

EXECUTIVE SUMMARY

After much deliberation, the Committee on Academic Freedom, Freedom of Expression and Community Responsibility (CAFECOR) would like to suggest its dissolution. As a committee, we have spent much time exploring the history of CAFE/CAFECOR in efforts to better understand its 'charge'. In doing so, we have come to realize that faculty, staff, and students' grievance concerns can already be addressed and resolved elsewhere. This has not always been the case; when CAFÉ was first established there was less in place on campus to deal with freedom of expression and community responsibility. However, over time our campus has developed procedures in a number of areas to address these issues. For example, the Community Rights and Responsibilities document, which comes from the Office of Student Success, fully addresses conduct on campus.

Additionally, as a body, we do not have any authority and are not recognized by General Counsel as a fiduciary part of the University at Albany. This means that the process of obtaining evidence and rendering decisions cannot fall under our purview. , nor can we render any binding decisions. After reviewing the current campus procedures in place, we realized that the need for a standing committee seems to have disappeared. We would like to note that, should the need arise, an Ad-Hoc Committee could be created to deal with specific situations.

SUNY Regulations on Student Conduct

Summary

This policy sets forth the guidelines for state-operated campuses of the State University of New York (University) to follow in their regulation of student conduct and behavior. It also discusses the application of the University's Board of Trustees' rules of the maintenance of public order found in 8 NYCRR Part 535 to student disciplinary cases.

Policy

In General

NYS Education Law §356 authorizes the councils at the University's state-operated campuses, subject to the supervision of the University's trustees, to make regulations governing student conduct and behavior ("student conduct regulations"). Pursuant to 8 NYCRR Part 500, the trustees have directed the councils to consult with the president and with faculty members and students to promulgate or review and ratify the student conduct regulations. Such regulations should exist on every campus.

Many provisions of the regulations will duplicate portions of the trustees' rules of the maintenance of public order ("public order rules") found in 8 NYCRR Part 535 and many will prohibit forms of conduct which are not covered in the public order rules as, for example, theft, falsification of records and academic dishonesty. (See section below entitled, "Application of the Maintenance of Public Order Rules to Student Disciplinary Cases").

It is important to understand that student conduct regulations are not valid unless they have been adopted by the college council in accordance with the trustee policy. Moreover, since standards of due process of law frequently change, campus presidents may wish to consult with the office of the University counsel regarding the validity of such regulations in the light of most recent judicial decisions. Consultation may be particularly desirable in light of case law which has increased the risk that school officials may be held personally liable for violating the constitutional rights of students.

Chancellor's Guidelines

Pursuant to the authority delegated by the Trustees, the chancellor established the following guidelines for councils to follow in promulgating and amending student conduct regulations.

The Manner in Which the Regulations are Developed

The regulations shall recognize that students have, within the law, the right of free expression and advocacy and that the University seeks to encourage and preserve freedom of expression and inquiry within the entire University. The regulations shall also recognize the obligation of students to conduct themselves lawfully, maturely and responsibly and shall take into account the responsibility of the University to maintain standards of student conduct essential to the orderly conduct of the University's function as an educational institution. The ways in which students or student groups may use the name of the University or identify their association with it shall also be provided for in the regulations.

Recognition of the Rights and Responsibilities of Students

In order to encourage, maintain and assure adequate communication with and participation by the administration, faculty and students at the respective campuses, the council shall act after consultation with the president of its campus and with representatives of faculty and students in promulgating or in reviewing and ratifying regulations on student conduct. In the regulations, the council may confer upon student groups, faculty committees, administrative officers, or combinations thereof appropriate responsibilities concerning student conduct and behavior. Authority for the administration of regulations at a campus shall rest with the campus president.

The Need for Due Process

Where regulations govern student disciplinary proceedings, they should reflect the basic concepts of procedural fairness and should make certain that no student shall be expelled or suffer other major disciplinary action as defined by the council for any offense, other than failure to meet required academic standing, without being first given appropriate advance notice of the charges against him or her and a hearing before an impartial body or officer as established by the council or president at such campus. While a formal judicial hearing is not required, the hearing should be of such nature as to give the hearing body or officer, as the case may be, full opportunity to hear both sides of the issue in considerable detail. The student may waive in writing the requirements of a hearing.

Availability of the Rules and Regulations

The regulations established by a council at a particular campus, in the manner described above, shall be published and made available to the whole academic community of that campus and shall be given full force and effect as rules and regulations of the University applicable to that campus.

Periodic Review by the Chancellor

The chancellor shall, from time to time, review the regulations established by the councils for consistency with rules and policies of the University's Trustees and shall report thereon to the trustees at such time and in such manner as it shall direct.

Use of Narcotics

The regulations on each campus shall expressly forbid the illegal use of narcotics and dangerous drugs on campus, and the regulations further shall make clear that the institution, through cooperation with appropriate health and law enforcement agencies, will provide no sanctuary for those who violate state and federal narcotics laws.

Application of the Maintenance of Public Order Rules to Student Disciplinary Cases

A federal court decision supports the view that the Trustees' public order rules found in 8 NYCRR Part 535 do not necessarily preempt student conduct regulations in every instance where student behavior could be punished under either set of rules or regulations. The decision clearly indicates, however, that the campus may not: (1) discipline students without a consistent and complete adherence to the public order rules or student conduct regulations, (2) punish a student twice for the same offense by processing a case under both sets of rules, or (3) initiate proceedings under one set of rules and then file charges based on the other, even though it may be contemplated that any penalty to be imposed by the first tribunal would be superseded by the second.

The most difficult question is whether an offense should be treated under the public order rules or the student conduct regulations in a specific case. The campus student conduct regulations may be more suitable than the public order rules for resolution of cases involving minor and isolated incidents of physical violence or vandalism. When cases of that nature arise, the campus would best rely on its student conduct regulations. In other cases, where the public order rules are applicable (e.g., obstructing free movement of persons; refusal to leave school buildings, etc.), and in any case falling under the coverage of the rules where an expulsion or an immediate suspension is contemplated, the public order rules might best be applied.

Any offense against the criminal law of the state may be prosecuted by law enforcement authorities independent of any internal university proceedings, and in addition to any University sanction.

On October 27, 1982, the public order rules were amended to permit the delegation by the campus president or chief administrative officer of some or all of the responsibilities for administering these rules as applied to students; and in those special circumstances where suspension is authorized pending the hearing and determination of charges, to authorize the lesser sanction of a limited suspension of a student from a portion of the premises or facilities of the campus. These revisions to the public order rules, specifically, 8 NYCRR §535.9, provide increased administrative flexibility in this area of campus operations. Further, the changes are consistent with other procedural provisions of the public order rules affecting organizations and non-students.

Campus publications incorporating student conduct regulations should include the full text of the complete set of public order rules found in 8 NYCRR Part 535.

PART 535

RULES OF THE BOARD OF TRUSTEES

§ 535.1 Statement of purpose.

The following rules are adopted in compliance with section 6450 of the Education Law and shall be filed with the Commissioner of Education and the Board of Regents on or before July 20, 1969, as required by that section. Said rules shall be subject to amendment or revision and any amendments or revisions thereof shall be filed with the Commissioner of Education and Board of Regents within 10 days after adoption. Nothing herein is intended, nor shall it be construed, to limit or restrict the freedom of speech or peaceful assembly. Free inquiry and free expression are indispensable to the objectives of a higher educational institution. Similarly, experience has demonstrated that the traditional autonomy of the educational institution (and the accompanying institutional responsibility for the maintenance or order) is best suited to achieve these objectives. These rules shall not be construed to prevent or limit communication between and among faculty, students and administration, or to relieve the institution of its special responsibility for self-regulation in the preservation of public order. Their purpose is not to prevent or restrain controversy and dissent but to prevent abuse of the rights of others and to maintain that public order appropriate to a college or university campus without which there can be no intellectual freedom and they shall be interpreted and applied to that end.

§ 535.2 Application of rules.

These rules shall apply to all State-operated institutions of the State University except as provided in Part 550 as applicable to the State University Maritime College. These rules may be supplemented by additional rules for the maintenance of public order heretofore or hereafter adopted for any individual institution, approved and adopted by the State University trustees and filed with the Commissioner of Education and Board of Regents, but only to the extent that such additional rules are not inconsistent herewith. The rules hereby adopted shall govern the conduct of students, faculty and other staff, licensees, invitees, and all other persons, whether or not their presence is authorized, upon the campus of any institution to which such rules are applicable and also upon or with respect to any other premises or property, under the control of such institution, used in its teaching, research, administrative, service, cultural, recreational, athletic and other programs and activities; provided, however, that charges against any student for violation of these rules upon the premises of any such institution other than the one at which he is in attendance shall be heard and determined at the institution in which he is enrolled as a student.

§ 535.3 Prohibited conduct.

No person, either singly or in concert with others, shall:

- (a) willfully cause physical injury to any other person, nor threaten to do so for the purpose of compelling or inducing such other person to refrain from any act which he as a lawful right to do or to do any act which he as a lawful right not to do;
- (b) physically restrain or detain any other person, nor remove such person from any place where he is authorized to remain;
- (c) willfully damage or destroy property of the institution or under its jurisdiction, nor remove or use such property without authorization;
- (d) without permission, expressed or implied, enter into any private office of an administrative officer, member of the faculty or staff member;
- (e) enter upon and remain in any building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use by others;
- (f) without authorization, remain in any building or facility after it is normally closed;
- (g) refuse to leave any building or facility after being required to do so by an authorized administrative officer;
- (h) obstruct the free movement of persons and vehicles in any place to which these rules apply;
- (i) deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures and meetings or deliberately interfere with the freedom of any person to express his views, including invited speakers;

(j) knowingly have in his possession upon any premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm or weapon without the written authorization of the chief administrative officer; whether or not a license to possess the same has been issued to such person;

(k) willfully incite others to commit any of the acts herein prohibited with specific intent to procure them to do so; or

(l) take any action, create, or participate in the creation of, any situation which recklessly or intentionally endangers mental or physical health or which involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization.

§ 535.4 Freedom of speech and assembly; picketing and demonstrations.

(a) No student, faculty or other staff member or authorized visitor shall be subject to any limitation or penalty solely for the expression of his views nor for having assembled with others for such purpose. Peaceful picketing and other orderly demonstrations in public areas of ground and building will not be interfered with. Those involved in picketing and demonstrations may not, however, engage in specific conduct in violation of the provisions of the preceding section.

(b) In order to afford maximum protection to the participants and to the institutional community, each State-operated institution of the State University shall promptly adopt and promulgate, and thereafter continue in effect as revised from time to time, procedures appropriate to such institution for the giving of reasonable advance notice to such institution of any planned assembly, picketing or demonstration upon the grounds of such institution, its proposed locale and intended purpose; provided, however, that the giving of such notice shall not be made a condition precedent to any such assembly, picketing or demonstration and provided, further, that this provision shall not supersede nor preclude the procedures in effect at such institution for obtaining permission to use the facilities thereof.

§ 535.5 Penalties.

A person who shall violate any of the provisions of these rules (or of the rules of any individual institution) shall:

(a) If he is a licensee or invitee, have his authorization to remain upon the campus or other property withdrawn and shall be directed to leave the premises. In the event of his failure or refusal to do so he shall be subject to ejection.

(b) If he is a trespasser or visitor without specific license or invitation, be subject to ejection.

(c) If he is a student, be subject to expulsion or such lesser disciplinary action as the facts of the case may warrant, including suspension, probation, loss of privileges, reprimand or warning.

(d) If he is a faculty member having a term or continuing appointment, be guilty of misconduct and be subject to dismissal or termination of his employment or such lesser disciplinary action as the facts may warrant including suspension without pay or censure.

(e) If he is a staff member in the classified service of the civil service, described in section 75 of the Civil Service Law, be guilty of misconduct, and be subject to the penalties prescribed in said section.

(f) If he is a staff member other than one described in subdivisions (d) and (e) of this section, be subject to dismissal, suspension without pay or censure.

§ 535.6 Procedure.

(a) The chief administrative officer or his designee shall inform any licensee or invitee who shall violate any provisions of these rules (or of the rules of any individual institution supplementing or implementing these rules) that his license or invitation is withdrawn and shall direct him to leave the campus or other property of the institution. In the event of his failure or refusal to do so such officer shall cause his ejection from such campus or property.

(b) In the case of any other violator, who is neither a student nor faculty or other staff member, the chief administrative officer or his designee shall inform him that he is not authorized to remain on the campus or other property of the institution and direct him to leave such premises. In the event of his failure or refusal to do so such officer shall cause his ejection from such campus or property. Nothing in this subdivision shall be construed to authorize the presence of any such person at any time prior to such violation nor to affect his liability to prosecution for trespass or loitering as prescribed in the Penal Law.

(c) In the case of a student, charges for violation of any of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be presented and shall be heard and determined in the manner hereinafter provided in section 535.9 of this Part.

(d) In the case of a faculty member having a continuing or term appointment, charges of misconduct in violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be made, heard and determined in accordance with title D of Part 338 of the policies of the Board of Trustees.

(e) In the case of any staff member who holds a position in the classified civil service, described in section 75 of the Civil Service Law, charges of misconduct in violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be made, heard and determined as prescribed in that section.

(f) Any other faculty or staff member who shall violate any provision of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be dismissed, suspended or censured by the appointing authority prescribed in the policies of the Board of Trustees.

§ 535.7 Enforcement program.

(a) The chief administrative officer shall be responsible for the enforcement of these rules (or of the rules of any individual institution supplementing or implementing these rules) and shall designate the other administrative officers who are authorized to take action in accordance with such rules when required or appropriate to carry them into effect.

(b) It is not intended by any provision herein to curtail the right of students, faculty or staff to be heard upon any matter affecting them in their relations with the institution. In the case of any apparent violation of these rules (or of the rules of any individual institution supplementing or implementing

these rules) by such persons, which, in the judgment of the chief administrative officer or his designee, does not pose any immediate threat of injury to person or property, such officer may make reasonable effort to learn the cause of the conduct in question and to persuade those engaged therein to desist and to resort to permissible methods for the resolution of any issues which may be presented. In doing so such officer shall warn such persons of the consequences of persistence in the prohibited conduct, including their ejection from any premises of the institution where their continued presence and conduct is in violation of these rules (or of the rules of any individual institution supplementing or implementing these rules).

(c) In any case where violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) does not cease after such warning and in other cases of willful violation of such rules, the chief administrative officer or his designee shall cause the ejection of the violator from any premises which he occupies in such violation and shall initiate disciplinary action as hereinbefore provided.

(d) The chief administrative officer or his designee may apply to the public authorities for any aid which he deems necessary in causing the ejection of any violator of these rules (or of the rules of any individual institution supplementing or implementing these rules) and he may request the State University counsel to apply to any court of appropriate jurisdiction for an injunction to restrain the violation or threatened violation of such rules.

§ 535.8 Communication.

In matters of the sort to which these rules are addressed, full and prompt communication among all components of the institutional community, faculty, students and administration, is highly desirable. To the extent that time and circumstances permit, such communication should precede the exercise of the authority, discretion and responsibilities granted and imposed in these rules. To these ends each State-operated institution of the State University shall employ such procedures and means, formal and informal, as will promote such communication.

§ 535.9 Notice, hearing and determination of charges against students.*

(a) The term chief administrative officer, as used in these rules, shall be deemed to mean and include any person authorized to exercise the powers of that office during a vacancy therein or during the absence or disability of the incumbent and for purposes of this section shall also include any designee appointed by said officer.

(b) Whenever a complaint is made to the chief administrative officer of any State-operated institution of the university of a violation by a student or students of the rules prescribed in this Part (or of any rules adopted by an individual institution supplementing or implementing such rules) or whenever he has knowledge that such a violation may have occurred, he shall cause an investigation to be made and the statements of the complainants, if any, and of other persons having knowledge of the facts reduced to writing. If he is satisfied from such investigation and statements that there is reasonable ground to believe that there has been such a violation, he shall prepare or cause to be prepared charges against the student or students alleged to have committed such violation which shall state the provision prescribing the offense and shall specify the ultimate facts alleged to constitute such offense.

(c) Such charges shall be in writing and shall be served on the student or students named therein by delivering the same to him or them personally, if possible, or, if not, by mailing a copy of such charges by registered mail to such student or students at his or their usual place or places of abode while attending college and also to his or their home address or addresses, if different.

(d) The notice of charges so served shall fix a date for hearing thereon not less than 10 or more than 15 days from the date of service which shall be the date of mailing where necessary to effect service by mail. Failure to appear in response to the charges on the date fixed for hearing, unless there has been a continuance for good cause shown, shall be deemed to be an admission of the facts stated in such charges and shall warrant such action as may then be appropriate thereon. Before taking such action the hearing committee, hereinafter referred to, shall give notice to any student, who has failed to appear, in the manner prescribed in subdivision (c), of its proposed findings and recommendations to be submitted to the chief administrative officer and shall so submit such findings and recommendations 10 days thereafter unless the student has meanwhile shown good cause for his failure to appear, in which case a date for hearing shall be fixed.

(e) Upon demand at any time before or at the hearing, the student charged or his representative, duly designated, shall be furnished a copy of the statements taken by the chief administrative officer in relation to such charges and with the names of any other witnesses who will be produced at the hearing in support of the charges; provided, however, that this shall not preclude the testimony of witnesses who were unknown at the time of such demand.

(f) The chief administrative officer may, upon the service of charges, suspend the student named therein, from all or any part of the institution's premises or facilities, pending the hearing and determination thereof, whenever, in his judgment, the continued presence of such student would constitute a clear danger to himself or to the safety of persons or property on the premises of the institution or would pose an immediate threat of disruptive interference with the normal conduct of the institution's activities and functions; provided, however, that the chief administrative officer shall grant an immediate hearing on request of any student so suspended with respect to the basis for such suspension.

(g) There shall be constituted at each State-operated institution a hearing committee to hear charges against students of violation of the rules for maintenance of public order prescribed by or referred to in this Part. Such committee shall consist of three members of the administrative staff and three members of the faculty, designated by the chief administrative officer, and three students who shall be designated by the members named by the chief administrative officer. Each such member shall serve until his successor or replacement has been designated. No member of the committee shall serve in any case where he is witness or is or has been directly involved in the events upon which the charges are based. In order to provide for cases where there may be such a disqualification and for cases of absence or disability, the chief administrative officer shall designate an alternate member of the administrative staff and an alternate member of the faculty, and his principal designees shall designate an alternate student member, to serve in such cases. Any five members of the committee may conduct hearings and make findings and recommendations as hereinafter provided. At any institution where the chief administrative officer determines that the number of hearings which will be required to be held is, or may be, so great that they cannot otherwise be disposed of with reasonable speed, he may determine that the hearing committee shall consist of six members of the administrative staff and six members of the faculty to be designated by him and of six students who shall be designated by the members so designated by him. In such event the chief administrative officer shall designate one of such members as

chairman who may divide the membership of the committee into three divisions each to consist of two members of the administrative staff, two faculty members and two students and may assign charges among such divisions for hearing. Any four members of each such division may conduct hearings and make recommendations as hereinafter provided.

(h) The hearing committee shall not be bound by the technical rules of evidence but may hear or receive any testimony or evidence which is relevant and material to the issues presented by the charges and which will contribute to a full and fair consideration thereof and determination thereon. A student against whom the charges are made may appear by and with representatives of his choice. He may confront and examine witnesses against him and may produce witnesses and documentary evidence in his own behalf. There may be present at the hearing: the student charged and his representatives and witnesses; other witnesses; representatives of the institutional administration; and, unless the student shall request a closed hearing, such other members of the institutional community or other persons, or both, as may be admitted by the hearing committee. A transcript of the proceedings shall be made.

(i) Within 20 days after the close of a hearing, the hearing committee shall submit a report of its findings of fact and recommendations for disposition of the charges to the chief administrative officer, together with a transcript of the proceedings, and shall at the same time transmit a copy of its report to the student concerned or his representative. Within 10 days thereafter the chief administrative officer shall make his determination thereon. Final authority to dismiss the charges or to determine the guilt of those against whom they are made and to expel, suspend or otherwise discipline them shall be vested in the chief administrative officer. If he shall reject the findings of the hearing committee in whole or in part, he shall make new findings which must be based on substantial evidence in the record and shall include them in the notice of his final determination which shall be served upon the student or students with respect to whom it is made.

* Applies to charges for violation of the rules prescribed by or referred to in this Part heretofore served which have not been finally determined within 60 days after the adoption hereof, which charges shall be referred to the committee constituted pursuant to said section 535.9 for determination in accordance therewith, and said section shall apply to all charges for violation of such rules hereafter made, whether for violations heretofore or hereafter committed.

§ 535.10 Rules for organizations.

(a) Organizations. Organizations which operate upon the campus of any State- operated institution or upon the property of any State-operated institution used for educational purposes shall be prohibited from authorizing the conduct described in subdivision (l) of section 535.3 of this Part.

