizations and other campus opportunities.

## C. **Disciplinary Probation**

This is a higher level sanction issued as a result of a formal Student Conduct Referral and is imposed for serious violations or a pattern of violations of the student code of conduct. A student is placed on Disciplinary Probation through graduation. However, a student who is on Disciplinary Probation is encouraged to modify the unacceptable behavior and is given the tools to help him/her do so. After a period of at least three months on Disciplinary Probation, the student may apply to the Community Reengagement (CoRe) program to have the probation lifted. Students who do not apply for removal from probation will remain on Disciplinary Probation for the entire time they are a student at the University. Having active Disciplinary Probation status can impact your ability to hold positions with campus offices and/or organizations and other campus opportunities. Specifically, a student cannot: run for or hold certain campus-wide leadership positions including elected or appointed student government offices; hold a position in Residential Life; or serve on the Student Conduct Board.

## D. **Terminal Disciplinary Probation**

This is the most severe sanction issued as a result of a formal Student Conduct Referral that does not compromise a student's housing or their status as a student. Terminal Disciplinary Probation lasts one calendar year and includes all the restrictions of Disciplinary Probation. The student will be required to work with an appointed mentor to help address the issues that got him/her to this point. After one year, Terminal Disciplinary Probation converts to Disciplinary Probation. Students who violate the student code of conduct while on Terminal Disciplinary Probation may be separated from the campus community.

## E. **Removal from Residence**

Students who have a serious violation of the community standards set in the student code of conduct or the residence license, or because of a series of breaches of the community standards in the Residence Halls will be asked to leave campus residence either permanently or for a period of time. This sanction carries with it the penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs. Depending on the nature of the incident, the student may also receive a disciplinary probation as part of this sanction.

## F. **Suspension – Disciplinary**

A student who is suspended from the University is unable to register for and attend classes or to be present on University property for a prescribed period of time. A transcript notation of "suspended-disciplinary" is also in place for a period of seven years from the last date of attendance. Suspension is a severe sanction and the student forfeits tuition and fees along with room and board if a resident student and does not receive academic credit for the semester in which the suspension occurred. Students who are Disciplinarily Suspended and wish to return to the University at Albany must first meet with Community Standards to assess their readiness for readmission. Students who are Disciplinarily Suspended **with conditions** and who wish to return to the University at Albany must meet with Community Standards to verify the successful completion of the conditions.

## G. **Dismissal – Disciplinary**

A student who is dismissed (expelled) from the University is permanently separated from the community, prohibited from being on any property of the University at Albany and may never return to the institution. A transcript notation of "dismissed-disciplinary" is also in place for a period of seven years from the last date of attendance. The student forfeits tuition and fees along with room and board if a resident student, as well as the academic credit for the semester in which the dismissal occurred.

## H. **Residence Hall or Campus Restriction**

A student may be restricted from appearing in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community. Other restrictions may be imposed such as denial of access to specified campus services or programs. A student may

also be barred from the entire campus if the Vice President reasonably believes the student poses a threat to the health, safety or well-being of the University community.

I. **Restitution**

If University property is damaged, an assessment of the damage will be made by the appropriate University department and/or personnel. The responsible student(s) may be billed as appropriate. Restitution for personal property cannot be resolved via the Student Conduct System.

J. **Educational Programs & Service**

Educational Programs & Services such as Alcohol Education Programs, Drug Education Programs, Community Service, By-Stander Intervention Programs, reflection or research papers, etc., may be used to supplement any other student conduct sanction.

K. **Parental Notification**

In accordance with Family Educational Rights and Privacy Act (FERPA) regulations, the Vice President may, in the exercise of his or her discretion, notify the parent(s) of any student found to have violated the provisions of Community Rights and Responsibilities.

2. **Temporary Actions**

A. **Temporary Suspension**

The Vice President may take action immediately to suspend a student from the University and remove the student from campus when the Vice President reasonably believes that the continued presence of such student would constitute a danger to the safety of persons or property. The suspension is temporary pending the resolution of the student's Student Conduct Referral as outlined in *Section 4: Student Conduct Procedures* of the *Community Rights & Responsibilities*.