(b) Procedure. The chief administrative officer at each State-operated institution shall be responsible for the enforcement of this section, and, as used herein, the term chief administrative officer shall include any designee appointed by said officer.

(1) Whenever the chief administrative officer has determined on the basis of a complaint or personal knowledge that there is reasonable ground to believe that there has been a violation of this section by any organization, the chief administrative officer shall prepare or cause to be prepared written charges against the organization which shall state the provision proscribing the conduct and shall specify the ultimate facts alleged to constitute such violation.

(2) Such written charges shall be served upon the principal officer of the organization by registered or certified mail, return receipt requested, to the organization's current address and shall be accompanied by a notice that the organization may respond in writing to the charges within 10 days of receipt of said notice. The notice of the charge so served shall include a statement that the failure to submit a response within 10 days shall be deemed to be an admission of the facts stated in such charges and shall warrant the imposition of the penalty described in subdivision (c) of this section. The response shall be submitted to the chief administrative officer and shall constitute the formal denial or affirmation of the ultimate facts alleged in the charge. The chief administrative officer may allow an extension of the 10-day response period.

(3) Upon written request, by an authorized representative of the organization, the chief administrative officer shall provide the representative organization an opportunity for a hearing. A hearing panel designated by the chief administrative officer shall hear or receive any testimony or evidence which is relevant and material to the issues presented by the charge and which will contribute to a full and fair consideration thereof and determination thereon. The organization's representative may confront and examine witnesses against it and may produce witnesses and documentary evidence on its behalf. The hearing panel shall submit written findings of fact and recommendations for disposition of the charge to the chief administrative officer within 20 days after the close of the hearing.

(4) Final authority to dismiss the charges or to make a final determination shall be vested in the chief administrative officer. Notice of the decision shall be in writing; shall include the reasons supporting such decision; and shall be served on the principal officer of the organization by mail in the manner described in paragraph (2) of this subdivision within a reasonable time after such decision is made.

(c) Penalties. Any organization which authorizes the prohibited conduct described in subdivision (l) of section 535.3 of this Part shall be subject to the rescission of permission to operate upon the campus or upon the property of the State-operated institution used for educational purposes. The penalty provided in this subdivision shall be in addition to any penalty which may be imposed pursuant to the Penal Law and any other provision of law, or to any penalty to which an individual may be subject pursuant to this Part.

(d) Bylaws. Section 6450(1) of the Education Law requires that the provisions of this Part which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be deemed to be part of the bylaws of all organizations which operate upon the campus of any State-operated institution used for educational purposes. The statute further requires that each such organization shall review these bylaws annually with individuals affiliated with the organization.

(e) Distribution. Copies of the provisions of this Part which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be given to all students enrolled in each State-operated institution.

Student Conduct on the UAlbany Campus:¹

IV. Inherent Authority for the Student Disciplinary Program

¹ From *Community Rights and Responsibilities* document (see appendix)

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. Pursuant thereto and subject to guidelines established by the Board of Trustees (Guidelines Established by the Board of Trustees, as amended, 8 NYCRR Part 500, July 31, 1967), the Council of the University at Albany has promulgated Community Rights and Responsibilities. All programs for student welfare and conduct are entrusted to and administered by the University at Albany President on behalf of the University Council. In accordance with the Trustee Guidelines, the University Council promulgated Community Rights and Responsibilities after consultation with members of the University Community:

In order to encourage, maintain and assure adequate communication with and participation by the administration, faculty and students...the (University) Council shall act after consultation with the chief administrative head...and with representatives of faculty and students in promulgating or in reviewing and ratifying regulations on student conduct. In the regulations, the Council may confer upon student groups, faculty, committees, administrative officers or combinations thereof appropriate responsibilities concerning the student conduct and behavior. (8 NYCRR 500.2 (a))

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 generally initiated through the Office of the Vice President for Student Success. In addition, the Vice President has jurisdiction over the student judicial system within the University disciplinary program, including the following specific responsibilities:

1. Implementation of the disciplinary program.
2. Coordination and initiation of investigations related to misconduct or violations of regulations.
3. Consultation with adjudicatory bodies on disciplinary matters.
4. Serving as a liaison with the Department of Public Safety and other officers concerned with student conduct. (Although University Police bear primary responsibility for law enforcement on the campus, disciplinary referrals may result from investigations conducted by others and reported to the University Police Department.)
5. Implementation of programs and actions to ensure safety and welfare.

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, as amended (see Appendix A), adopted by the Board of Trustees, pursuant to section 6450 of the Education Law, are in effect at the University at Albany, as well as all other campuses within the State University of New York.

Student Academic Misconduct

Procedures for Resolving Academic Grievances (From the Graduate Bulletin, 2012-13)

Students who seek to challenge an academic grade or evaluation of their work in a course or seminar, or in research or another educational activity may request a review of the evaluation by filing an academic grievance.

The Graduate Academic Council (GAC) and the Undergraduate Academic Council (UAC), through the work of their respective Committees on Admission and Academic Standing (CAAS) are responsible for insuring that approved procedures exist within the schools, colleges, departments (if applicable) and programs of the University for students to file academic grievances. Copies of established grievance procedures shall be filed by each academic unit with the Offices of the Dean of Graduate Studies and the Dean of Undergraduate Studies and available to students at each school/college dean's office. It is expected that the grounds upon which an academic grievance may be based should be clearly identified. Such grounds may include variance from University grading standards/policies, grade calculation inconsistencies with that announced in published course syllabi, procedural abnormalities, or other factors that are alleged to have denied the student a fair evaluation. It is not expected that grievances will propose that the professional obligation of faculty to fairly evaluate academic material within their field of expertise will be supplanted by alternate means without procedural cause. A student who seeks to dispute a grade or evaluation must initially pursue the matter directly with the faculty member involved. If not satisfactorily resolved directly with the faculty member, a written grievance may be filed with the program/department, or directly with school/college for units that are not departmentalized.

Should the grievance not be satisfactorily resolved at this initial level of review, students may pursue further consideration of the grievance at the next organizational level until such time as the grievance is considered at the University level by the GAC or UAC CAAS, as appropriate. Action on an academic grievance by the appropriate CAAS, upon acceptance by the GAC or UAC, as appropriate, is final and not subject to further formal review within the University. Only at this final level of grievance determination by the CAAS may a grade or other such evaluation be changed against the will of the faculty member(s) involved. In such rare cases, the Chair of the GAC or UAC, or its respective CAAS, as appropriate, may consult at his/her discretion with departmental faculty and/or appropriate scholars to determine an appropriate grade and authorize its recording by the Registrar.

In reviewing an academic grievance, the CAAS will consider the formal written petition from the student and corresponding written response/comment from the faculty, along with all records of consideration of the matter at prior levels of review. Although rare, the CAAS reserves the right to conduct a hearing with all parties present or it may decide to meet with each party separately. The nature and number of the representatives attending any such meeting will be at the discretion of the CAAS. These procedures adopted are those which the University believes will provide all parties involved the opportunity to present complete and factual information as necessary for the CAAS to render a fair decision.

Academic Termination and Transcripts

Graduate students who are terminated for academic reasons will have placed on their graduate transcripts a notation that they were academically terminated and date of termination. If such students are subsequently readmitted to the program from which they were terminated, their termination notations will be deleted from their transcripts.

Reinstatement

A graduate student whose authorization to register for further study has been terminated officially by the Dean of Graduate Studies and who seeks reinstatement should submit a formal request for reinstatement along with a supporting statement to the Dean of Graduate Studies.

The Dean of Graduate Studies will refer such a request to the Graduate Academic Council and its Committee on Admissions and Academic Standing for review and action.

Penalties and Procedures for Violations of Academic Integrity (from the Undergraduate Bulletin 2012-13)

The faculty member responsible for educating the student is also responsible for determining when that student has violated academic integrity. When a faculty member determines that a student has violated academic integrity, he or she will inform the student and impose an appropriate sanction. A faculty member may make any one or a combination of the following responses to the infractions of academic dishonesty cited above:

- (1) Lowering of a paper or project grade by one full grade or more;
- (2) Giving a failing grade on a paper containing plagiarized material;
- (3) Giving a failing grade on any examination in which cheating occurred;
- (4) Lowering a course grade by one full grade or more; or
- (5) Giving a failing grade in a course or other academic exercise.

In addition, faculty members will complete the Violation of Academic Integrity Report, including the sanction they have imposed along with a brief description of the incident, and send it to the Dean of Undergraduate Education or Graduate Studies, as appropriate. A copy of the report is to be given to the student. The Deans of Undergraduate Education or Graduate Studies will maintain a copy of such reports for the duration of a student's enrollment at the University.

If a faculty member informs the student that he or she will receive a failing grade in the course or other academic exercise as a result of academic dishonesty, the student receiving such a penalty will not be permitted to withdraw from the course unless the grievance process or Office of Conflict Resolution and Civic Responsibility rules in favor of the student.

Students who feel they have been erroneously penalized for an academic integrity infraction or think that a penalty is inappropriate may grieve these issues through procedures developed for each college, school, program, or department of the University. Copies of the procedures are maintained in the School and College Deans' Offices or on their respective websites. A copy of the disposition of any grievance arising in matters of academic dishonesty will be attached to the Violation of Academic Integrity Report filed in the Offices of the Deans of Undergraduate Education or Graduate Studies.

Any faculty member or School or College Dean encountering matters of academic dishonesty in a class or academic program for which he or she has responsibility may, in addition to, or in lieu of, the actions cited above,

- (6) Refer a case to the Office of Conflict Resolution and Civic Responsibility.

After considering the case, the Office of Conflict Resolution and Civic Responsibility will recommend to the Dean of Undergraduate Education or Graduate Studies, as appropriate, the disposition of the case, which can include revoking a student's scholarship or fellowship, or teaching or research assistantship, as well as or in addition to disciplinary probation, suspension, or expulsion. Students should be aware

that violations of academic integrity may cause subsequent difficulties in admission to graduate or professional schools and/or in employment in certain professions.

When a student violates academic integrity in more than one academic exercise, whether those infractions occurred during the same or different periods of time, or in the same or different courses, the University regards the offense as an especially serious subversion of academic integrity. The matter becomes particularly severe when the student has been confronted with the first infraction before the second is committed. Whenever the Offices of Undergraduate Education or Graduate Studies receive a second Violation of Academic Integrity report on a student, the Dean will request a hearing before the Office of Conflict Resolution and Civic Responsibility.

The Director of Libraries or Chief Information Officer, upon a finding of theft, damage, misuse of facilities or resources, or a violation of University policies, will forward all such cases to the Office of Conflict Resolution and Civic Responsibility for review and disposition, which can include suspension or expulsion from the University. The Director of Libraries or Chief Information Officer may, in individual cases, limit access to the Libraries or IT resources pending action by the Office of Conflict Resolution and Civic Responsibility. In all other cases of academic dishonesty by students which come to the attention of any staff, faculty, or student, it is expected that the Dean of Undergraduate Education or Graduate Studies, as appropriate, will be consulted about such infractions.

The Office of Conflict Resolution and Civic Responsibility was established by the governing bodies of this campus and is administratively the responsibility of the Vice President for Student Success. Any questions about the procedures of the Office of Conflict Resolution and Civic Responsibility may be secured by inquiry to that office.

Policy for Freedom of Expression

The University reaffirms its commitment to the principle that the widest possible scope for freedom of expression is the foundation of an institution dedicated to vigorous inquiry, robust debate, and the continuous search for a proper balance between freedom and order. The University seeks to foster an environment in which persons who are on its campus legitimately may express their views as widely and as passionately as possible; at the same time, the University pledges to provide the greatest protection available for controversial, unpopular, dissident, or minority opinions. The University believes that censorship is always suspect, that intimidation is always repugnant, and that attempts to discourage constitutionally protected expression may be antithetical to the University's essential missions: to discover new knowledge and to educate.

All persons on University-controlled premises are bound by the Rules and Regulations for Maintenance of Public Order, which deal in part with freedom of expression (adopted by the Board of Trustees of the State University of New York June 18, 1969; amended 1969, 1980). Members of the University community should familiarize themselves with those rules and regulations. In addition, University faculty are protected by and bound by Article XI, Title 1, Sec. I of the Policies of the Board of Trustees (adopted January 1987), entitled "Academic Freedom."

University officials or other members of the University community in a position to review posters, publications, speakers, performances, or any other form of expression may establish legitimate time, place, and manner regulations for the maintenance of an orderly educational environment; however, they may not prohibit expression for any reason related to the content of the expression, except as permitted in those narrow areas of expression devoid of federal or state constitutional protection.

Speakers invited to campus by University groups or individuals, and other speakers who may be legitimately present on campus, will be given the utmost protection to communicate their messages without disruptive harassment or interference. Opponents to those speakers enjoy the same protections for expressing their dissent.

All members of the University community share the duty to support, protect, and extend the commitment to the principle of freedom of expression, and to discuss this commitment with groups or individuals who seek to take part in University life. While all persons may seek to peacefully discourage speech that may be unnecessarily offensive to particular individuals or groups, speech that may be antithetical to the University's values, those persons must support the legal right of free speech.

Under Section VII.7.3.2.3 of its charge, the Committee on Academic Freedom, Freedom of Expression, and Community Responsibility (CAFFECOR) will serve as a hearing body available to those members of the University community who feel their freedom of expression has been unfairly suppressed. The Committee will report its findings to the President for further review and action.

SUNY Board of Trustees' Policy on Academic Freedom

SUNY's Board of Trustees official Policy on Academic Freedom is found in the *Policies* (see Appendix), Article IX:

Academic Freedom

§9.1 It is the policy of the University to maintain and encourage full freedom, within the law, of inquiry, teaching and research. In the exercise of this freedom faculty members may, without limitation, discuss their own subject in the classroom; they may not, however, claim as their right the privilege of discussing in their classroom controversial matter which has no relation to their subject.

§9.2 The principle of academic freedom shall be accompanied by a corresponding principle of responsibility.

§9.3 In their role as citizens, employees have the same freedoms as other citizens. However, in their extramural utterances employees have an obligation to indicate that they are not institutional spokespersons.

Faculty Grievances

Cases of faculty grievances against the university are covered by the UUP Agreement, Section 7, "Grievance Procedure" :

ARTICLE 7

Grievance Procedure

§7.1 Purpose

The purpose of this Article is to provide a prompt and efficient procedure for the investigation and resolution of grievances. The orderly process hereinafter set forth shall be the sole method for the resolution of grievances. Previously existing grievance resolution programs shall be discontinued absent mutual agreement to the contrary at the local level. Programs continued may be discontinued by either party at any time.

§7.2 Definition

a. A grievance is a dispute concerning the interpretation, application or claimed violation of a specific term or provision of this Agreement; provided, however, that with respect to matters involving appointment, evaluation and promotion of employees a grievance shall be deemed to mean a claimed failure by the State to follow the procedural steps relating to appointment, evaluation and promotion of employees contained in the Policies of the Board of Trustees in Article XI, Title A, Section 1; Article XI, Title D, Section 5; Article XII, Title A, Section 3; Article XII, Title B, Section 1; and Article XII, Title C, Sections 3 and 4.

b. A grievance shall also be a claimed failure by the State to follow the procedural steps contained in the Memorandum of Understanding on Contracting Out; however, review of such grievances shall end at Step 3 and shall not proceed to arbitration.

c. A claim of unjust discipline shall be processed in accordance with Article 19, Discipline, of this Agreement and shall not be subject to the grievance procedure contained in this Article. However, a claim that the procedures of Article 19, Discipline, have been violated, except for issues of timeliness arising under that Article, shall be processed in accordance with the grievance procedure contained in this Article. Such claim may be filed initially at Step 2. Where it is determined that the procedures of Article 19, Discipline, have been violated and where a College President, or designee, elects to proceed with disciplinary action, such action must be initiated within 10 working days from the date of receipt of the determination.

§7.3 Requirements for Filing Grievances

a. A grievance must be submitted in writing on forms to be provided by the State.

b. Each grievance shall identify the specific term or provision of the Agreement claimed to have been violated and shall contain a short, plain statement of the grievance, the facts surrounding

it and the remedy sought.

c. A grievance appeal shall be regarded as filed even if copies of the appeal are not simultaneously sent to the College President, or designee, and the Chancellor, or designee, as required by grievance Steps 2, 3 and 4 of this Article. However, no grievance shall be reviewed unless all of the information required by the grievance form or otherwise required by grievance steps of this Article has been provided.

§7.4 Representation

a. UUP shall have the exclusive right to represent any employee, upon the employee's request, at any step of this grievance procedure; provided, however, that individual employees may, upon notice to UUP, initiate and represent themselves in processing their own individual grievances at Step 1; provided further, however, no resolution of an individually processed grievance shall be inconsistent with this Agreement and for this purpose UUP shall receive prior notice and a reasonable opportunity to be heard on the resolution of any grievance so processed at Step 1.

b. UUP shall have the right, but not the obligation, to initiate at Step 2 a grievance which directly involves employees at more than one campus.

§7.5 Procedures for Processing Grievances and Grievance Appeals

a. Step 1.

A grievance shall be filed by an employee, or UUP upon an employee's request, with the College President, or designee, within 45 calendar days following the act or omission giving rise thereto, or within 45 calendar days of the date on which the employee first knew or reasonably should have known of such act or omission if that date is later. The employee's selection of a representative as indicated on the Contract Grievance Form when filed is final and not subject to change. Where practicable, the grievant may be required to meet with the department or division chairperson, dean or other appropriate administrator with a representative of the employee's choice in an effort to resolve the grievance informally. The College President, or designee, shall schedule a meeting within 10 calendar days after receipt of the grievance and shall issue a written response to the grievant and UUP within 10 working days after the meeting.

b. Step 2.

1. If the response at Step 1 does not resolve the grievance, UUP, upon grievant's request, may appeal the Step 1 response by filing an appeal with the Chancellor, or designee, within 10 working days after receipt of the Step 1 response. Such appeal shall be in writing and shall include a copy of the grievance filed at Step 1, a copy of the Step 1 response and a short, plain statement of the reasons for disagreement with the Step 1 response. A copy of the appeal shall be sent simultaneously to the College President, or designee. The Chancellor, or designee, shall issue a written response to the grievant and UUP within 20 working days after receipt of the appeal, unless the appeal to Step 2 contains a request for a meeting with the Chancellor, or designee. If such meeting has been requested, the Chancellor, or designee, shall schedule a meeting with UUP and the grievant within 10 calendar days after receipt of the appeal. The Step 2 response shall be issued within 20 working days after the meeting.

2. A grievance involving a claim that the procedures of Article 19, Discipline, have been violated, except for issues of timeliness arising under that Article, may be filed initially at Step 2 by UUP, upon grievant's request. Such grievance shall meet the requirements specified in Section 7.3, Requirements for Filing Grievances, of this Article. Such grievances shall be filed within 45 calendar days following the act or omission giving rise thereto, or within 45 calendar days of the date on which the employee first knew or reasonably should have known of such act or omission if that date is later. A copy of the appeal shall be sent simultaneously to the College President, or designee. The Chancellor, or designee, shall schedule a review with UUP and the grievant within 10 calendar days after receipt of the grievance and shall issue a written response within 20 working days after the meeting.

3. A grievance involving employees at more than one College may be filed by UUP initially at Step 2. In such case, UUP shall be deemed to be the grievant. Such grievance shall meet the requirements specified in Section 7.3, Requirements for Filing Grievances, of this Article. The time limit for filing such grievance shall be as specified in Step 1. A copy of the appeal shall be sent simultaneously to the College President, or designee. The Chancellor, or designee, shall issue a written response to UUP within 20 working days after receipt of the grievance unless the grievance contains a request for a meeting with the Chancellor, or designee. If such meeting has been requested by UUP, the Chancellor, or designee, shall schedule a meeting with UUP within 10 calendar days after receipt of the grievance and shall issue a response within 20 working days after completion of the meeting.

c. Step 3.

If the response at Step 2 does not resolve the grievance, UUP, upon grievant's request, through its President, or designee, may appeal the Step 2 response by filing an appeal with the Director of the Governor's Office of Employee Relations, or designee, within 10 working days after receipt of the Step 2 response. Such appeal shall be in writing and shall include a copy of the grievance filed at Step 1, or Step 2, in the case of grievances filed initially at Step 2; all prior responses and appeals; and a short, plain statement of the reasons for disagreement with the Step 2 response. A copy of the appeal shall be sent simultaneously to the College President, or designee, and the Chancellor, or designee. The Director of the Governor's Office of Employee Relations, or designee, shall issue a written response to the grievant and UUP within 20 working days after receipt of the Step 3 appeal.

d. Step 4.

1. If the response at Step 3 does not resolve the grievance, UUP, upon grievant's request, through its President, or designee, may proceed to arbitration by filing with the Director of the Governor's Office of Employee Relations, within 10 working days after receipt of the Step 3 response, written notice of intent to proceed to arbitration. A copy of such written notice shall be sent simultaneously to the College President, or designee, and the Chancellor, or designee.

2. Notices of intent to proceed to arbitration must include a proposed statement of the issue to be decided.

§7.6 Procedures Applicable to Grievance Steps

a. Step 1 shall be informal but the grievant, and the grievant's representative upon grievant's request, shall meet with the College President, or designee, for the purpose of discussing the grievance.

b. Steps 2 and 3 are intended primarily to be reviews of the existing grievance file; however, additional evidence may be submitted. If a meeting at Step 2 has not been requested or if a meeting at Step 3 has not been scheduled, any additional evidence at such steps must be submitted in writing. If meetings at Steps 2 and 3 have been scheduled, any additional evidence may be submitted at such meetings in writing or by means of testimony. Presence of grievants at such meetings may be waived by mutual agreement of the parties.

c. Notwithstanding any other provision of this Article, neither the grievant nor UUP, as grievant's representative, shall be permitted to allege violations other than those specified in writing in the grievance filed at Step 1 or initially filed at Step 2.

d. A grievance may be withdrawn at any time by the grievant or UUP as grievant's representative.

§7.7 Procedures Applicable to Arbitration

a. Selection of Arbitrators

The State and UUP shall jointly agree as soon as feasible after the execution of this Agreement on a panel of at least ten (10) contract arbitrators. Each party shall rank the next five members of the panel in rotation and the member with the highest ranking shall serve as the arbitrator. In the event of a tie, selection shall be by lot. The State agrees to take the necessary steps to administer the panel including, but not limited to, identifying arbitrators' availability, notifying them of their appointment and assisting in arranging for hearing rooms.

b. Authority of the Arbitrator

1. The arbitrator shall neither add to, subtract from, nor modify the terms or provisions of this Agreement or the procedural steps of the Policies specified in Section 7.2, Definition, of this Article. The arbitrator shall confine the decision and award solely to the application and/or interpretation of this Agreement or whether such procedural steps of the Policies have been followed. Where provisions of this Agreement or the procedural steps of the Policies referred to in this paragraph call for the exercise of judgment, the arbitrator shall not substitute the arbitrator's judgment for that of the official making such judgment, but shall be confined to a determination as to whether this Agreement or such procedural steps of the Policies have been followed. If the arbitrator determines that this Agreement or the procedural steps of the Policies referred to in this paragraph have not been followed, the arbitrator may fashion an appropriate remedy. In matters involving appointment or reappointment, if the arbitrator determines that the failure to follow this Agreement or the procedural steps of the Policies referred to in this paragraph has been significant, the remedy may provide for an appointment not to exceed one year. The arbitrator shall not have the authority to grant a continuing or permanent appointment. Under Article XI of the Policies, continuing or permanent appointment may be granted only by the State University Chancellor. The arbitrator shall not have authority to consider issues arising from the Memorandum of Understanding on Contracting Out or otherwise interpret provisions contained therein.

2. The arbitrator shall be confined to the precise issue submitted for arbitration and shall have no authority to determine any other issue.

c. Arbitrability

In the event a disagreement exists regarding the arbitrability of an issue, the arbitrator shall determine initially whether the issue in dispute is arbitrable under the express terms of this Agreement. At the request of either party, such determination shall be made by a written decision and award. Once the arbitrator has determined that the issue is arbitrable in accordance with provisions of this subdivision, the arbitrator shall proceed to determine the merits of the issue.

d. Time and Place of Meeting

The arbitrator shall hold the hearing in Albany, unless otherwise agreed to by the parties, within 15 working days of the acceptance of the arbitrator's selection or as soon thereafter as is practicable. Two consecutive hearing days shall be scheduled, where practicable. The arbitrator shall issue a decision and award upon an issue within 30 calendar days of the hearing, unless additional time is agreed to by the parties. Copies of the arbitrator's decision and award shall be sent simultaneously to the Governor's Office of Employee Relations, UUP, the Chancellor's designee and the College President.

e. Effect of Decision and Award

The decision and award of the arbitrator shall be final and binding upon the State, UUP and the grievant to the extent permitted by provisions of this Agreement and applicable law.

f. Fees and Expenses

All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall be responsible for the cost of preparing and presenting its own case.

§7.8 Miscellaneous Provisions

a. Time Limits

All of the time limits contained in this Article may be extended by mutual agreement of the parties. Extensions shall be confirmed in writing by the party requesting the extension. Upon failure of the State or its representatives to provide a response within the time limits provided in this Article, UUP, upon grievant's request, may appeal to the next step. Upon failure of the grievant, or UUP as the grievant's representative, to file a grievance or grievance appeal within the time limits provided in this Article, the grievance shall be deemed to have been withdrawn.

b. Mailing

1. All grievances, grievance appeals and responses shall be transmitted by certified or registered mail, return receipt requested, or by personal service on the grievant or grievant's representative or on the individual responsible for conducting the review. Upon personal service the recipient of such documents, upon request, shall acknowledge, in writing, the receipt thereof. Proof of personal service shall specify the person who was served and the date, place and manner of service.

2. All time limits set forth in this Article shall be measured from the date of receipt. Where service is by registered or certified mail, the date of receipt shall be that date appearing on the return receipt, provided, however, that the time limits for the submission of a grievance or the filing of an appeal or demand for arbitration or issuance of a Step response shall be determined from the date of personal service or mailing by certified or registered mail, return receipt requested, as evidenced by the official postmark appearing on the receipt for certified or registered

mail.

c. Precedent

Grievances resolved at either Steps 1, 2, or 3 shall not constitute a precedent in any arbitration proceeding unless agreed to in writing by the Director of the Governor's Office of Employee Relations and UUP, acting through its President.

d. Retroactivity

A settlement of, or an arbitrator's decision and award upon, a grievance may or may not be retroactive as the equities of each case may demand, but in no case shall such resolution be retroactive to a date earlier than 45 calendar days prior to the date the grievance was first filed.

e. "Working days" as used in this Article shall mean Monday through Friday, excluding holidays.

§7.9 Applicability

This Article shall not apply to any matter which relates to College by-laws, policies, operating procedures, or any other form of guideline by whatsoever name, whether pertaining to a unit, department, division, school or any other level of organization of a College and whether appearing in a College handbook or any other document, which are developed by professional staff at a College for the conduct of the affairs of the College or its sublevels of organization.

Grievances Involving Harassment

The university policies on harassment and sexual harassment **between students** were articulated in the *Community Rights and Responsibilities* document, which is the responsibility of the University Council. University policies on sexual harassment **in the workplace** (i.e., harassment between employees and not between students) are the responsibility of the Office of Diversity and Inclusion. Both of these bodies have clearly established procedures for dealing with allegations of sexual harassment (see Appendix).

HISTORY OF CAFFECOR (previously known as CAFÉ)

The Council on Academic Freedom and Ethics (CAFÉ) was established in AY1971-72 with the passage of Senate Bill 197172-32, which was approved by the Senate in May 1972. (See Appendix). The charge of CAFÉ was as follows:

1.2 The Council shall consider problems and recommend policies concerning matters of academic freedom and responsibility.

1.3 The Council shall consider problems and recommend policies and standards of professional ethics particularly as they relate to the interaction between academic privilege and academic responsibility both within and without the university community.

1.4 The Council shall insure that procedures are available for student grievances concerning professional behavior deemed to be in derogation of professional responsibility and privilege.

In AY1975-76 a Revision of the charge of CAFÉ was submitted to the Senate in Bill 197576-02, in which the following changes were made:

8.5 The Council shall hear, investigate, and make recommendations concerning complaints brought by any member of the University community against any other member of the University community provided such complaints:

1. concern professional behavior deemed to be in derogation of professional responsibility and privilege;
2. are not grievable under existing contracts; and
3. no other means of resolving the complaint are available within the University governance structure at the time the complaint is filed.

Senate Bill 197576-03 established the complaint procedures of CAFÉ (see Appendix). This procedure included the three caveats above, plus the added caveat that CAFÉ would consider a complaint only after it was determined that “all other possible means of resolving the complaint were [exhausted].” With this, CAFÉ became the council of last resort for complaints on campus about Academic Freedom.

It is important to note that at this point in its history, CAFÉ’s purview extended beyond where it does today. CAFÉ covered both academic grievances (student to faculty, faculty to student) and non-academic grievances (student and faculty conduct). Slowly over the course of the last three decades of the 20th century, other campus policies began to address grievance procedures that involved freedom of speech and academic freedom. For example, the University Council promulgated the Community Rights and Responsibilities document, the Offices of Undergraduate Studies and Graduate Studies established procedures for academic grievances, the office of Diversity established procedures for grievances of sexual harassment, and the office of Conflict Resolution established procedures for non-academic student grievances.

Finally, the Committee on Ethics in Research and Scholarship was established with the passage of Senate bill 0203-04. CERS addresses allegations of plagiarism and academic misconduct in faculty research and scholarship. Previous to the establishment of CERS, there was no clear procedure for handling such cases, although depending on the case it could fall to CAFÉ.

In other words, the stipulation that CAFFECOR only consider cases when there was no other procedure in place became more and more important as other procedures were developed.

Also of note is a change brought about by Senate Bill 197576-05, which added language to the complaint procedures to require that “evidence is presented which, prima facie, raises substantial doubt as to whether all previous procedures and hearings in relation to the complaint resulted in a proper or equitable determination of the same.” This expanded CAFFECOR’s purview substantially, as it was given the authority to **revisit** grievances if CAFFECOR felt that the result was improper.

When the Charter was introduced in AY2003-04, the charge of CAFFECOR was revised:

VII.7.3. Committee on Academic Freedom, Freedom of Expression, and Community Responsibility

VII.7.3.2. Responsibilities.

VII.7.3.2.1. The Senate affirms its commitment to the principle that the widest possible scope for freedom of expression is the foundation of an institution dedicated to vigorous inquiry, robust debate, and the continuous search for a proper balance between freedom and community responsibility.

VII.7.3.2.2. CAFFECOR shall be responsible for establishing and interpreting policies and procedures concerning academic freedom and ethics which shall govern the conduct of the University community, and also for those matters for which it is given responsibility by negotiated employment conditions.

VII.7.3.2.3. CAFFECOR shall serve as a hearing body available to those members of the University Community who feel that their freedom of expression has been unfairly suppressed.

VII.7.3.2.4. CAFFECOR shall be responsible for establishing procedures for investigating and for oversight of investigation of charges brought against members of the Faculty as specified in the Faculty Bylaws Article I, Section 2.2.4, except as determined by CERS to be primarily matters of misconduct in scholarship and research, or as specified by other University regulations. Issues may be brought to the Chair of CAFFECOR, who shall then call a meeting as needed.

In comparison to the previous list of responsibilities, the major differences here are that:

- (a) There is no mention of CAFFECOR being the committee of last resort, nor is there mention of CAFFECOR having the authority to **revisit** grievance cases. Instead, CAFFECOR is referred to as a general hearing body, regardless of whether another procedure is in place.
- (b) CAFFECOR is “responsible for establishing and interpreting policies and procedures concerning academic freedom and ethics” but this conflicts with the authority of the Board of Trustees’ Policies.
- (c) CAFFECOR is “responsible for establishing procedures for investigating and for oversight of investigations of charges brought against members of the Faculty.” This conflicts with the authority of the UUP contract. Note that VII.7.3.2.4 addresses only issues involving the Faculty, and not non-faculty staff.

Faculty Bylaws Article I, Section 2.2.4, cited above in VII.7.3.2.4, is as follows:

2.2.4. The Faculty shall establish procedures for investigating, hearing, and reporting to appropriate persons or bodies with respect to charges or complaints:

- (a) Brought by members of the Faculty against other members of the Faculty or against administrative officers of the University, or
- (b) Brought against members of the Faculty by students or other members of the University community, or
- (c) Brought by members of the University community regarding restrictions on Freedom of Expression and Assembly, including academic freedom.

Such procedures shall be consistent with the laws of New York State and the United States, and the Policies of the Board of Trustees, the Policies of the University at Albany, and contractual arrangements in effect for the parties involved.

Point (a) above is covered by CERS and (b) is covered by either the academic grievance procedure or by Conflict Resolution. (c) is a blanket provision that includes all members of the university community—faculty, students, staff, M/C. But, it is problematic because this authority does not lie entirely with the faculty. For example, BOT Regulations part 500 reads in part “The several councils of the State-operated institutions of higher learning of the State University of New York shall promulgate or review and ratify regulations governing the conduct and behavior of students, subject to general guidelines established by the chancellor, and in accordance with law and such other rules or policies as the trustees may from time to time establish.” This seems in direct conflict with the notion that the **faculty** shall establish procedures with respect to complaints brought forth by students.

Senate Bill 0304-25 proposed various changes to the campus policy on Freedom of Expression as follows:

.....

I. The University affirms its commitment to the principle that the widest possible scope for freedom of expression is the foundation of an institution dedicated to vigorous inquiry, the expression of diverse perspectives, and open, robust debate. The University seeks to foster an environment in which all University members and invited guests may express their views as widely and as persuasively as possible; at the same time, the University pledges to protect the right of all members of the campus community to express themselves, including those persons expressing controversial, unpopular, dissident, or minority opinions. The University believes that censorship is always suspect, that intimidation is always repugnant, and that attempts to discourage constitutionally protected expressions antithetical to the University’s educational missions (adapted from University Office of Research, Office for Sponsored Funds, University Policies, section entitled Freedom of Expression).

II. The University shall establish reasonable “time, place, and manner” regulations to maintain a safe environment that facilitates the educational mission of the University. However, expression may not be prohibited or limited for any reason related to the content of the expression, except as permitted in those narrow areas of expression devoid of federal or state constitutional protection (adapted from University Office of Research, Office for Sponsored Funds, University Policies, section entitled Freedom of Expression).

III. The University further affirms that the appropriate response to expressions that are perceived by some to be offensive is the expression of alternative viewpoints. Attempts to stop or impede the

expression of certain viewpoints harms the entire community. The University also recognizes the importance of facilitating the timely organization of events that are designed to respond to, and provide alternative viewpoints on, controversial topics. This is fundamental to maintaining a vigorous ongoing dialogue, which supports open intellectual inquiry.

A. All University community members are encouraged to express their views in ways that support community cohesiveness, mutual appreciation and respect, and a high quality of civil inquiry and dialogue.

B. All speech shall be protected except that which is not constitutionally protected, including but not limited to obscene speech (e.g., expressions of purely prurient nature, with no socially redeeming value) or as specified in the State University of New York Board of Trustees "Rules and Regulations for the Maintenance of Public Order," 8 N.Y.C.R.R. §535.3.

IV. Members of the University community may conduct or sponsor organized expressive activities in designated outdoor areas of the University in accordance with procedures approved by the Office of the President. Such procedures may include, among other things, a requirement that space for the conduct of expressive activities be scheduled in advance with the University. The University may impose constitutionally permissible time, place and manner restrictions on expressive activities. Time, place and manner restrictions on expressive activities are permissible provided they are unrelated to the content of the expressive activity, are narrowly tailored to serve the University's educational mission and leave open ample alternative channels for communication. Decisions to grant or deny permission to conduct expressive activities shall be based upon adherence to applicable University procedures, local, state and federal law and the availability of space. In no event should the decision be based on the content or viewpoint of the expressive activity or upon the anticipated reaction of others to the expression. When an expressive event or speech is disallowed or restricted, a written explanation describing the grounds for the denial or restriction shall be supplied to the event sponsor by the designated University administrator.

- A. Only University groups which have official recognition may sponsor events and invite non-university members or groups to participate in expressive events on campus.
- B. Persons engaged in expressive activities and those in attendance at such events are expected to demonstrate civility, concern for the safety of persons and property, respect for University activities, respect for those who may disagree with their message or viewpoint and compliance with all applicable University policies and regulations and applicable local, state and federal laws.
- C. All events, organized by University members and recognized University groups, other than formal academic units, shall be registered with an administrative office to be designated by the University President. This registration process shall require event organizers to provide information, including, but not limited to, the sponsor, location, time, title and a brief description of an event. A complete, electronic listing of all registered events shall be maintained and made available to the University community.
- D. The University's established policies for the approval and posting of event advertisements on University property shall govern the approval and posting of event advertisements for expressive activities under this policy.
- E. The use of props, banners, and other displays used in events may be limited in cases where public safety is at risk or where such paraphernalia includes expressions that are not constitutionally protected.

V. In addition to planned events, the University recognizes the need to support spontaneous expressions and free speech of members of the University community. Such expressions may be permitted by the University, without prior reservation, only in such area or areas as may be designated by the University and subject to regulations governing such activities as may be promulgated by the University. Such regulations may include, but shall not be limited to, a prohibition of amplified sound, prohibition of stationary displays, exhibits or structures and a limitation on the period of time during which such activities may be conducted.

- A. To protect the educational mission, the University may prohibit electronic or other sound amplification equipment in connection with spontaneous expressions and free speech.
- B. All community members shall respect the right of free speech and not attempt to interfere, heckle or otherwise prohibit the speech of others; instead, they may express alternative views during their turn to speak.

VI. Complaints and alleged violations of this policy should be referred to the Committee on Academic Freedom, Freedom of Expression and Community Responsibility (formerly known as the Council on Academic Freedom and Ethics). This Committee will serve as a hearing body available to those members of the University community who feel their freedom of expression has been unfairly denied or limited. The Council will review the circumstances and report its findings to the President for further review and action.

VII. This policy is applicable to University at Albany students, faculty, staff and their invited guests who wish to engage in organized expressive activities on property owned, leased or under the control of the University. It does not apply to official University activities, e.g., commencement, faculty receptions, and other similar functions. Groups or individuals engaged in organized expressive activities as provided herein shall be responsible for the content of their expression. Permitting organized expressive activities under this policy does not constitute official University endorsement of the content of the expressive activities.

VIII. That the bill be forwarded to the President for approval and implementation, including the development and promulgation of guidelines and procedures to effectuate its purposes.

RATIONALE

Robust, wide-open expressions of ideas in peaceful assembly and without restrictions on content are central to the educational mission of the University. The University has a legitimate right to regulate “time, place and manner” of expression, to maintain the educational mission and to provide a safe environment for all University members.

The proposed bill represents an effort to reaffirm the right of free speech at the University at Albany, to help educate community members and support a better understanding of the rights and responsibilities of freedom of expression. Current guidelines are detailed with respect to student groups; however, policies governing freedom of expression for all University members are not well specified. Also, existing policies focus on, and provide guidelines for, the conduct of organized events but give little or no reference to spontaneous free speech. Furthermore, much of the centrally located outdoor areas, especially of the uptown campus, are currently reserved for scheduled events (e.g. information tables, lunchtime amplified events).

This bill, although introduced in 2003-04, did not find its way to the President's desk until 2009-10. It was not signed by President Philip. In his memo to the Senate, he explained his objections:

Even though Bill 0304-25 was not signed, there are portions of it that overlap with the current CAFFCoR charge, most notably the authority of CAFFCoR to serve as a hearing board. President Philip held that the Senate “does not have the jurisdiction to hear complaints from students, staff, and the public,”

which is here interpreted to mean that CAFFECOR does not have the jurisdiction to a) replace existing hearing bodies established on campus under the relevant state laws and BOT Policies and b) does not have the jurisdiction to overrule decisions by those hearing bodies.

This concern—that CAFFECOR has a charge articulated in the Charter which it cannot actually have—was put to a litmus test in 2011-12. In that year, a student lodged a grievance against his/her college. The grievance was handled by that school in accordance with academic regulations and found in favor of the college. The student then took the grievance to CAFFECOR. CAFFECOR, in an effort to fulfill its charge of hearing the case because the student felt that his/her freedom of speech had been violated, was denied access by General Counsel to any of the grievance materials. General Counsel informed CAFFECOR that the materials were confidential, and that the Senate and its bodies did not have the authority to see them.

At the heart of the matter is section 2.2.2 of the Faculty Bylaws:

2.2.2. The Faculty shall be informed and given opportunity to discuss at the earliest possible stages in their formulation, and shall review and provide formal consultation on, prior to adoption, all proposals regarding:

- (a) Creation, renaming, major re-organization, or dissolution of academic units and programs
- (b) Goals and formal plans directing the future of the University
- (c) Policies or standards governing speech and assembly on the campuses of the University
- (d) Plans for development of new campus facilities, or major modifications or closure of existing facilities

This addresses the faculty's role in consultation on policies or standards governing speech and assembly on the campuses. Of note is that the faculty shall *consult*, but the faculty is not given the authority to *make* the policy. And, there is nothing in section 2.2.2 that gives CAFFECOR authority to hear cases or overturn cases when there is another hearing procedure—such as the UUP grievance procedure, or the academic grievance procedure—already in place.