B. **Temporary Removal from Residence**

When the Director of Residential Life or his/her designee reasonably believes that the behavior of a resident student significantly detracts from the educational environment of the residence hall or constitutes a danger to the safety of other persons or property in the residence hall, the Director may temporarily remove the student from campus housing and restrict the student from the buildings and grounds of the residential complexes. The removal is temporary pending the resolution of the student's Student Conduct Referral as outlined in *Section 4: Student Conduct Procedures* of the *Community Rights & Responsibilities*.

## SECTION 6: STUDENT CONDUCT APPEALS

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1. **Introduction**

An appeal is the process to request a review of the original student conduct outcome. The Referred Party has the right to submit one application for appeal. In cases of **Sexual Misconduct**, both the Referred Party and the Referring Party have the right to appeal (see Section 6.4 for further clarification). An appeal does not rehear a student conduct case, but rather, determines if the conclusion reached in the original case is valid based on substantiation of a procedural error, new evidence, or the severity of the sanction.

Note: Student conduct cases that are resolved through *Administrative Resolution: Sanction Agreement (Section 4.2.A.I)* are not eligible for appeal.

2. **Appeal Grounds**

An application for appeal may only be filed on the grounds below and must meet at least one of the three standards to be considered for appeal.

- A. **Procedural Error:** Procedural error occurs when the policies outlined in *Community Rights and Responsibilities* are not followed, and as a result, the outcome of the case was significantly impacted. A procedural error and its impact on the case outcome must be clearly described in the appeal.



- B. **New Evidence:** This refers to new evidence that was unavailable during the original hearing or investigation that could significantly impact the original finding or sanction. A summary of the new evidence and its potential impact must be included. This does not include information available but not disclosed at the Student Conduct Hearing by choice (i.e., opting not to disclose information for any reason).
- C. **Sanction Severity:** A sanction imposed as a result of the original student conduct hearing that is significantly outside of the parameters of the Sanction Guidelines may be appealed. Evidence must show that the sanction is inappropriate based on the infraction, according to standard Sanction Guidelines available at [http://www.albany.edu/studentconduct/assets/Sanction\\_Guide.pdf](http://www.albany.edu/studentconduct/assets/Sanction_Guide.pdf).

### 3. Appeal Procedure

- A. An application for appeal must be submitted electronically within seven calendar days of receiving the decision letter via University e-mail. Instructions on how to file an application for appeal are provided in the decision letter. Applications for appeal may not be submitted by a third party.
- B. Applications for appeal are reviewed by the Assistant Vice President for Student Success or his/her designee to determine if the appeal is **timely AND meets the grounds** for appeal. The original decision and sanction will stand if the appeal is not timely or does not meet the grounds for appeal, and the decision is final.
- C. If the application is timely AND meets the grounds, the appeal will be reviewed based on the preponderance of evidence standard.
- D. Appeal outcomes are determined based on the Referred Party's approved written application for appeal and the rationale of the original Student Conduct Body.
- E. Appeal findings shall be recommended to the Vice President or the Vice President's designee who will render a final decision. A written notification of the appeal decision will be made via University email. This decision is final.

### 4. Appeals of Cases of Sexual Misconduct

In such cases, both parties will receive written notification of the Student Conduct Body's decision and either party can then submit an application for appeal within seven calendar days according to the procedures described above under "Student Conduct Appeals."

If one party submits an application for an appeal, the non-requesting party will receive notice that an appeal was submitted and may then submit either his/her own appeal or a written response to the requesting party's appeal within seven days of the notification. If both parties appeal, the appeals will be considered concurrently. The appeal(s) shall be considered in accordance with the "Student Conduct Appeal Procedure" described above in Section 3. Both parties will be notified of the appeal decision within thirty days of the last appeal received and the decision is final.

### 5. Appeals of Cases Heard by the Committee on Student Conduct

Cases heard by the Committee on Student Conduct are subject to the "Student Conduct Appeals Procedure" described above in Section 3. Appeal findings shall recommend to the Provost or the Provost's designee who will render a final decision.