CONCLUSION

CAFFECOR's role as a judicial body is problematic and untenable. The remaining role—that of sounding board on campus policies which deal with freedom of expression—could still be fulfilled, but it seems that maintaining a standing committee for such a purpose is not necessary. We would recommend that the SEC instead appoint an ad hoc committee should the need arise. For example, the Community Rights and Responsibilities document is occasionally revised by the University Council, and should the Council choose to consult with the faculty through the Senate, then an ad hoc committee would be appropriate.

One recommendation that follows from this suggestion is that members of such an ad hoc committee be given some sort of training on the topic of freedom of expression and university regulations and policies, perhaps in the same vein as the training received by CERS members.

APPENDICES

1. Senate Bill 197172-32
2. Senate Bill 197576-02
3. Senate Bill 197576-03
4. Senate Bill 197576-05
5. Memo from the President, January 22, 1981
6. Memo #1 from the President re: Bill 8485-03
7. Senate Bill 8485-03
8. Memo #2 from the President re: Bill 8485-03
9. Memo from the President re: Bill 8586-17
10. Senate Bill 8586-17
11. Senate Bill 8687-10
12. Senate Bill 8889-04
13. Senate Bill 0304-25
14. Memo from the President re: Bill 0304-25
15. SUNY Board of Trustees Policies, Title I (Academic Freedom)
16. UUP Agreement (2007-2011), Article 7
17. UUP Agreement (2007-2011), Article 9
18. UUP Agreement (2007-2011), Article 19
19. Community Rights & Responsibilities
20. SUNY Board of Trustees Regulations, part 500
21. New York Education Law, Article 8, §356
22. Policy for Freedom of Expression, Undergraduate Bulletin
23. Academic Grievances in Undergraduate Bulletin
24. Procedures for Resolving Academic Grievances, Graduate Bulletin
25. University Senate Charter on Academic Standing
26. CAS Policies and Procedures for Academic Grievances
27. Complaint Procedure for Review of allegations of Unlawful Discrimination/Harassment

UNIVERSITY SENATE

STATE UNIVERSITY OF NEW YORK AT ALBANY

Council on Academic Freedom and Ethics

INTRODUCED BY: Executive Committee
March 27, 1972

- I. It is hereby proposed that the Senate's operating rules be amended in order to reconstitute the Senate Councils and establish the Council on Academic Freedom and Ethics.
 - 1.1 Composition: Six teaching faculty (three must be Senators);
Two members of the Non-Teaching Faculty and Other Professionals;
Two graduate students;
Two undergraduate students.
 - 1.2 The Council shall consider problems and recommend policies concerning matters of academic freedom and responsibility.
 - 1.3 The Council shall consider problems and recommend policies and standards of professional ethics particularly as they relate to the interaction between academic privilege and academic responsibility both within and without the university community.
 - 1.4 The Council shall insure that procedures are available for student grievances concerning professional behavior deemed to be in derogation of professional responsibility and privilege.
- II. Adoption of this Bill by the Senate entails the repeal of the current language in the Faculty Handbook (1970-71) and the 1971-72 Addendum dealing with the composition and functions of the Personnel Policies Council.
- III. This Bill will take effect with the organizational meeting of the 1972-73 Senate.

15. Bill No. 197172-31--contd.

It was suggested that the "Director of FSA or his designee" and the "Director of Campus Security or his designee" be listed in conformity with the other Bills reconstituting the Councils, and that the number of Non-Teaching Professionals be reduced to two in order to keep the balance the same. This was agreed to by Senator Chatterton and his seconder.

The amendment was approved by majority vote.

15.11 ~~Senator Chatterton moved to delete section 1.3 and to substitute the following:~~

"1.3 The Council shall review and make recommendations concerning arrangements for University communication among internal constituencies and with outside publics. The Council will refer members of the University with questions concerning University structure, policies and procedures to the appropriate source of information."

Motion seconded. Amendment approved by majority vote.

Main motion approved by majority vote.

16. Bill No. 197172-32 - Council on Academic Freedom and Ethics

16.1 Senator S. Brown moved acceptance of Bill No. 197172-32; motion seconded.

16.2 Senator Stokem moved to amend section 1.1 by increasing the number of graduate students from one to two and increasing the number of undergraduate students from one to two. Motion seconded by Senator Hirsch.

Senator Hirsch stated that there were not sufficient student members on the Council in view of the fact that the Council is charged with insuring that procedures are available for student grievances concerning professional behavior of faculty members. Senator Hirsch suggested that it be stipulated that one of the undergraduate students be a Senator. Stokem agreed to this. Mr. Edelman suggested that the number of teaching faculty be increased from six to eight in order to keep the faculty-student ratio the same. This was agreeable to both the mover and the seconder.

Amendment approved by majority vote.

Main motion approved by majority vote.

17. Bill No. 197172-33 - Council on Faculty Promotions and Continuing Appointments

17.1 The Chairman noted that the Governance Commission had agreed to accept as a friendly amendment, Dean Mathews' suggestion to add a section 1.5 to the Bill to read as follows:

UNIVERSITY SENATE
STATE UNIVERSITY OF NEW YORK AT ALBANY

Revision in the Charge
of the Council on Academic
Freedom and Ethics

INTRODUCED BY: Executive Committee
November 3, 1975

It is hereby proposed that the following be adopted:

- I. That the charge of the Council on Academic Freedom and Ethics be amended by the addition of a section 8.5 to read as follows:

8.5 The Council shall hear, investigate, and make recommendations concerning complaints brought by any member of the University community against any other member of the University community provided such complaints:

1. concern professional behavior deemed to be in derogation of professional responsibility and privilege;
2. are not grievable under existing contracts;
and
3. no other means of resolving the complaint are available within the University governance structure at the time the complaint is filed.

- II. That this Bill, subject to the approval of the President, shall take effect immediately.

UNIVERSITY SENATE
STATE UNIVERSITY OF NEW YORK AT ALBANY

CAFE Complaint Procedures

INTRODUCED BY: Council on Academic Freedom
and Ethics
December 8, 1975

It is hereby proposed that the attached CAFE
Complaint Procedures be approved and referred to
the President for his approval.

CAFE COMPLAINT PROCEDURES

CAFE shall consider complaints lodged by one or more members of the University community against any other member(s) of the University community, provided said complaints involve behavior deemed by CAFE to be in derogation of professional responsibility and privilege. In what follows, the person(s) filing the complaint and the person(s) against whom the complaint has been filed shall be referred to as the "principals".

I. The Complaint

A. The complaint must:

1. be submitted in writing;
2. contain a factual account of the situation(s);
3. indicate what attempts at resolution have already been made;
4. contain a statement of proposed remedy.

B. CAFE shall consider a complaint only after it has determined that:

1. the complaint is not grievable under existing contracts; and
2. no other means of resolving the complaint are available within the University governance structure at the time the complaint is filed; and
3. all other possible means of resolving the complaint have been

C. CAFE has the responsibility to direct the complainant(s) to the proper body.

II. Preliminary Investigation

CAFE will conduct a preliminary investigation only if the conditions in Part I have been fulfilled. It is not necessary for the entire Council membership to be involved in this investigation. This investigation shall be informal.

A. The person(s) against whom the complaint has been filed shall receive a copy of the complaint together with a copy of these procedures, and shall have an opportunity to make a written reply. The person(s) filing the complaint shall also receive a copy of these procedures.

B. CAFE shall have the right to consult any and all individuals in seeking relevant information about the complaint.

C. CAFE shall have the right to request a written statement of findings of any other body that has already investigated the complaint.

D. CAFE shall attempt at this stage to make suggestions for remedying the situation(s).

E. It is the hope of CAFE that, at this stage, the vast majority of cases may be resolved to the satisfaction of all concerned.

III. Hearing

CAFE will conduct a hearing only if the preliminary investigation indicates that such a hearing is warranted. A majority vote of the Council is necessary for conducting this hearing.

- A. The principals shall receive a written summary of the preliminary investigation and be allowed time to prepare for the hearing.
- B. CAFE has the right to:
 - 1. deal directly with the principals;
 - 2. establish its own rules, including rules of evidence, testimony, witnesses, transcripts, etc.
 - 3. determine who, besides the principals, should be present at the hearings.
- C. CAFE shall provide the principals a copy of the procedures to be followed in the hearing.

IV. Reports, Implementation and Appeals

- A. Reports of Findings and Recommendations
 - 1. For each case in which a hearing is conducted, the Council shall make a written report of its findings and recommendations. Such reports shall be confidential until they are disposed of by the Council.
- B. Disposition of Reports
 - 1. CAFE shall direct its findings and recommendations to the individual(s) or agency with the authority to implement the Council's recommendations.
 - 2. The principals shall be provided with a copy of the Council's findings and be informed of the individual(s) or agency to which the findings and recommendations have been forwarded.
 - 3. The Council may also, at its discretion, forward its recommendations to the principals.
- C. Implementation and Appeal
 - 1. The individual(s) or agency may, at its discretion, forward the Council's recommendations to the principals.
 - 2. The individual(s) or agency which the Council has requested to take action shall be requested to notify the Council of the disposition of the Council's recommendations. Such notification to CAFE should occur within two weeks of receipt of CAFE's recommendations.
 - 3. Such action as the individual(s) or agency may take or may refuse to take shall be subject to the appeal or review procedures appropriate to the individual(s) or agency.

UNIVERSITY SENATE
STATE UNIVERSITY OF NEW YORK AT ALBANY

Amendment to CAFE
Complaint Procedures

INTRODUCED BY: Council on Academic Freedom
and Ethics
February 9, 1976

It is hereby proposed that the following be adopted:

- I. That Section I-B-4 of the CAFE Complaint Procedures be amended by the addition of the following:

"evidence is presented which, prima facie, raises substantial doubt as to whether all previous procedures and hearings in relation to the complaint resulted in a proper or equitable determination of the same."

- II. That this resolution take effect immediately.

STATE UNIVERSITY OF NEW YORK
AT ALBANY

OFFICE OF THE PRESIDENT

ALBANY, N.Y. 12222

January 22, 1981

TO: The University Community

In November 1980, the United States Equal Employment Opportunity Commission published its guidelines in the Federal Register with respect to sexual harassment in the work place. Under these guidelines, this University is charged with the responsibility to increase its efforts to ensure that sexual harassment in any of its forms does not exist in this institution. Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964. Sexual harassment has been defined in this section as:

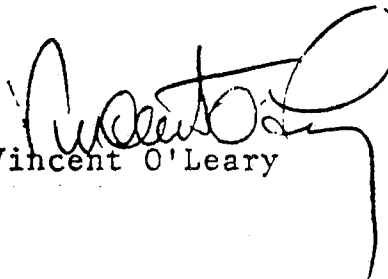
"Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

The emphasis of the Equal Employment Opportunity Commission's definition of sexual harassment is on employment. This institution's commitment, of course, applies equally to all aspects of campus life, including the classroom and extracurricular activities. For example, the University regulations published in the "Student Guidelines" for many years have contained a prohibition against "...harassment, intimidation, or invasion of privacy of any person..."

The University at Albany has long been dedicated to maintain and foster a fair, humane, and responsible environment for all of its students and staff. Sexual harassment has been and will continue to be considered a violation of policy and dealt with under the procedures which have been established. Any violation of those policies should be brought to the attention of the Affirmative Action Office immediately.

However, we are concerned with more than simply meeting the letter of the law or observing the technical requirements of employment regulations. At issue here is fundamental respect for the dignity of every person in the University. We want to engage the energy and good will of this campus to create the kind of environment that enriches the lives of all. This requires the commitment of everyone. Perhaps the most common form of harassment are verbal characterizations which are demeaning. In many instances these are the result of habit and not intended to intimidate, but it is our responsibility to make ourselves more aware of the effects of these and other types of behavior on others.

I am referring this policy to the Council of Deans, appropriate academic officials, and the University Commission on Affirmative Action. I ask that they recommend to me a means of implementing both the letter and the spirit of these policies. I know this campus will fulfill its deepest commitments in responding to these issues.


Vincent O'Leary

State University of New York at Albany

March 27, 1985

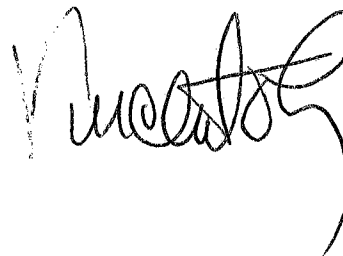
M E M O R A N D U M

TO: Patricia Rogers, Chair, University Senate
FROM: Vincent O'Leary, President
RE: Senate Bill 8485-03

In response to the Senate's action, I am pleased to accept Senate Bill No. 8485-03 with some minor editorial changes. The changes in wording occur on pages three and four where we have identified the Office of Graduate Admissions and Policy as the replacement for the Office of Undergraduate Studies in all matters involving graduate student violations of academic integrity. Another change makes clear that the judicial body "recommends" the disposition of cases which can include "disciplinary" probation as well as suspension or expulsion.

While accepting this policy, let me also indicate my intent to undertake additional improvements in our procedures. Currently a student who wishes to appeal a faculty member's action must undertake an appeal in the appropriate school or college, while the faculty member may simultaneously refer the same student to the judicial system. This arrangement makes it possible for the college to rule against the student and the judicial body to rule in favor (or vice versa). We need to devise a means of having one process arrive at consistent judgements in such cases. We are working on a recommendation for governance to consider, but I wanted to approve Bill No. 8485-03 while that work is moving forward.

cc: Vice Presidents
Dr. Hamilton
Dr. Elbow



Bill No. 8485-03

UNIVERSITY SENATE
STATE UNIVERSITY OF NEW YORK AT ALBANY

STANDARDS OF ACADEMIC INTEGRITY

SUBMITTED BY: Council on Academic Freedom and Ethics
February 11, 1985

IT IS HEREBY PROPOSED:

- I. That the attached document on Standards of Academic Integrity be approved by the University Senate;
- II. That this bill be referred to the President and the University Council for final approval.

Attachment

STATE UNIVERSITY OF NEW YORK AT ALBANY

STANDARDS OF ACADEMIC INTEGRITY

Throughout their history, institutions of higher learning have viewed themselves and have been viewed by society as a community of persons not only seeking truth and knowledge, but seeking them in a truthful and ethical fashion. Indeed, the institution traditionally trusted by the public and the one to which it most often turns when unbiased, factual information is needed is the university. Thus, how a university behaves is as important as what it explores and learns.

The State University of New York at Albany expects all members of its community to conduct themselves in a manner befitting this tradition of honor and integrity. They are expected to assist the University by reporting suspected violations of academic integrity to appropriate faculty and/or administration offices. Behavior that is detrimental to the University's role as an educational institution is unacceptable and requires attention by all citizens of its community.

These guidelines, designed especially for students, define a context of values within which individual and institutional decisions on academic integrity can be made. It is every student's responsibility to become familiar with the standards of academic integrity at the University. Claims of ignorance, of unintentional error, or of academic or personal pressures are not sufficient reasons for violations of academic integrity.

EXAMPLES OF ACADEMIC DISHONESTY

The following is a list of the types of behaviors that are defined as examples of academic dishonesty and are therefore unacceptable. Attempts to commit such acts also fall under the term academic dishonesty and are subject to penalty. No set of guidelines can, of course, define all possible types or degrees of academic dishonesty; thus, the following descriptions should be understood as examples of infractions rather than an exhaustive list. Individual faculty members and the judicial boards of the University will continue to judge each case according to its particular merit.

PLAGIARISM: Presenting as one's own work the work of another person (for example, the words, ideas, information, data, evidence, organizing principles, or style of presentation of someone else). Plagiarism includes paraphrasing or summarizing without acknowledgement, submission of another student's work as one's own, the purchase of prepared research or completed papers or projects, and the unacknowledged use of research sources gathered by someone else. Failure to indicate accurately the extent and precise nature of one's reliance on other sources is also a form of plagiarism. The student is responsible for understanding the legitimate use of sources, the appropriate ways of acknowledging academic, scholarly, or creative indebtedness, and the consequences for violating University regulations.

Examples of plagiarism include: failure to acknowledge the source(s) of even a few phrases, sentences, or paragraphs; failure to acknowledge a quotation or paraphrase of paragraph-length sections of a paper; failure to acknowledge the source(s) of a major idea or the source(s) for an ordering principle central to the paper's or project's structure; failure to acknowledge the source (quoted, paraphrased, or summarized) of major sections or passages in the paper or project; the unacknowledged use of several major ideas or extensive reliance on another person's data, evidence, or critical method; submitting as one's own work, work borrowed, stolen, or purchased from someone else.

CHEATING ON EXAMINATIONS: Giving or receiving unauthorized help before, during, or after an examination. Examples of unauthorized help include collaboration of any sort during an examination (unless specifically approved by the instructor); collaboration before an examination (when such collaboration is specifically forbidden by the instructor); the use of notes, books, or other aids during an examination (unless permitted by the instructor); arranging for another person to take an examination in one's place; looking upon someone else's examination during the examination period; intentionally allowing another student to look upon one's exam; the unauthorized discussing of test items during the examination period; and the passing of any examination information to students who have not yet taken the examination. There can be no conversation while an examination is in progress unless specifically authorized by the instructor.

MULTIPLE SUBMISSION: Submitting substantial portions of the same work for credit more than once, without the prior explicit consent of the instructor(s) to whom the material is being (or has in the past been) submitted.

FORGERY: Imitating another person's signature on academic or other official documents (e.g., the signing of an advisor's name to a program adjustment card).

SABOTAGE: Destroying, damaging, or stealing of another's work or working materials (including lab experiments, computer programs, term papers, or projects).

UNAUTHORIZED COLLABORATION: Collaborating on projects, papers, or other academic exercises which is regarded as inappropriate by the instructor(s). Although the usual faculty assumption is that work submitted for credit is entirely one's own, standards on appropriate and inappropriate collaboration vary widely among individual faculty and the different disciplines. Students who want to confer or collaborate with one another on work receiving academic credit should make certain of the instructor's expectations and standards.

FALSIFICATION: Misrepresenting material or fabricating information in an academic exercise or assignment (for example, the false or misleading citation of sources, the falsification of experimental or computer data, etc.).

BRIBERY: Offering or giving any article of value or service to an instructor in an attempt to receive a grade or other benefits not legitimately earned or not available to other students in the class.

THEFT, DAMAGE, OR MISUSE OF LIBRARY OR COMPUTER RESOURCES: Removing uncharged library materials from the library, defacing or damaging library materials, intentionally displacing or hoarding materials within the library for one's unauthorized private use, or other abuse of reserve-book privileges. Or, without authorization, using the University's or another person's computer accounts, codes, passwords, or facilities; damaging computer equipment; or interfering with the operation of the computing system of the University. The Computing Center has established specific rules governing the use of computing facilities. These rules are available at the Center and it is every student's responsibility to become familiar with them.

PENALTIES AND PROCEDURES

When a faculty member has information that a student has violated academic integrity in a course or program for which he or she is responsible and determines that a violation has occurred, he or she will inform the student and impose an appropriate sanction. A faculty member may make any one or a combination of the following responses to the infractions cited above:

- warning without further penalty;
- requiring rewriting of a paper containing plagiarized material;
- lowering of a paper or project grade by one full grade or more;
- giving a failing grade on a paper containing plagiarized material;
- giving a failing grade on any examination in which cheating occurred;
- lowering a course grade by one full grade or more;
- giving a failing grade in a course.

If a faculty member announces a failing grade in the course as a possible result of academic dishonesty, the student receiving such a penalty will not be permitted to withdraw from the course unless the grievance or judicial system rules in favor of the student.

Any faculty member encountering matters of academic dishonesty in an academic program or class for which he or she has responsibility may, in addition to, or in lieu of, the actions cited above, refer a case to the University Judicial System. After considering the case under the procedures provided by the University, the appropriate University judicial body will recommend the disposition of the case which can include disciplinary probation, suspension, or expulsion from the University.

Faculty members are expected to report in writing to the Offices of Graduate or Undergraduate Studies, as appropriate, all sanctions they impose, along with a brief description of the incident. A copy of the report is to be given to the student. These offices will maintain a copy of such reports for the duration of a student's enrollment at the University. Upon graduation or separation of the student from the University, these confidential reports will

be destroyed. Violations of academic integrity by graduate students are reported by faculty directly to the Office of Graduate Admissions and Policy for appropriate action. This office replaces the Office of Undergraduate Studies in all matters involving graduate student violations of academic integrity.

Students who feel they have been erroneously penalized for an academic integrity infraction or think that a penalty is inappropriate may grieve these issues through procedures developed for each college, school, program, or department of the University. Copies of the procedures are maintained in Deans' offices, in the Office of Undergraduate Studies or Graduate Studies, and in the Office of the Vice President for Student Affairs. A copy of the disposition of any grievance arising in matters of academic dishonesty will be attached to the faculty correspondence in the Offices of Undergraduate or Graduate Studies.

When a student violates academic integrity in more than one academic exercise, whether those infractions occurred during the same or different periods of time, or in the same or different courses, the University regards the offense as an especially serious subversion of academic integrity. The matter becomes particularly severe when the student has been confronted with the first infraction before the second is committed. Whenever the Offices of Undergraduate or Graduate Studies receive a second academic integrity report on a student, the Dean will request a hearing before the University Judicial System.

The Director of Libraries or the Computing Center, upon a finding of theft, damage, or misuse of facilities or resources, will forward all such cases to the University Judicial System for review and disposition, which can include suspension or expulsion from the University. The Director of the Library or the Computing Center may, in individual cases, limit access to the Library or Computing Center pending action by the University Judicial System. In all other cases of academic dishonesty which come to the attention of any staff, faculty, or student, it is expected that the Dean of Undergraduate Studies will be notified of such infractions. The Dean of Undergraduate Studies will process all such alleged matters of academic dishonesty and refer them to the University Judicial System.

The University Judicial System was established by the governing bodies of this campus and is administratively the responsibility of the Vice President for Student Affairs. Any questions about the procedures of the University Judicial System may be secured by inquiry to that office.

February 4, 1985

State University of New York at Albany

March 27, 1985


M E M O R A N D U M

TO: Judith Ramaley
FROM: Vincent O'Leary
RE: Senate Bill No. 8485-03

As you can see from my memo to Pat Rogers, I have accepted the bill on Student Academic Integrity with some minor modifications which Fred Volkwein has discussed with Harry Hamilton and Alice Corbin. I have also expressed the intention to continue working on the problem created by the possibility of a student appeal being reviewed by one body while the student dishonesty is simultaneously examined by another.

While we are working on this, I understand that bulletins need to be printed, so I suggest we publish the attached policy statement in the Graduate and Undergraduate Bulletins. This contains the policy as passed by the Senate up to the section on penalties and procedures, but that section is condensed into one sentence (page one, paragraph four).

cc: Frank Pogue
Harry Hamilton
Len Lapinski
Richard Farrell
Alice Corbin



State University of New York at Albany

Administration 259, Albany, New York 12222

July 23, 1986

M E M O R A N D U M

TO: Kendall Birr, Chair
1985-86 University Senate

I am happy to approve Bill No. 8586-17 which sets forth a statement of ethics. Over the past couple of months I have been designing a memorandum to the campus community which will announce this policy and I have attached a copy for your information. You will see that I have placed this policy statement within the context of our other policies dealing with such matters as sexual harrassment and nepotism. The latest Senate policy, I believe, is most usefully interpreted if placed within the context of these other policies. I plan to release this material sometime in August.

Please let me know if you have any questions about this.


Vincent O'Leary

DRAFT

UNIVERSITY AT ALBANY FACULTY STATEMENT OF ETHICS

Faculty members, as teachers, scholars, administrators, colleagues, and community members, have special responsibilities by virtue of the diverse roles they assume in their professional and personal lives. The following statement sets forth general principles intended to serve as a guide for faculty as they fulfill their professional responsibilities.

- Article I. Faculty, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end they devote their energies to developing and improving their scholarly competencies. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although they may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.
- Article II. As teachers, faculty encourage the free pursuit of learning in their students. They hold before them the best scholarly standards of their disciplines. They demonstrate respect for the student as an individual, and adhere to their proper roles as intellectual guides and counselors. They make every reasonable effort to foster honest academic conduct. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation of students for private advantage and acknowledge significant assistance from them. They protect students' academic freedom. Evaluation of students and the award of credit must be based on academic performance professionally judged and not on matters irrelevant to that performance.
- Article III. As colleagues, faculty have obligations that derive from common membership in the community of scholars. They respect and defend the free inquiry of their associates. In the exchange of criticism and ideas they show due respect for the opinions of others. They acknowledge their academic debts and strive to be objective in their professional judgment of colleagues. They accept their share of faculty responsibilities for the governance of their institutions.
- Article IV. As members of their community, faculty have the rights and obligations of any citizens. They measure the urgency of these obligations in the light of their responsibilities to their subjects, to their students, to their professions, and to their institutions. When they speak or act as private persons, they avoid creating the impression that they speak or act for their colleges or universities. As citizens engaged in a profession that depends upon freedom for its health and integrity, faculty have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

(Adapted from the AAUP 1966 Statement on Professional Ethics and the 1970 Statement of the Association's Council on Freedom and Responsibility. Adopted by the Senate of the University at Albany on May 5, 1986.)

POLICY ON SEXUAL HARASSMENT

The very nature of the relationship between faculty and students includes an element of power held by faculty. Faculty are expected to acknowledge that fact and to respond professionally. Given the diverse nature of today's university community, faculty also should be sensitive to a variety of issues, including but not limited to: sexism, racism, disability, amorous preference, ageism, life-style, and political or religious beliefs. At the same time, faculty are not expected to be all things to all people. Members of the faculty should have a general knowledge of campus resources available to them, their colleagues and their students, and then should willingly take advantage of those resources when they are needed.

1. University policy, as enunciated in President O'Leary's letter of January 22, 1981, to the University community, prohibits sexual harassment in all aspects of campus life. This policy is incorporated by reference into this document.
2. Relationships of an amorous nature that might be appropriate in other circumstances may be problematic and may be unethical when they occur between a faculty member and a student for whom a professional responsibility exists. Such relationships may undermine the trust on which the educational process depends. Relationships of an amorous nature between faculty and students, even when they occur outside the instructional context, also may be problematic and may be unethical when there is the possibility that the faculty member unexpectedly may be placed in a position of professional responsibility for the student.
3. Further, family relationships and relationships of a sexual nature between a faculty member and a student for whom an instructional responsibility exists can present a conflict of interests in violation of the New York Public Officers Law. The parties to such relationships are urged to avoid direct teacher-student interaction. In every such case the faculty member must arrange to be disengaged from the responsibility of grading, evaluating, or approving the work of the student. Family relationships and relationships of an amorous nature between members of the University community can present a conflict of interests in violation of the New York Public Officers Law whenever one party has any position of power over, or professional responsibility for, the other. One party may not officially approve or recommend (or vote on such approval or recommendation) the appointment, reappointment, promotion, or salary adjustment of the other; nor may the one party evaluate the performance of the other.

(Adopted by the Senate of the University at Albany on May 5, 1986.)

Appendix to Sexual Harassment Policy

Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964. Sexual harassment has been defined in this section as:

"Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

The emphasis of the Equal Employment Opportunity Commission's definition of sexual harassment is on employment. This institution's commitment, of course, applies equally to all aspects of campus life, including the classroom and extracurricular activities. For example, the University regulations published in the "Student Guidelines" for many years have contained a prohibition against "...harassment, intimidation, or invasion of privacy of any person..."

The University at Albany has long been dedicated to maintain and foster a fair, humane, and supportive environment for all of its students and staff. Sexual harassment in any of its forms has been and will continue to be considered a violation of policy and dealt with under the procedures which have been established. Any violation of those policies should be brought to the attention of the Affirmative Action Office immediately.

However, we are concerned with more than simply meeting the letter of the law or observing the technical requirements of employment regulations. At issue here is fundamental respect for the dignity of every person in the University. We want to engage the energy and good will of this campus to create the kind of environment that enriches the lives of all. This requires the commitment of everyone. Perhaps the most common form of harassment are verbal characterizations which are demeaning. In many instances these are the result of habit and not intended to intimidate, but it is our responsibility to make ourselves more aware of the effects of these and other types of behavior on others.

(Excerpted from a letter by President O'Leary to the University Community dated January 22, 1981.)

POLICY ON NEPOTISM

Federal laws under which federal funds are made available to the University contain specific requirements for the administration of these funds in order to preclude "conflict of interest" practices, that is, practices where there seems to be evidence that responsible officials have afforded their relatives preferential treatment in hiring and promotion. Federal and State EEO and Affirmative Action laws also prohibit discriminating practices. This policy is established to strike a balance between preventing preferential treatment and yet not discriminating against applicants or employees based solely upon marital or blood relationships.

1. University policy does not preclude the employment of two or more members of the same family. However, an employee of the University may not officially approve nor recommend the appointment, reappointment, promotion, or salary adjustment of a relative.
2. Where a search process results in the nomination of a candidate who is a relative of a person in the administrative chain, the proposed appointment, with full documentation supporting the proposal, must be passed for action to the next administrative level above the official who is a relative. The responsible official at this next level will forward the proposal, with recommendations, through channels to one of the following:
 - (a) to the Research Council for all research and teaching positions (whether funded by State or non-State sources), including all positions supported by an external grant or located in a research center;
 - (b) to the Classification Committee for all other non-research, non-teaching positions (State-funded, UAS, etc.);
 - (c) to the Council on Promotions and Continuing Appointments for any faculty case requesting tenure.
3. If employees find themselves responsible for the direct supervision of a member of their own family, they must arrange with their supervisor for an appropriate means of removing themselves from any process which evaluates or otherwise considers the relative for reappointment, continuing appointment, promotion, or salary adjustment. Further, supervisors will provide for independent verification of the time and effort expended for the position.

(Issued by President O'Leary on May 1, 1979.)

State University of New York at Albany

Administration 259, Albany, New York 12222

May 8, 1986

M E M O R A N D U M

TO: Vincent O'Leary
President

FROM: Kendall Birr, Chair
University Senate

Kendall A Birr

Attached is a copy of each of the Bills listed below, approved at the May 5, 1986 meeting of the University Senate.

In accordance with our procedures, I am submitting them to you for approval.

Bill No. 8586-11: Dual Master's Degree Program in History and Public Affairs and Policy

Bill No. 8586-12: Certificate Program on Women and Public Policy

Bill No. 8586-13: Certificate Program in Urban Policy

Bill No. 8586-14: Revision of Criteria for Graduation with Honors

Bill No. 8586-16: Adoption of Plus/Minus Grading

Bill No. 8586-19: Revision of Criteria for Dean's List

Bill No. 8586-18: Dean's Commendation for Part-Time Students

Bill No. 8586-17: SUNYA Faculty Statement of Ethics

STATE UNIVERSITY OF NEW YORK AT ALBANY
UNIVERSITY SENATE

SUNYA FACULTY STATEMENT OF ETHICS

PROPOSED BY: Council on Academic Freedom and Ethics
April 7, 1986

IT IS HEREBY PROPOSED:

- I. That the Senate approve the attached statement.
- II. That the statement be forwarded to the President for approval.

SUNYA FACULTY STATEMENT OF ETHICS

Introduction

Faculty members, as teachers, scholars, administrators, colleagues and community members, have special responsibilities by virtue of the diverse roles they assume in their professional and personal lives. The following statement sets forth general principles intended to serve as a guide for faculty as they fulfill their professional responsibilities.

PART A

(Articles I through IV are adapted from the A.A.U.P. 1966 Statement on Professional Ethics and the 1970 Statement of the Association's Council on Freedom and Responsibility. This adaptation reflects gender-neutral conventions of modern English language usage.)

- Article I. Faculty, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end they devote their energies to developing and improving their scholarly competencies. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although they may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.
- Article II. As teachers, faculty encourage the free pursuit of learning in their students. They hold before them the best scholarly standards of their disciplines. They demonstrate respect for the student as an individual, and adhere to their proper roles as intellectual guides and counselors. They make every reasonable effort to foster honest academic conduct. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation of students for private advantage and acknowledge significant assistance from them. They protect students' academic freedom. Evaluation of students and the award of credit must be based on academic performance professionally judged and not on matters irrelevant to that performance.
- Article III. As colleagues, faculty have obligations that derive from common membership in the community of scholars. They respect and defend the free inquiry of their associates. In the exchange of criticism and ideas they show due respect for the opinions of others. They acknowledge their academic debts and strive to be objective in their professional judgment of colleagues. They accept their share of faculty responsibilities for the governance of their institutions.

- Article IV. As members of their community, faculty have the rights and obligations of any citizens. They measure the urgency of these obligations in the light of their responsibilities to their subjects, to their students, to their professions, and to their institutions. When they speak or act as private persons they avoid creating the impression that they speak or act for their colleges or universities. As citizens engaged in a profession that depends upon freedom for its health and integrity, faculty have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

PART B

- Article V. The very nature of the relationship between faculty and students includes an element of power held by faculty. Faculty are expected to acknowledge that fact and to respond professionally. Given the diverse nature of today's university community, faculty also should be sensitive to a variety of issues, including but not limited to: sexism, racism, disability, amorous preference, ageism, lifestyle, and political or religious beliefs. At the same time, faculty are not expected to be all things to all people. Members of the faculty should have a general knowledge of campus resources available to them, their colleagues and their students, and then should willingly take advantage of those resources when they are needed.
- Article VI. University policy, as enunciated in President O'Leary's letter of January 22, 1981, to the University community, prohibits sexual harassment in all aspects of campus life. This policy is incorporated by reference into this document.
- Article VII. Relationships of an amorous nature that might be appropriate in other circumstances may be problematic and may be unethical when they occur between a faculty member and a student for whom a professional responsibility exists. Such relationships may undermine the trust on which the educational process depends. Relationships of an amorous nature between faculty and students, even when they occur outside the instructional context, also may be problematic and may be unethical when there is the possibility that the faculty member unexpectedly may be placed in a position of professional responsibility for the student.

Further, family relationships and relationships of a sexual nature between a faculty member and a student for whom an instructional responsibility exists can present a conflict of interests in violation of the New York Public Officers Law. The parties to such relationships are urged to avoid direct teacher-student interaction. In every such case the faculty

member must arrange to be disengaged from the responsibility of grading, evaluating, or approving the work of the student. Family relationships and relationships of an amorous nature between members of the University community can present a conflict of interests in violation of the New York Public Officers Law whenever one party has any position of power over, or professional responsibility for, the other. One party may not officially approve or recommend (or vote on such approval or recommendation) the appointment, reappointment, promotion, or salary adjustment of the other; nor may the one party evaluate the performance of the other.

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POLICY FOR FREEDOM OF EXPRESSION

Council on Academic Freedom and Ethics
March 30, 1987

1. It is proposed that:

(a) the statements contained in Nos. 2-7 be adopted as the
~~University at Albany's policy on freedom of expression;~~

(b) and, the policy be published regularly in appropriate
University materials, including the Undergraduate Bulletin and
the Graduate Bulletin, and the Faculty Handbook.

(c) That this bill be forwarded to the President for approval.

2. The University reaffirms its commitment to the principle that
the widest possible scope for freedom of expression is the
foundation of an institution dedicated to vigorous inquiry,
robust debate, and the continuous search for a proper balance
between freedom and order. The University seeks to foster an
environment in which persons who are on its campus legitimately
may express their views as widely and as passionately as
possible; at the same time, the University pledges to provide the
greatest protection available for controversial, unpopular,
dissident, or minority opinions. The University believes that
censorship is always suspect, that intimidation is always
repugnant, and that attempts to discourage constitutionally
protected expression may be antithetical to the University's
essential missions: to discover new knowledge and to educate.

3. All persons on University-controlled premises are bound by the
Rules and Regulations for Maintenance of Public Order, which deal
in part with freedom of expression (adopted by the Board of
Trustees of the State University of New York June 18, 1969;

amended 1969, 1980). Members of the University community should familiarize themselves with those rules and regulations. In addition, University faculty are protected by and bound by Article XI, Title I, Sec. 1 of the Policies of the Board of Trustees (adopted January 1987), entitled "Academic Freedom."

4. University officials or other members of the University community in a position to review posters, publications, speakers, performances, or any other form of expression may establish legitimate time, place, and manner regulations for the maintenance of an orderly educational environment; however, they may not prohibit expression for any reason related to the content of the expression, except as permitted in those narrow areas of expression devoid of federal or state constitutional protection.

5. Speakers invited to campus by University groups or individuals, and other speakers who may be legitimately present on campus, will be given the utmost protection to communicate their messages without disruptive harassment or interference. Opponents to those speakers enjoy the same protections for expressing their dissent.

6. All members of the University community share the duty to support, protect, and extend the commitment to the principle of freedom of expression, and to discuss this commitment with groups or individuals who seek to take part in University life. While all persons may seek to peacefully discourage speech that may be unnecessarily offensive to particular individuals or groups, speech that may be antithetical to the University's values, those persons must support the legal right of free speech.

7. Under Section 1.5 of its charge, the Council on Academic Freedom and Ethics will serve as a hearing body available to those members of the University community who feel their freedom of expression has been unfairly suppressed. The Council will report its findings to the President for further review and action.

Policies of the Board of Trustees, Article XI, Title I, Sec. 1:

"It is the policy of the University to maintain and encourage full freedom, within the law, of inquiry, teaching, and research. In the exercise of this freedom the faculty member may, without limitation, discuss his own subject in the classroom; he may not, however, claim as his right the privilege of discussing in his classroom controversial matter which has no relation to his subject. The principle of academic freedom shall be accompanied by a corresponding principle of responsibility. In his role as a citizen, an employee has the same freedom as other citizens. However, in his extramural utterances an employee has an obligation to indicate that he is not an institutional spokesman."

Section 1.5 of the charge to CAFE:

The council shall hear, investigate, and make recommendations concerning complaints brought by any member of the university community against any other member of the university community provided such complaints:

1. concern professional behavior seemed to be in derogation of professional responsibility and privilege;
2. are not grievable under existing contracts; and
3. no other means of resolving the complaint are available within the university governance structure at the time the complaint is filed.

Approved by the University Senate May 4, 1987.
Approved by President O'Leary June 12, 1987.



University Senate
518 442-5406

Administration 259
Albany, New York
12222

TO: William Hammond
Chair
University Senate

DATE: July 31, 1989

In accordance with your memorandum of June 5, 1989, I am pleased to indicate my approval of the following Senate bill.

Senate Bill No. 8889-04: Amendment to University Policy on Freedom of Expression

A handwritten signature in black ink, appearing to read "Vincent O'Leary".

Vincent O'Leary



University Senate
518 442-5406

Administration 259
Albany, New York
12222

TO: Mitchel Livingston
Vice President for Student Affairs

DATE: July 31, 1989.

I have signed Senate Bill No. 8889-04: Amendment to University Policy on Freedom of Expression. This is forwarded to you for implementation or other action as appropriate.

A handwritten signature in dark ink, appearing to read "Vincent O'Leary". The signature is stylized with a large, looping "V" and a long, sweeping underline.

Vincent O'Leary



University Senate
518 442-5406

Administration 259
Albany, New York
12222

TO: Sheila Mahan
Assistant to the President

DATE: July 31, 1989

I have signed Senate Bill No. 8889-04: Amendment to University Policy on Freedom of Expression. This is forwarded to you for implementation or other action as appropriate.

A handwritten signature in black ink, appearing to read "Vincent O'Leary".

Vincent O'Leary



Office of the President
518 442-5400

Administration 246
Albany, New York
12222

TO: Mitchel S. Livingston
Vice President for Student Affairs

DATE: June 14, 1989

The following bill has been submitted to me for approval. Please review and submit any comments to me.

Senate Bill No. 8889-04: Amendment to University Policy on Freedom of Expression

A handwritten signature in dark ink, appearing to read "V. O'Leary".

Vincent O'Leary



RECEIVED

JUN 5 1989

**OFFICE OF THE
PRESIDENT**

University Senate
518 442-5406

Administration 259
Albany, New York
12222

TO: Vincent O'Leary
President

FROM: William Hammond
Chair

Bill

DATE: June 5, 1989

In accordance with Senate procedures, I am submitting the following bills to you for approval. The bills were approved at the May 8, 1989, University Senate meeting.

Senate Bill No. 8889-04: Amendment to University Policy on Freedom of Expression

Senate Bill No. 8889-06: Interdisciplinary B.A. Major in Human Biology

UNIVERSITY SENATE
STATE UNIVERSITY OF NEW YORK AT ALBANY

AMENDMENT TO UNIVERSITY POLICY ON FREEDOM OF EXPRESSION

INTRODUCED BY: Council on Academic Freedom and Ethics

DATE: April 24, 1989

IT IS HEREBY PROPOSED THAT:

- I. ~~The attached bill on the amendment to University Policy on Freedom of Expression be approved.~~
- II. That this bill be forwarded to the President for his approval.

AMENDMENT TO UNIVERSITY POLICY ON FREEDOM OF EXPRESSION
Council on Academic Freedom and Ethics

1. It is proposed that Section 4 of Senate Bill No. 8687-10 be amended as follows:

a) Delete the word "posters" immediately following the word "review" and re-number Section 4 to Section 4.a. so that it now reads:

4.a. University officials or other members of the University community in a position to review publications, speakers, performances, or any other form of expression may establish legitimate time, place, and manner regulations for the maintenance of an orderly educational environment; however, they may not prohibit expression for any reason related to the content of the expression, except as permitted in those narrow areas of expression devoid of federal or state constitutional protection.

b) Add a new section dealing with posters, reading:

4.b.1. Initial regulation of posters intended to be displayed on Podium bulletin boards will be administered by the Office of Campus Life. In addition to matters covered in 4.b.3. below, the Office of Campus Life may, to maintain an orderly educational environment, establish time, place, and manner regulations for posters.

4.b.2. The Office of Campus Life will have available information and materials concerning any restrictions that apply to posters and will present it readily to anyone needing assistance in designing or mounting posters.

4.b.3. If the Office of Campus Life determines that a poster submitted for approval appears to contain expression that is devoid of Constitutional protection or appears to contain material likely to give major offense to groups defined by race, sex, age, religion, ethnicity, physical condition, or sexual preference, the person requesting approval for such poster will be urged by University officials to adopt some alternate design for the poster which will avoid the inappropriate attributes.

4.b.4. If the efforts described above fail to dissuade those wishing to display a poster considered to be devoid of Constitutional protection, the proposed poster will be referred to CAFE for review. CAFE will have two University business days to conduct its review.

4.b.5. When notified that an objectionable poster has been referred to CAFE, the Chair of CAFE shall so notify all Council members and assemble as many of them as possible within two University business days to review the proposed poster.

4.b.6. After reviewing the poster, CAFE will rule as to whether the poster contains material devoid of Constitutional protection. The Council will report its finding and make a written recommendation about display to the President (or designee) to take final action on the matter.

4.b.7. Within one University business day, the President (or designee) shall notify the Chair of CAFE in writing of his/her findings, and shall notify the Office of Campus Life whether to register the poster for display.

RATIONALE

The University must resist all efforts to curb the content of expression, no matter how distasteful or offensive the expression may be to some members of the community, both on- and off-campus. Therefore, in reviewing posters for registration, University officials should permit the widest possible scope in the content of posters when presented for registration by a recognized campus group. At the same time, the University is properly concerned with standards of discourse and should seek non-coercively to elevate the civility and rationality of discussion. All members of our community are expected to demonstrate a decent respect for others and to refrain from using slurs, illustrations, or epithets that bring great offense to segments of our community.

However, there are a small number of narrowly defined areas devoid of Constitutional protection. At this time, those are understood to be "obscenity, fighting words, and/or expressions that create a clear and present danger." There currently being no protection for such expressions, the University quite properly may prohibit them because of the possible negative consequences of their use.

On the matter of posters that appear to contain harassing statements, the matter is differently decided. While harassment is prohibited by the University policy, in the legal arena, insofar as it pertains to "protected class" groups, harassment has been restricted to employment relationships thus far in cases brought before courts. Additionally, at this time courts have not extended the concept of harassment from the individual to a group of similarly described persons, and some argue that it is extremely unlikely that a poster ever would be designed or implemented in such fashion as to have a single individual as its target. Therefore, it is not anticipated that posters would ever be disallowed because of a potential for harassment.

If experience on this campus is any predictor, persons wishing to display posters that are inappropriate will modify them voluntarily when the inappropriateness is revealed to them. (There is reason to believe that the controversy and indignation generated by certain posters in the past came as unpleasant surprises to the sponsoring organizations, which did not intend to give unnecessary offense.) However, if a person persists in wishing to display a poster which is distasteful and offensive to a group of persons, even in the extreme, it is not anticipated that this display would be prohibited.

The bill has been drawn in its present form for several reasons:

1. Initial review of posters now resides in the Office of Campus Life because regulation of the campus environment is a proper administrative function of this office.
2. If there is the possibility that a poster would fail to meet minimum standards of probity, a group of campus representatives, such as the faculty, professionals, and students who are the members of CAFE, should review the poster to remove the decision from a single individual.
3. CAFE would be acting under authority granted in Section 1.5 of its original charge: to "serve as a hearing body available to members of the University community who feel their freedom of expression has been unfairly suppressed." After reviewing the poster at hand, CAFE then recommends action to the President.

**UNIVERSITY AT ALBANY
STATE UNIVERSITY OF NEW YORK**

Introduced by the Council on Academic Freedom and Ethics

Date: April 28, 2004

CAMPUS POLICY ON FREEDOM OF EXPRESSION

IT IS HEREBY PROPOSED THAT THE FOLLOWING BE ADOPTED:

- I. The University affirms its commitment to the principle that the widest possible scope for freedom of expression is the foundation of an institution dedicated to vigorous inquiry, the expression of diverse perspectives, and open, robust debate. The University seeks to foster an environment in which all University members and invited guests may express their views as widely and as persuasively as possible; at the same time, the University pledges to protect the right of all members of the campus community to express themselves, including those persons expressing controversial, unpopular, dissident, or minority opinions. The University believes that censorship is always suspect, that intimidation is always repugnant, and that attempts to discourage constitutionally protected expressions antithetical to the University's educational missions (adapted from University Office of Research, Office for Sponsored Funds, University Policies, section entitled Freedom of Expression).
- II. The University shall establish reasonable "time, place, and manner" regulations to maintain a safe environment that facilitates the educational mission of the University. However, expression may not be prohibited or limited for any reason related to the content of the expression, except as permitted in those narrow areas of expression devoid of federal or state constitutional protection (adapted from University Office of Research, Office for Sponsored Funds, University Policies, section entitled Freedom of Expression).
- III. The University further affirms that the appropriate response to expressions that are perceived by some to be offensive is the expression of alternative viewpoints. Attempts to stop or impede the expression of certain viewpoints harms the entire community. The University also recognizes the importance of facilitating the timely organization of events that are designed to respond to, and provide alternative viewpoints on, controversial topics. This is fundamental to maintaining a vigorous ongoing dialogue, which supports open intellectual inquiry.
 - A. All University community members are encouraged to express their views in ways that support community cohesiveness, mutual appreciation and respect, and a high quality of civil inquiry and dialogue.
 - B. All speech shall be protected except that which is not constitutionally protected, including but not limited to obscene speech (e.g., expressions of purely prurient nature, with no socially redeeming value) or as specified in the State University of

New York Board of Trustees “Rules and Regulations for the Maintenance of Public Order,” 8 N.Y.C.R.R. §535.3.

- IV. Members of the University community may conduct or sponsor organized expressive activities in designated outdoor areas of the University in accordance with procedures approved by the Office of the President. Such procedures may include, among other things, a requirement that space for the conduct of expressive activities be scheduled in advance with the University. The University may impose constitutionally permissible time, place and manner restrictions on expressive activities. Time, place and manner restrictions on expressive activities are permissible provided they are unrelated to the content of the expressive activity, are narrowly tailored to serve the University’s educational mission and leave open ample alternative channels for communication. Decisions to grant or deny permission to conduct expressive activities shall be based upon adherence to applicable University procedures, local, state and federal law and the availability of space. In no event should the decision be based on the content or viewpoint of the expressive activity or upon the anticipated reaction of others to the expression. When an expressive event or speech is disallowed or restricted, a written explanation describing the grounds for the denial or restriction shall be supplied to the event sponsor by the designated University administrator.
- A. Only University groups which have official recognition may sponsor events and invite non-university members or groups to participate in expressive events on campus.
 - B. Persons engaged in expressive activities and those in attendance at such events are expected to demonstrate civility, concern for the safety of persons and property, respect for University activities, respect for those who may disagree with their message or viewpoint and compliance with all applicable University policies and regulations and applicable local, state and federal laws.
 - C. All events, organized by University members and recognized University groups, other than formal academic units, shall be registered with an administrative office to be designated by the University President. This registration process shall require event organizers to provide information, including, but not limited to, the sponsor, location, time, title and a brief description of an event. A complete, electronic listing of all registered events shall be maintained and made available to the University community.
 - D. The University’s established policies for the approval and posting of event advertisements on University property shall govern the approval and posting of event advertisements for expressive activities under this policy.
 - E. The use of props, banners, and other displays used in events may be limited in cases where public safety is at risk or where such paraphernalia includes expressions that are not constitutionally protected.

- V. In addition to planned events, the University recognizes the need to support spontaneous expressions and free speech of members of the University community. Such expressions may be permitted by the University, without prior reservation, only in such area or areas as may be designated by the University and subject to regulations governing such activities as may be promulgated by the University. Such regulations may include, but shall not be limited to, a prohibition of amplified sound, prohibition of stationary displays, exhibits or structures and a limitation on the period of time during which such activities may be conducted.
 - A. To protect the educational mission, the University may prohibit electronic or other sound amplification equipment in connection with spontaneous expressions and free speech.
 - B. All community members shall respect the right of free speech and not attempt to interfere, heckle or otherwise prohibit the speech of others; instead, they may express alternative views during their turn to speak.
- VI. Complaints and alleged violations of this policy should be referred to the Committee on Academic Freedom, Freedom of Expression and Community Responsibility (formerly known as the Council on Academic Freedom and Ethics). This Committee will serve as a hearing body available to those members of the University community who feel their freedom of expression has been unfairly denied or limited. The Council will review the circumstances and report its findings to the President for further review and action.
- VII. This policy is applicable to University at Albany students, faculty, staff and their invited guests who wish to engage in organized expressive activities on property owned, leased or under the control of the University. It does not apply to official University activities, e.g., commencement, faculty receptions, and other similar functions. Groups or individuals engaged in organized expressive activities as provided herein shall be responsible for the content of their expression. Permitting organized expressive activities under this policy does not constitute official University endorsement of the content of the expressive activities.
- VIII. That the bill be forwarded to the President for approval and implementation, including the development and promulgation of guidelines and procedures to effectuate its purposes.

RATIONALE

Robust, wide-open expressions of ideas in peaceful assembly and without restrictions on content are central to the educational mission of the University. The University has a legitimate right to regulate “time, place and manner” of expression, to maintain the educational mission and to

provide a safe environment for all University members.

The proposed bill represents an effort to reaffirm the right of free speech at the University at Albany, to help educate community members and support a better understanding of the rights and responsibilities of freedom of expression. Current guidelines are detailed with respect to student groups; however, policies governing freedom of expression for all University members are not well specified. Also, existing policies focus on, and provide guidelines for, the conduct of organized events but give little or no reference to spontaneous free speech. Furthermore, much of the centrally located outdoor areas, especially of the uptown campus, are currently reserved for scheduled events (e.g. information tables, lunchtime amplified events).

The Council on Academic Freedom and Ethics was advised by faculty and staff with expertise in constitutional rights and legal practices related to freedom of expression and speech, especially related to college campuses. In addition, the Council reviewed available policies on freedom of expression for Florida State University, the University of Georgia, Oregon State University, University of Houston, Arizona State University, University of Vermont, University of Delaware, UC Berkeley, SUNY Brockport and SUNY Binghamton. A wide variety of freedom of expression issues were covered and these policies often appeared to reflect particular historical experiences of a university. For example, one university had a policy dealing specifically with the appropriate use of “symbolic structures.” In addition, freedom of expression policies are in some instances addressed explicitly and in other cases integrated into broader general policy statements. It may be postulated that universities with more prominent policy affirmations of freedom of expression may experience more active participation in such activities.



MEMORANDUM

TO: Michael Range, Senate Chair
FROM: George M. Philip, President
DATE: August 9, 2010
SUBJECT: Senate Legislation

I am writing to inform the University Senate of my actions regarding legislation adopted by the University Senate and advanced to my office for consideration.

I am pleased to approve the following Senate bills:

- 0910-07: Revisions to University Policies on Student Absences
- 0910-10: Policy for Student-elected S/U Grading
- 0910-14: Organizational Studies
- 0910-15: Suspend Admissions to E&S Science BA
- 0910-16: CHEM Deactivate Major Track BS
- 0910-18: CHEM Deactivate 3-2 Program

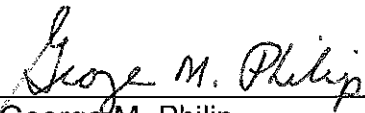
With respect to Senate Bill 0910-11 entitled *Deletion of "Principles of a Just Community" from University Documents*, I am asking the Senate to reconsider this legislation. The bill justification suggests that the Principles of a Just Community (PJC) are in conflict with Community Rights and Responsibilities (CRR) implying that freedom of expression as defined in PJC is at odds with the CRR's statements regarding the campus protecting all members of the community from conduct constituting bias and/or hate crime. This implication does not take into consideration policy and legal distinctions between "speech" and "crime," and suggests that the expression of ideas, even outrageous ones, might be prohibited. Therefore, I am not approving the bill. Accordingly, if CAFFECOR is interested in amending Senate Bill 0910-11, they could do so as follows:

1. Eliminate the paragraph stating a contradiction between PJC and CRR.
2. Modify the PJC so that it reflects the desired sentiments of the campus community or,
3. Simply eliminate PJC from all University documents for consistency on the basis that it is outdated.

Regarding the position of Senate Bill 0304-25 on the Campus Policy of Freedom of Expression, I will not be approving that legislation as it reaches beyond the Senate's advisory role to the President and is likely unconstitutional with the exception of the introductory article. The content of the bill attempts to foster civility and respect on campus by circumscribing the delivery of and the listening to free speech on campus. However, under current federal law, the University becomes vulnerable to lawsuits when its policies regulate speech and conduct based on the grounds of civility, respect, and social balance. Consequently, should the University Senate decide to revisit this legislation, I ask that future amendments addressing speech and conduct regulations be developed for the purposes of maintaining public order and safety on campus as opposed to "good manners." Moreover, the University Senate should note that the first Article is constitutionally sound and needs only the deletion of the word "invited" as it references "guests." Articles II and IV are problematic in that they attempt to define a "time, place and manner" regulation, which exceeds the University Senate's authority to create such regulation, as set forth in the Faculty Bylaws (Faculty Bylaws, Article I, Section 2.2.2 (c)). Additionally, Article IV's content might be deemed unconstitutional with respect to its restrictiveness, and should be redrafted after the University Senate reviews the provisions established by other universities only to be later struck down in court. With respect to Article III, subparagraphs A and B are problematic. Paragraph A attempts to define civil and respectful conduct, but such policies are routinely held as unconstitutional since conduct is now being defined as a form of expression and is therefore constitutionally protected. Paragraph B should be removed as current federal cases are in the process of redefining what type of speech is and is not protected. Article V is problematic for the same reasons; restricting these forms of expression is unconstitutional. Article VI should be redrafted as the Senate does not have the jurisdiction to hear complaints from students, staff, and the public. Finally, Article VII also exceeds the Senate's advisory role and could be read as unconstitutional because the policy applies to various parties.

Finally, with respect to Senate Bill 0910-04 on Honors College Retention Students, Counsel's office is awaiting clarification and feedback from the Chair of the Undergraduate Academic Council (UAC) with respect to this legislation.

If you should have any questions, please feel free to share them with me at your convenience.


George M. Philip
President

August 9, 2010
Date

THE STATE UNIVERSITY *of* NEW YORK

POLICIES

of the Board of Trustees



THE STATE UNIVERSITY *of* NEW YORK

Policies of the Board of Trustees



November 2009
(Last Printing: July 2006)

THE STATE UNIVERSITY OF NEW YORK

Chairman

CARL T. HAYDEN

Chancellor

NANCY L. ZIMPER

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Title I. Academic Freedom

§ 1. *Academic Freedom.* It is the policy of the University to maintain and encourage full freedom, within the law, of inquiry, teaching and research. In the exercise of this freedom faculty members may, without limitation, discuss their own subject in the classroom; they may not, however, claim as their right the privilege of discussing in their classroom controversial matter which has no relation to their subject. The principle of academic freedom shall be accompanied by a corresponding principle of responsibility. In their role as citizens, employee's have the same freedoms as other citizens. However, in their extramural utterances employees have an obligation to indicate that they are not institutional spokespersons.

Title J. Patents, Inventions and Copyright Policy

§ 1. *Patents and Inventions Policy.*

(a) Purpose.

(1) State University recognizes that the three primary missions of an educational institution are teaching, research, and public service. While carrying out its research mission, State University further recognizes that inventions of value to the public will be made by persons working in its facilities. It is the policy of State University to encourage such inventors and inventions and to take appropriate steps to aid the inventor and ensure that the public receives the benefit. Appropriate steps include securing research support, identifying inventions, securing appropriate patents, marketing inventions through licensing and other arrangements, and managing royalties and other invention-related income. These activities are undertaken in a spirit of cooperation with governmental agencies and private industry as part of State University's contribution to the economic well-being of the State of New York and of the nation.

(2) In implementing its policies State University will take appropriate steps to ensure that its faculty may freely publish the results of scholarly research pursuant to the State University Board of Trustees policy on unrestricted disclosure of research activities as set forth in Trustees' resolution number 66-258. In conformance with this principle, all concerned shall cooperate so that essential rights to inventions shall not be lost.

(3) All net proceeds after payment of the inventor's share as defined in subdivision (c), and other appropriate costs associated with the University Technology Transfer Program, realized from the marketing of State University inventions shall be used for the support of State University research programs.

(b) All inventions made by faculty members, employees, students, and all others utilizing University facilities at any of the State-operated institutions of State University shall belong to State University and should be voluntarily disclosed or shall be disclosed to State University upon request of the University. The inventor or inventors shall make application for patents thereon as directed by State University and shall assign such applications or any patents resulting therefrom to or as directed by State University. However, non-university organizations and individuals who utilize University research facilities under the Trustees' policy on cooperative use of research equipment, or policy and guidelines on use of State University facilities by emerging technology enterprises, will retain ownership of all patentable inventions. Also, an invention made by an individual wholly on such individual's own time and without the use of such University facilities shall belong to the individual even though it falls within the field of competence relating to the individual's University position. For purposes of this provision, an individual's "own time" shall mean time other than that devoted to normal and assigned functions in teaching, University service, direction and conduct of research on University premises and utilizing University facilities. The term "University facilities" shall mean any facility available to the inventor as a direct result of the inventor's affiliation with State University, or any facility available under the Trustees' policy on cooperative use of research equipment, or policy on use of facilities by emerging technology enterprises, and which would not otherwise be available to a non-State University-affiliated individual. Where any question is raised as to ownership of an invention or patent



AGREEMENT
between the
STATE
OF NEW YORK
and
UNITED
UNIVERSITY
PROFESSIONS

July 2, 2007 – July 1, 2011

ARTICLE 5

Policies

In the event of any inconsistency or conflict between provisions of this Agreement and the Policies or College by-laws, the provisions of this Agreement shall apply.

ARTICLE 6

Benefits Preserved

With respect to matters not covered by this Agreement, the State will not seek to diminish or impair during the term of this Agreement any benefit or privilege provided by law, rule or regulation for employees without prior notice to UUP, and when appropriate, without negotiations with UUP. Negotiations as used in this Section shall not be deemed a reopener to which Section 209 of the Civil Service Law shall be applicable.

ARTICLE 7

Grievance Procedure

§7.1 Purpose

The purpose of this Article is to provide a prompt and efficient procedure for the investigation and resolution of grievances. The orderly process hereinafter set forth shall be the sole method for the resolution of grievances. Previously existing grievance resolution programs shall be discontinued absent mutual agreement to the contrary at the local level. Programs continued may be discontinued by either party at any time.

§7.2 Definition

a. A grievance is a dispute concerning the interpretation, application or claimed violation of a specific term or provision of this Agreement; provided, however, that with respect to matters involving appointment, evaluation and promotion of employees a grievance shall be deemed to mean a claimed failure by the State to follow the procedural steps relating to appointment, evaluation and promotion of employees contained in the Policies of the Board of Trustees in Article XI, Title A, Section 1; Article XI, Title D, Section 5; Article XII, Title A, Section 3; Article XII, Title B, Section 1; and Article XII, Title C, Sections 3 and 4.

b. A grievance shall also be a claimed failure by the State to follow the procedural steps contained in the Memorandum of Understanding on Contracting Out; however, review of such grievances shall end at Step 3 and shall not proceed to arbitration.

c. A claim of unjust discipline shall be processed in accordance with Article 19, Discipline, of this Agreement and shall not be subject to the grievance procedure contained in this Article. However, a claim that the procedures of Article 19, Discipline, have been violated, except for issues of timeliness arising under that Article, shall be processed in accordance with the grievance procedure contained in this Article. Such claim may be filed initially at Step 2. Where it is determined that the procedures of Article 19, Discipline, have been violated and where a College President, or designee, elects to proceed with disciplinary action, such action must be initiated within 10 working days from the date of receipt of the determination.

§7.3 Requirements for Filing Grievances

a. A grievance must be submitted in writing on forms to be provided by the State.

b. Each grievance shall identify the specific term or provision of the Agreement claimed to have been violated and shall contain a short, plain statement of the grievance, the facts surrounding it and the remedy sought.

c. A grievance appeal shall be regarded as filed even if copies of the appeal are not simultaneously sent to the College President, or designee, and the Chancellor, or designee, as required by grievance Steps 2, 3 and 4 of this Article. However, no grievance shall be reviewed unless all of the information required by the grievance form or otherwise required by grievance steps of this Article has been provided.

§7.4 Representation

a. UUP shall have the exclusive right to represent any employee, upon the employee's request, at any step of this grievance procedure; provided, however, that individual employees may, upon notice to UUP, initiate and represent themselves in processing their own individual grievances at Step 1; provided further, however, no resolution of an individually processed grievance shall be inconsistent with this Agreement and for this purpose UUP shall receive prior notice and a reasonable opportunity to be heard on the resolution of any grievance so processed at Step 1.

b. UUP shall have the right, but not the obligation, to initiate at Step 2 a grievance which directly involves employees at more than one campus.

§7.5 Procedures for Processing Grievances and Grievance Appeals

a. Step 1. A grievance shall be filed by an employee, or UUP upon an employee's request, with the College President, or designee, within 45 calendar days following the act or omission giving rise thereto, or within 45 calendar days of the date on which the employee first knew or reasonably should have known of such act or omission if that date is later. The employee's selection of a representative as indicated on the Contract Grievance Form when filed is final and not subject to change. Where practicable, the grievant may be required to meet with the department or division chairperson, dean or other appropriate administrator with a representative of the employee's choice in an effort to resolve the grievance informally. The College President, or designee, shall schedule a meeting within 10 calendar days after receipt of the grievance and shall issue a written response to the grievant and UUP within 10 working days after the meeting.

b. Step 2.

1. If the response at Step 1 does not resolve the grievance, UUP, upon grievant's request, may appeal the Step 1 response by filing an appeal with the Chancellor, or designee, within 10 working days after receipt of the Step 1 response. Such appeal shall be in writing and shall include a copy of the grievance filed at Step 1, a copy of the Step 1 response and a short, plain statement of the reasons for disagreement with the Step 1 response. A copy of the appeal shall be sent simultaneously to the College President, or designee. The Chancellor, or designee, shall issue a written response to the grievant and UUP within 20 working days after receipt of the appeal, unless the appeal to Step 2 contains a request for a meeting with the Chancellor, or designee. If such meeting has been requested, the Chancellor, or designee, shall schedule a meeting with UUP and the grievant within 10 calendar days after receipt of the appeal. The Step 2 response shall be issued within 20 working days after the meeting.

2. A grievance involving a claim that the procedures of Article 19, Discipline, have been violated, except for issues of timeliness arising under that Article, may be filed initially at Step 2 by UUP, upon grievant's request. Such grievance shall meet the requirements specified in Section 7.3, Requirements for Filing Grievances, of this Article. Such grievances shall be filed within 45 calendar days following the act or omission giving rise thereto, or within 45 calendar days of the date on which the employee first knew or reasonably should have known of such act or omission if that date is later. A copy of the appeal shall be sent simultaneously to the College President, or designee. The Chancellor, or designee, shall schedule a review with UUP and the grievant within 10 calendar days after receipt of the grievance and shall issue a written response within 20 working days after the meeting.

3. A grievance involving employees at more than one College may be filed by UUP initially at Step 2. In such case, UUP shall be deemed to be the grievant. Such grievance shall meet the requirements specified in Section 7.3, Requirements for Filing Grievances, of this Article. The time limit for filing such grievance shall be as specified in Step 1. A copy of the appeal shall be sent simultaneously to the College President, or designee. The Chancellor, or designee, shall issue a written response to UUP within 20 working days after receipt of the grievance unless the grievance contains a request for a meeting with the Chancellor, or designee. If such meeting has

been requested by UUP, the Chancellor, or designee, shall schedule a meeting with UUP within 10 calendar days after receipt of the grievance and shall issue a response within 20 working days after completion of the meeting.

c. Step 3. If the response at Step 2 does not resolve the grievance, UUP, upon grievant's request, through its President, or designee, may appeal the Step 2 response by filing an appeal with the Director of the Governor's Office of Employee Relations, or designee, within 10 working days after receipt of the Step 2 response. Such appeal shall be in writing and shall include a copy of the grievance filed at Step 1, or Step 2, in the case of grievances filed initially at Step 2; all prior responses and appeals; and a short, plain statement of the reasons for disagreement with the Step 2 response. A copy of the appeal shall be sent simultaneously to the College President, or designee, and the Chancellor, or designee. The Director of the Governor's Office of Employee Relations, or designee, shall issue a written response to the grievant and UUP within 20 working days after receipt of the Step 3 appeal.

d. Step 4.

1. If the response at Step 3 does not resolve the grievance, UUP, upon grievant's request, through its President, or designee, may proceed to arbitration by filing with the Director of the Governor's Office of Employee Relations, within 10 working days after receipt of the Step 3 response, written notice of intent to proceed to arbitration. A copy of such written notice shall be sent simultaneously to the College President, or designee, and the Chancellor, or designee.

2. Notices of intent to proceed to arbitration must include a proposed statement of the issue to be decided.

§7.6 Procedures Applicable to Grievance Steps

a. Step 1 shall be informal but the grievant, and the grievant's representative upon grievant's request, shall meet with the College President, or designee, for the purpose of discussing the grievance.

b. Steps 2 and 3 are intended primarily to be reviews of the existing grievance file; however, additional evidence may be submitted. If a meeting at Step 2 has not been requested or if a meeting at Step 3 has not been scheduled, any additional evidence at such steps must be submitted in writing. If meetings at Steps 2 and 3 have been scheduled, any additional evidence may be submitted at such meetings in writing or by means of testimony. Presence of grievants at such meetings may be waived by mutual agreement of the parties.

c. Notwithstanding any other provision of this Article, neither the grievant nor UUP, as grievant's representative, shall be permitted to allege violations other than those specified in writing in the grievance filed at Step 1 or initially filed at Step 2.

d. A grievance may be withdrawn at any time by the grievant or UUP as grievant's representative.

§7.7 Procedures Applicable to Arbitration

a. Selection of Arbitrators

The State and UUP shall jointly agree as soon as feasible after the execution of this Agreement on a panel of at least ten (10) contract arbitrators. Each party shall rank the next five members of the panel in rotation and the member with the highest ranking shall serve as the arbitrator. In the event of a tie, selection shall be by lot. The State agrees to take the necessary steps to administer the panel including, but not limited to, identifying arbitrators' availability, notifying them of their appointment and assisting in arranging for hearing rooms.

b. Authority of the Arbitrator

1. The arbitrator shall neither add to, subtract from, nor modify the terms or provisions of this Agreement or the procedural steps of the Policies specified in Section 7.2, Definition, of this Article. The arbitrator shall confine the decision and award solely to the application and/or interpretation of this Agreement or whether such procedural steps of the Policies have been followed. Where provisions of this Agreement or the procedural steps of the Policies

referred to in this paragraph call for the exercise of judgment, the arbitrator shall not substitute the arbitrator's judgment for that of the official making such judgment, but shall be confined to a determination as to whether this Agreement or such procedural steps of the Policies have been followed. If the arbitrator determines that this Agreement or the procedural steps of the Policies referred to in this paragraph have not been followed, the arbitrator may fashion an appropriate remedy. In matters involving appointment or reappointment, if the arbitrator determines that the failure to follow this Agreement or the procedural steps of the Policies referred to in this paragraph has been significant, the remedy may provide for an appointment not to exceed one year. The arbitrator shall not have the authority to grant a continuing or permanent appointment. Under Article XI of the Policies, continuing or permanent appointment may be granted only by the State University Chancellor. The arbitrator shall not have authority to consider issues arising from the Memorandum of Understanding on Contracting Out or otherwise interpret provisions contained therein.

2. The arbitrator shall be confined to the precise issue submitted for arbitration and shall have no authority to determine any other issue.

c. Arbitrability

In the event a disagreement exists regarding the arbitrability of an issue, the arbitrator shall determine initially whether the issue in dispute is arbitrable under the express terms of this Agreement. At the request of either party, such determination shall be made by a written decision and award. Once the arbitrator has determined that the issue is arbitrable in accordance with provisions of this subdivision, the arbitrator shall proceed to determine the merits of the issue.

d. Time and Place of Meeting

The arbitrator shall hold the hearing in Albany, unless otherwise agreed to by the parties, within 15 working days of the acceptance of the arbitrator's selection or as soon thereafter as is practicable. Two consecutive hearing days shall be scheduled, where practicable. The arbitrator shall issue a decision and award upon an issue within 30 calendar days of the hearing, unless additional time is agreed to by the parties. Copies of the arbitrator's decision and award shall be sent simultaneously to the Governor's Office of Employee Relations, UUP, the Chancellor's designee and the College President.

e. Effect of Decision and Award

The decision and award of the arbitrator shall be final and binding upon the State, UUP and the grievant to the extent permitted by provisions of this Agreement and applicable law.

f. Fees and Expenses

All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall be responsible for the cost of preparing and presenting its own case.

§7.8 Miscellaneous Provisions

a. Time Limits

All of the time limits contained in this Article may be extended by mutual agreement of the parties. Extensions shall be confirmed in writing by the party requesting the extension. Upon failure of the State or its representatives to provide a response within the time limits provided in this Article, UUP, upon grievant's request, may appeal to the next step. Upon failure of the grievant, or UUP as the grievant's representative, to file a grievance or grievance appeal within the time limits provided in this Article, the grievance shall be deemed to have been withdrawn.

b. Mailing

1. All grievances, grievance appeals and responses shall be transmitted by certified or registered mail, return receipt requested, or by personal service on the grievant or grievant's representative or on the individual responsible for conducting the review. Upon personal service the recipient of such documents, upon request, shall acknowledge, in writing, the receipt thereof. Proof of personal service shall specify the person who was served and the date, place and manner of service.

2. All time limits set forth in this Article shall be measured from the date of receipt. Where service is by registered or certified mail, the date of receipt shall be that date appearing on the return receipt, provided, however, that the time limits for the submission of a grievance or the filing of an appeal or demand for arbitration or issuance of a Step response shall be determined from the date of personal service or mailing by certified or registered mail, return receipt requested, as evidenced by the official postmark appearing on the receipt for certified or registered mail.

c. Precedent

Grievances resolved at either Steps 1, 2, or 3 shall not constitute a precedent in any arbitration proceeding unless agreed to in writing by the Director of the Governor's Office of Employee Relations and UUP, acting through its President.

d. Retroactivity

A settlement of, or an arbitrator's decision and award upon, a grievance may or may not be retroactive as the equities of each case may demand, but in no case shall such resolution be retroactive to a date earlier than 45 calendar days prior to the date the grievance was first filed.

e. "Working days" as used in this Article shall mean Monday through Friday, excluding holidays.

§7.9 Applicability

This Article shall not apply to any matter which relates to College by-laws, policies, operating procedures, or any other form of guideline by whatsoever name, whether pertaining to a unit, department, division, school or any other level of organization of a College and whether appearing in a College handbook or any other document, which are developed by professional staff at a College for the conduct of the affairs of the College or its sublevels of organization.

ARTICLE 8

Labor-Management Meetings

§8.1 The purpose of this Article shall be to provide a forum to discuss, consider and attempt to resolve, where appropriate and consistent with the terms of this Agreement, matters of interest to either or both parties identified below.

§8.2 Representatives of the Governor's Office of Employee Relations shall meet with UUP representatives at mutually agreed-upon times to discuss matters of interest raised by either party. If desired by the other party, the party requesting the meeting shall submit a written agenda in advance of the meeting.

§8.3 The Chancellor, or designee, shall meet with UUP representatives twice each semester for the purpose of discussing matters of interest raised by either party, including those matters necessary to the implementation and administration of this Agreement which are University-wide in nature. A written agenda shall be submitted by UUP to the Chancellor no less than five days before the scheduled date of the meeting. At the discretion of the Chancellor, additional matters for discussion may be placed on the agenda. Nothing contained herein shall prevent the Chancellor, or designee, and UUP representatives from meeting on a less frequent basis upon mutual agreement.

§8.4 College Labor-Management Meetings

a. A College President, or designee, shall meet with local UUP representatives once each month to discuss matters of interest raised by either party, including those matters necessary to the implementation and administration of this Agreement which are local in nature. The College President shall attend these meetings at least once each semester. A written agenda shall be submitted by UUP to the College President ten working days before the scheduled date of the meeting, whenever feasible. In no event shall the agenda be submitted less than five working days before the scheduled date of the meeting. At the discretion of the College President, or designee, additional matters for discussion may be placed on the agenda with five working days' notice

to the local UUP chapter, whenever feasible. In no event shall the College President, or designee, place additional matters on the agenda with less than two working days' notice to the local UUP chapter. Nothing contained herein shall prevent the College President, or designee, and local UUP representatives from meeting on a less frequent basis upon mutual agreement.

b. A College President, or designee, shall meet with local UUP representatives once each month to discuss matters of interest pertaining exclusively to part-time employees raised by either party, including those matters necessary to the implementation and administration of this Agreement which are local in nature. A written agenda shall be submitted by UUP to the College President ten working days before the scheduled date of the meeting, whenever feasible. In no event shall the agenda be submitted less than five working days before the scheduled date of the meeting. At the discretion of the College President, or designee, additional matters for discussion may be placed on the agenda with five working days' notice to the local UUP chapter, whenever feasible. In no event shall the College President, or designee, place additional matters on the agenda with less than two working days' notice to the local UUP chapter. Nothing contained herein shall prevent the College President, or designee, and local UUP representatives from meeting on a less frequent basis upon mutual agreement.

§8.5 In addition to the meetings specified in Sections 8.3 and 8.4, UUP and the Chancellor, or designee, may meet at mutually agreed-upon times other than those set forth above if matters of immediate interest to either party arise. If desired by the other party, the party requesting the meeting shall submit a written agenda in advance of the meeting.

ARTICLE 9

Academic Freedom

§9.1 It is the policy of the University to maintain and encourage full freedom, within the law, of inquiry, teaching and research. In the exercise of this freedom faculty members may, without limitation, discuss their own subject in the classroom; they may not, however, claim as their right the privilege of discussing in their classroom controversial matter which has no relation to their subject.

§9.2 The principle of academic freedom shall be accompanied by a corresponding principle of responsibility.

§9.3 In their role as citizens, employees have the same freedoms as other citizens. However, in their extramural utterances employees have an obligation to indicate that they are not institutional spokespersons.

ARTICLE 10

No Discrimination

§10.1 The State agrees to continue its established policy prohibiting discrimination on the basis of sexual orientation and all forms of illegal discrimination, including but not limited to discrimination with regard to race, creed, color, religion, national origin, sex, age, disability or marital status.

§10.2 UUP agrees to continue its established policy prohibiting discrimination on the basis of sexual orientation and all forms of illegal discrimination, including but not limited to discrimination with regard to race, creed, color, religion, national origin, sex, age, disability or marital status.

§10.3 Neither the State nor UUP shall deliberately discriminate against an employee as a result of the proper exercise of the employee's rights guaranteed by the Public Employees' Fair Employment Act.

§10.4 Claims of discrimination under Sections 10.1 and 10.2 shall, at the election of the employee, be subject to review in accordance with State and Federal procedures established for such purpose, but shall not be subject to review under provisions of Article 7, Grievance

prior to the Board meeting. The Chancellor will recommend, where the Chancellor believes it to be appropriate, that the Board or its representatives meet with UUP for the purpose of discussing such issues. This shall not preclude UUP from directly requesting a meeting with the Board of Trustees or its appropriate committee.

§18.4 The Board of Trustees of the University shall have the right in its judgment to change its Policies from time to time hereafter, after consultation pursuant to this Article. Nothing contained in this Agreement or actions pursuant thereto shall be deemed a waiver by the State or UUP of their right to assert, at any time thereafter, that the subjects of the Policies may or may not be appropriate subjects of collective negotiations.

ARTICLE 19

Discipline

§19.1 Purpose

The purpose of this Article is to provide a prompt, equitable and efficient procedure for the imposition of discipline for just cause. Both parties to this Agreement recognize the importance of counseling and the principle of corrective discipline. Prior to initiating formal disciplinary action pursuant to this Article, the College President, or designee, is encouraged to resolve matters of discipline informally; provided, however, such informal action shall not be construed to be a part of the disciplinary procedure contained in this Article and shall not restrict the right of the College President, or designee, to consult with or otherwise counsel employees regarding their conduct or to initiate disciplinary action.

§19.2 Definitions

a. "Discipline" shall be defined as the imposition of a penalty by means of the procedure specified in Section 19.4.

b. "Days" shall mean working days, Monday through Friday, excluding holidays.

c. "Service" shall mean the act of delivering, in accordance with provisions of this Article, a notice of discipline. For purposes of determining time limits for the service of a notice of discipline, service shall be effective on the date of personal service or mailing by certified or registered mail, return receipt requested, as evidenced by the official postmark appearing on the receipt for certified or registered mail. For purposes of determining time limits for the filing of a disciplinary grievance, service shall be effective three days from the time of personal service or, in the event of mailing, which shall be by certified or registered mail, return receipt requested, three days from the date the employee or any other person accepting delivery has signed the return receipt or the date the notice is returned to the College President, or designee, undelivered.

d. "Party" shall mean the State and either the employee upon whom discipline is sought to be imposed or the employee's representative selected pursuant to Section 19.8 of this Article.

§19.3 Applicability

Discipline shall be imposed upon employees only pursuant to this Article; provided, however, that provisions of this Article shall not apply to the termination of employees serving on temporary or probationary appointments, which may be terminated at any time in accordance with provisions of Article XI of the Policies, and provided further that provisions of this Article shall not apply to non-renewal of term appointments pursuant to Article XI of the Policies, terminations of employees due to mental or physical incapacity pursuant to Article XV of the Policies or terminations of employees pursuant to Article 35, Retrenchment, of this Agreement.

§19.4 Disciplinary Procedure

a. Discipline shall be imposed only for just cause. Where the College President, or designee, seeks to impose discipline, notice of such discipline shall be made in writing and served upon the employee in person or by registered or certified mail, return receipt requested, to the employee's address of record. The conduct for which discipline is being imposed and the

penalty proposed shall be specified in the notice. The notice served on the employee shall contain a detailed description of the alleged acts and conduct including reference to dates, times and places.

b. The penalty proposed may not be implemented until the employee (1) fails to file a disciplinary grievance within 10 days of service of the notice of discipline, or (2) having filed a disciplinary grievance, fails to file a timely appeal to disciplinary arbitration, or (3) having appealed to disciplinary arbitration, until and to the extent that it is upheld by the disciplinary arbitrator, or (4) until the matter is settled.

c. The notice of discipline may be the subject of a disciplinary grievance which shall be filed with the Chancellor, or designee, in person or by registered or certified mail, return receipt requested, by the employee, or the employee's representative, on a disciplinary grievance form to be provided by the State, within 10 days of the date of service of notice of discipline. The employee's selection of a representative as indicated on the Disciplinary Grievance Form when filed is final and not subject to change. A copy of the notice of discipline must be attached to the disciplinary grievance form. A disciplinary grievance shall be regarded as filed even if it does not contain a copy of the Notice of Discipline, required by subdivision 19.4(c). However, such grievance shall not be reviewed unless all of the information required by the grievance form or otherwise required by grievance steps of Article 19 has been provided. The employee, or the employee's representative, shall be entitled to a meeting to present the employee's position to the Chancellor, or designee, within 10 days of the date of filing of the disciplinary grievance. The purpose of the meeting shall be the possible adjustment of the matter and need not involve the presentation of evidence or specification of particulars by either party. The meeting provided for herein may be waived by the employee, in writing, on the grievance form, only in accordance with provisions of Section 19.7(b). If the meeting has not been waived but cannot be held within 10 working days of the date of filing of the disciplinary grievance by reason of the unavailability of the employee, or the employee's representative, or on such other date as may be mutually agreed upon, the Chancellor, or designee, may, at the option of the Chancellor, or designee, review the disciplinary grievance on the basis of the existing record. The Chancellor, or designee, shall provide the employee, or the employee's representative, with a response in writing by registered or certified mail, return receipt requested, or by personal service within twenty days of the meeting or review, or within five days of the meeting or review if the employee has been suspended without pay under Section 19.7 of this Article.

d. If the disciplinary grievance is not settled or otherwise resolved, it may be appealed to disciplinary arbitration by the employee, or the employee's representative, within 10 days of receipt of the response of the Chancellor, or designee. Notice of appeal to disciplinary arbitration shall be filed by registered or certified mail, return receipt requested, or by personal service upon the Director of the Governor's Office of Employee Relations, or designee. A copy of the appeal shall be sent simultaneously to the College President and the Chancellor's designee.

e. The State and UUP shall jointly agree, within 15 days of the execution of this Agreement, on a 25-member panel of disciplinary arbitrators. Each member of the panel shall be assigned a number in rotation. In the event of a disciplinary arbitration, each party shall rank the next five members of the panel in rotation and the member with the highest ranking shall serve as the arbitrator. In the event of a tie, selection shall be by lot. The State agrees to perform activities necessary to appropriate administration of the panel including, but not limited to, identifying arbitrators' availability, notifying them of their appointment and assisting in arranging for hearing rooms.

f. The disciplinary arbitrator shall hold a hearing within 10 days of appointment, or as soon thereafter as practical, or within such other period as may be mutually agreed upon by the parties, recognizing, however, that except in unusual circumstances a hearing should be concluded within 30 days of the appointment of the arbitrator. The disciplinary arbitrator shall render a

decision within five days of the close of the hearing, or within five days after receipt of the transcript, if either party elects a transcript, or within such other time as may be mutually agreed upon by the parties.

g. Either party wishing a transcript of a disciplinary arbitration hearing may provide for one at its expense and shall provide a copy to the arbitrator and the other party; provided, however, the decision to make a transcript must be announced at the beginning of the hearing and the transcript must cover the entire hearing, not just a portion thereof. Delays in the preparation of a transcript shall not constitute a basis for delays in scheduling hearing dates.

h. The disciplinary arbitrator shall be confined to determinations of guilt or innocence, the appropriateness of proposed penalties, and shall have exclusive jurisdiction over issues of timeliness arising under the procedures of this Article including those arising pursuant to Section 19.9, but shall not consider alleged violations of other provisions of this Agreement, which shall be subject only to the provisions of Article 7, Grievance Procedure, of this Agreement. The disciplinary arbitrator shall neither add to, subtract from nor modify the provisions of this Agreement. The disciplinary arbitrator's decision with respect to guilt or innocence, penalty, timeliness or probable cause for suspension, or temporary reassignment, pursuant to Section 19.7 of this Article, shall be final and binding upon the parties, and the disciplinary arbitrator may approve, disapprove or take any other appropriate action warranted under the circumstances, including ordering reinstatement and back pay for all or part of the period of suspension, or return to the employee's assignment if temporarily reassigned. If the disciplinary arbitrator, upon review, finds probable cause for the suspension, the arbitrator may consider such suspension in determining the penalty to be imposed.

i. All fees and expenses of the arbitrator, if any, shall be divided equally between the State and UUP or the employee if not represented by UUP. Each party shall bear the cost of preparing and presenting its own case. The estimated arbitrator's fee and expenses and estimated expenses of the arbitration may be collected in advance of the hearing.

§19.5 Settlements

A disciplinary grievance may be settled at any time following the service of a notice of discipline. The terms of the settlement shall be reduced to writing on the disciplinary grievance form to be provided by the State. An employee offered such a settlement shall be offered a reasonable opportunity to have a representative present before the employee is required to execute it.

§19.6 Effect of Settlement and Arbitrator's Award

All settlements and arbitrators' awards shall be final and binding upon the State, UUP, the employee and the employee's representative if other than UUP.

§19.7 Suspension Before Notice of Discipline

a. Prior to issuing a notice of discipline or the completion of the disciplinary grievance procedure provided for in this Article, an employee may be suspended, without pay, by the appointing authority only pursuant to paragraphs (1) or (2) of this Section. As an alternative to such suspension, the employee may be temporarily reassigned.

1. The appointing authority, or its designee, may suspend without pay or temporarily reassign an employee when the appointing authority, or its designee, determines that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would severely interfere with its operations. Such determination shall be reviewable by the disciplinary arbitrator. A notice of discipline shall be served no later than five days following any such suspension or temporary reassignment.

2. The appointing authority, or its designee, may suspend without pay or temporarily reassign an employee charged with the commission of a crime. Such employee shall notify the appointing authority in writing of the disposition of any criminal charge including a certified copy of such disposition within five days thereof. Within 30 calendar days following such suspension under this paragraph, or within five days from receipt by the appointing authority of notice of

disposition of the charge from the employee, whichever occurs first, a notice of discipline shall be served on such employee or the employee shall be reinstated with back pay if suspended or returned to the employee's assignment if temporarily reassigned. Nothing in this paragraph shall limit the right of the appointing authority, or its designee, to take disciplinary action during the pendency of criminal proceedings.

3. Where the appointing authority, or its designee, elects to temporarily reassign an employee pursuant to this Article, the employee shall be notified in writing of the location, the effective date and nature of such temporary reassignment and that the employee may elect in writing to refuse such temporary reassignment and may be suspended without pay. The employee's election must be made in writing before commencement of the temporary reassignment. An election by the employee to refuse such temporary reassignment is final and may not thereafter be withdrawn. No election by the employee is permitted once the employee commences the temporary reassignment.

4. The State may rescind a notice of discipline and issue a revised notice of discipline no later than 20 working days prior to the commencement of a disciplinary arbitration. Such action shall not affect a suspension without pay or a temporary reassignment.

5. The fact that the appointing authority, or its designee, has temporarily reassigned an employee rather than suspending the employee without pay shall not be considered by the disciplinary arbitrator for any purpose.

b. During the period of any suspension without pay pursuant to this Article, the State shall continue the employee's and eligible dependents' health insurance coverage which is otherwise available to unit employees, and the State shall pay the employer's share of any premiums to maintain such coverage. Any such suspended employee shall be responsible for paying the employee's share of premium for such health insurance coverage. The State shall not be liable for payment of the employer's share of the health insurance premium for any period of time during which the suspended employee fails to pay the employee's share of the health insurance premium. Also, an employee suspended pursuant to the provisions of this Article shall be counted for the purpose of calculating the amount of any periodic deposit to the UUP Benefit Trust Fund.

c. Where an employee has been suspended without pay pursuant to this Article, an employee's absence(s) shall, upon the employee's written request, be charged against vacation leave, holiday leave, or FLSA compensatory leave provided sufficient accruals exist in such leave categories.

d. Suspension without pay or temporary reassignment:

1. Where an employee has been suspended without pay or temporarily reassigned pursuant to this Article, the employee may, in writing, waive the meeting with the Chancellor, or designee, at the time of filing a disciplinary grievance. In the event of such waiver, the employee shall file the disciplinary grievance form, within the prescribed time limits for filing a grievance with the Chancellor, or designee, directly with the Director of the Governor's Office of Employee Relations, or designee, in accordance with the provisions of Section 19.4(d).

2. Where an employee has been suspended without pay pursuant to this Article, the employee may file the disciplinary grievance form, within the prescribed time limits for filing a grievance with the Chancellor, or designee, directly with the Director of the Governor's Office of Employee Relations, or designee, in accordance with the provisions of Section 19.4(d) and concurrently file a copy of such grievance with the Chancellor, or designee, in accordance with the provisions of Section 19.4(c).

e. Where a disciplinary arbitration proceeding does not commence within 60 calendar days of an appeal made pursuant to Section 19.4(d) or Section 19.7(d) due solely to the unavailability of the State, an employee suspended without pay shall be returned to the payroll, or temporarily reassigned, until such time that the disciplinary arbitrator renders a decision in the matter, or the matter is otherwise resolved.

§19.8 Representation

Employees may represent themselves or be accompanied for purposes of representation by UUP or counsel, consistent with their selection of a representative pursuant to subsection 19.4(c), at any stage of the disciplinary procedure contained in this Article; provided, however, an employee's representative may only act on the employee's behalf, in the absence of the employee, upon mutual agreement of the parties.

An employee shall be provided the opportunity to have representation at an interrogation if at the time such interrogation is commenced it is contemplated by management that such employee will be served a Notice of Discipline pursuant to Article 19 of this Agreement. The employee shall be provided with notification of such opportunity prior to the commencement of such interrogation. In the event such interrogation were to be conducted without having provided the employee with such notification, any statements or admissions made by the employee during such an interrogation may not be subsequently used in a disciplinary proceeding against that employee. If representation is requested by the employee, and such representation is not available within six hours' time following such request, the State may proceed with the interrogation and there shall be no limitation on the use of statements or admissions made by the employee.

§19.9 Limitation

An employee shall not be disciplined for acts, except those which would constitute a crime, which occurred more than one year prior to the service of the notice of discipline. The employee's whole record of employment, however, may be considered with respect to the appropriateness of the penalty to be imposed, if any.

§19.10 Miscellaneous Provisions

a. All grievances, grievance appeals and responses shall be transmitted by certified or registered mail, return receipt requested, or by personal service on the grievant or grievant's representative or on the individual responsible for conducting the review. Upon personal service the recipient of such documents, upon request, shall acknowledge, in writing, the receipt thereof. Proof of personal service shall specify the person who was served and the date, place and manner of service.

b. The time limits for the service of a notice of discipline or the submission of a grievance or the filing of an appeal or demand for arbitration or issuance of a step response shall be determined from the date of personal service or mailing by certified or registered mail, return receipt requested, as evidenced by the official postmark appearing on the receipt for certified or registered mail. All other time limits set forth in this Article, except as otherwise described in subsection 19.2(c), shall be measured from the date of receipt. Where service is by registered or certified mail, the date of receipt shall be that date appearing on the return receipt.

c. Prior to an interrogation pursuant to Section 19.8, the College President or designee may direct the employee to perform an alternate assignment, which may be at an alternate work location. Such alternate assignment shall not be regarded as discipline nor a temporary reassignment as referred to in this Article.

d. The College President or designee shall provide written notification to the campus UUP Chapter President that a Notice of Discipline has been issued to a specific employee at that campus. Such written notification shall be sent within 5 days of the issuance of such Notice of Discipline.

ARTICLE 20

Direct Compensation

§20.1 The State shall prepare, secure introduction and recommend passage by the Legislature of appropriate legislation in order to provide the benefits described in this Article.

§20.2 a. The basic annual salaries, as of July 1, 2007, of incumbents of positions in the State University in the Professional Services Negotiating Unit shall be increased by three percent commencing the first day of the payroll period closest to (1) July 2, 2007, for employees hav-

Community Rights & Responsibilities

University at Albany
State University of New York

I. Introduction: What is *Community Rights and Responsibilities*?

Community Rights and Responsibilities is the official code of conduct for students outlining the expectations to which all our students are held. The University has formulated this code of standards and expectations, consistent with its purpose as an educational institution. These regulations and the procedures for their enforcement apply to all student conduct and behavior. Students should become familiar with this document, as it is important to understand that the freedom that is afforded to you as a member of this community comes with an associated responsibility.

A copy of this document can be printed or you may request a hard copy from the Office of Conflict Resolution and Civic Responsibility in Campus Center 357, or by calling (518) 442-5501. Questions about the contents of the code of conduct can be referred to Clarence McNeill, Director of Conflict Resolution and Civic Responsibility. He can be reached at (518) 442-5501 or at cmcneill@albany.edu.

These specific regulations should not be viewed as a comprehensive code of desirable conduct; rather they describe the minimum standards needed to reconcile the principles of maximum freedom and necessary order to achieve the basic purposes and goals of the University. (See Appendix A for a statement concerning the authority for the University's disciplinary program.)

By forming a code of ethics, rules and regulations, the University does not absolve each student from accepting responsibility for his or her own behavior. Indeed, the University reaffirms the principle of student freedom coupled with an acceptance of full responsibility for individual action and the consequences of such action.

Students are considered notified that violations of these regulations may result in a referral to the Conflict Resolution system or to specific academic procedures. In addition, actions that violate the criminal code and local, state, or federal laws are sufficient cause for University judicial review or disciplinary action. In such cases, the University may proceed with disciplinary hearings regardless of whether the criminal or civil courts do so.

The University publishes and makes available to all students its regulations and its procedures for enforcing them. Students are expected to become familiar with the regulations of the University and act accordingly.

II. Philosophical Approach to Standards of Conduct

While disciplinary actions must be commensurate with the seriousness of the offense and the total conduct record of the student, specific dispositions are not rigidly predetermined. Judicial procedures and subsequent disciplinary activities are designed as much for guidance and correction of behavior as they are for invoking a fair and appropriate sanction. The University at Albany has adopted a philosophy that inappropriate behavior is often caused by a student's inability to solve a problem, which thereby leads to socially unacceptable behavior. It is the University's policy not only to enforce certain standards of conduct and to curtail inappropriate behavior, but also to provide whatever assistance is possible to enable a student to solve his/her problems in an institutionally acceptable manner.

III. General Regulations

All rules of the Board of Trustees of SUNY, and all the 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. In certain cases in which off campus activities violate a stated University regulation, or are likely to create a danger to members of the University, the responsible University official may initiate disciplinary proceedings, whether or not criminal charges have been brought. Students may be held accountable for any off campus incident that constitutes a violation of any prohibited conduct with the exception of those that specifically apply to University buildings/property. Members of the University community are expected to act with respect for the safety, personal rights and property of individuals and groups outside the University, as well as to respect the proper authority of local, state and federal officers and officials. Violations of local ordinances, or of state or federal laws, by members of the University community, may entail University disciplinary actions regardless of where such actions occur, if

they are of a serious nature affecting the interests of the University community and violate University standards of conduct as set forth herein.

All of the rules and regulations in Community Rights and Responsibilities shall be considered as supplementing and implementing the appropriate rules of the Board of Trustees and local, state and federal laws and shall apply to all students.

IV. 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. Pursuant thereto and subject to guidelines established by the Board of Trustees (Guidelines Established by the Board of Trustees, as amended, 8 NYCRR Part 500, July 31, 1967), the Council of the University at Albany has promulgated Community Rights and Responsibilities. All programs for student welfare and conduct are entrusted to and administered by the University at Albany President on behalf of the University Council. In accordance with the Trustee Guidelines, the University Council promulgated Community Rights and Responsibilities after consultation with members of the University Community:

In order to encourage, maintain and assure adequate communication with and participation by the administration, faculty and students...the (University) Council shall act after consultation with the chief administrative head...and with representatives of faculty and students in promulgating or in reviewing and ratifying regulations on student conduct. In the regulations, the Council may confer upon student groups, faculty, committees, administrative officers or combinations thereof appropriate responsibilities concerning the student conduct and behavior. (8 NYCRR 500.2 (a))

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 generally initiated through the Office of the Vice President for Student Success. In addition, the Vice President has jurisdiction over the student judicial system within the University disciplinary program, including the following specific responsibilities:

1. Implementation of the disciplinary program.
2. Coordination and initiation of investigations related to misconduct or violations of regulations.
3. Consultation with adjudicatory bodies on disciplinary matters.
4. Serving as a liaison with the Department of Public Safety and other officers concerned with student conduct. (Although University Police bear primary responsibility for law enforcement on the campus, disciplinary referrals may result from investigations conducted by others and reported to the University Police Department.)
5. Implementation of programs and actions to ensure safety and welfare.

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, as amended (see Appendix A), adopted by the Board of Trustees, pursuant to section 6450 of the Education Law, are in effect at the University at Albany, as well as all other campuses within the State University of New York.

V. Definitions

1. The term “**appellate board**” means any person or persons authorized by the Vice President for Student Success to consider an appeal from a judicial board’s or committee’s determination that a student has violated the student conduct code or from the sanctions imposed by the judicial administrator.
2. The term “**Committee on Student Conduct**” means the judicial body authorized to hear judicial referrals pertaining to alleged violations of Community Rights and Responsibilities by graduate students or judicial referrals pertaining to alleged violations by any student of the Standards of Academic Integrity and to recommend the imposition of sanctions.
3. The term “**Director of the Office of Conflict Resolution & Civic Responsibility**” means the person designated by the Vice President to administer Community Rights and Responsibilities.
4. The term “**faculty member**” means any person hired by the University to conduct classroom and or research activities.
5. The term “**hearing officer**” shall mean a faculty member or university official appointed by the Vice President to hear judicial referrals in lieu of a hearing before a judicial body.

6. The term “**judicial administrator**” means a University official authorized on a case-by-case basis by the Vice President to impose sanctions upon students found to have violated Community Rights and Responsibilities. The Vice President for Student Success may authorize a judicial administrator to serve simultaneously as a judicial administrator and the sole member or one of the members of a judicial body. Nothing shall prevent the Vice President from authorizing the same judicial administrator to impose sanctions in all cases.
7. The term “**Judicial Board**” means the judicial body authorized to hear judicial referrals pertaining to alleged violations of Community Rights and Responsibilities by undergraduate students, except alleged violations of the Standards of Academic Integrity, and to recommend the imposition of sanctions.
8. The term “**judicial body**” shall mean any person or persons appointed by the Vice President and authorized to hear judicial referrals pertaining to alleged violations of Community Rights and Responsibilities and to recommend the imposition of sanctions.
9. The term “**judicial referral**” shall mean the University Judicial System Standard Case Form that includes a description of alleged misconduct and specific Community Rights and Responsibilities code violations.
10. The term “**Judicial System**” shall mean the program established to maintain the integrity of the values of the University community by reviewing alleged violations of Community Rights and Responsibilities
11. The term “**may**” is used in the permissive sense.
12. The term “**member of the University community**” includes any person who is a student, faculty member, University official or any other person employed by the University. A person’s status in a particular situation shall be determined by the Vice President for Student Success.
13. The term “**organization**” means any number of persons who have complied with the formal requirements for University recognition/registration.
14. The term “**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.
15. The term “**shall**” is used in the imperative sense.
16. The term “**student**” includes all persons taking courses at the University, both full-time and part-time, pursuing undergraduate, graduate, or professional studies and those who attend post-secondary educational institutions other than the University and who reside in the University residence halls
17. The term “**University**” means the University at Albany, State University of New York.
18. The term “**University official**” includes any person employed by the University, performing assigned administrative or professional responsibilities.
19. The term “**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.
20. The term “**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.
21. The term “**weapon**” means any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, pellet guns, switchblade knives, knives with blades five or more inches in length.
22. The term “**active consent**” means that each person involved in sexual contact not only agrees to the sexual activity but also agrees freely and knowingly. A person who has been threatened or coerced, whose judgment is substantially impaired by drugs or alcohol or by physical or mental impairment even if temporary, or who is unconscious or asleep, cannot give consent to sexual contact. A person under the age of 17 years is deemed incapable of giving consent.
23. **Sexual Misconduct** - Section 130.20 of NYS Law. This offense includes sexual intercourse without consent and deviate sexual intercourse without consent. The penalty for violation of this section includes imprisonment for a definite period to be fixed by the court up to one year.
24. **Rape** - Section 130.25/.30/.35 of NYS Law. This series of offenses includes sexual intercourse with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further include sexual intercourse with a person under the age of consent. The penalties for violations of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.
25. **Criminal Sexual Act** - Section 130.40/.45/.50 of NYS Law. This series of offenses includes oral or anal sexual conduct with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes oral or anal sexual conduct with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.
26. **Forcible Touching** - Section 130.52 of NYS Law. This offense involves the forcible touching of the sexual or other intimate parts of another person for the purpose of degrading or abusing such person or for the purpose of gratifying the actor’s sexual desire. Forcible touching includes the squeezing, grabbing, or pinching of such other person’s

sexual or other intimate parts. The penalty for violation of this section includes imprisonment for a period up to one year.

27. **Sexual Abuse** - Section 130.55/.60/.65 of NYS Law. This series of offenses include sexual contact with a person by forcible compulsion, or with a person who is incapable of consent due to physical helplessness, or due to the person being under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed three months up to imprisonment for a period not to exceed seven years.
28. **Aggravated Sexual Abuse** - Section 130.65-a/.66/.67/.70 of NYS Law . This series of offenses occurs when a person inserts a finger or a foreign object in the vagina, urethra, penis or rectum of another person by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the other person is under the age of consent. The level of this offense is enhanced if the insertion of a finger or foreign object causes injury to the other person. The penalties for violation of these sections range from imprisonment for a period not to exceed seven years up to imprisonment for a period not to exceed 25 years.
29. **"Course of Conduct"** is defined as a pattern of actions composed of two or more acts over a period of time.
30. A **"reasonable person"** refers to a person in a similar circumstance or situation who would be afraid of the perpetrator's behavior.

VI. Prohibited Conduct

The conduct listed in this section is in violation of Community Rights and Responsibilities. Such conduct is expressly prohibited. This list is not exhaustive, but is intended to place students on notice of the types of conduct that may result in disciplinary action. The provisions of Community Rights and Responsibilities shall apply both to conduct which occurs on campus or at University sponsored events and to conduct occurring off campus if such off campus conduct is deemed adverse to the interests of the University community. Prohibited conduct includes not only completed actions but also attempted violations of Community Rights and Responsibilities. Prohibited conduct may result in referral to the judicial system. Student groups and organizations recognized administratively or by student government(s) and/or their officers may be charged with, and held responsible for violations of these conduct codes. Sanctions against the student organization and its officers may include revocation of recognition of the group, loss of permission to use University facilities and the University name, as well as other appropriate sanctions pursuant to Section VIII of this code. 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.

1. Fire Safety

- a. Causing or creating a fire.
- 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 firearms, other weapons, 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 includes rifles, shotguns, handguns and multiple firing weapons. Unauthorized possession of a firearm on University premises is a violation of the New York State Penal Law. *

*Storage of shotguns and rifles only may be provided for at the University Police Department for approved off campus activities. Students should apply to the Office of Conflict Resolution & Civic Responsibility Office for approval to use the storage facility. Storage and possession of handguns, however, is expressly prohibited.

3. Threatening or Abusive Behavior

Intentionally or recklessly causing physical harm to any person or intentionally or recklessly causing reasonable apprehension of such harm. This conduct includes but is not limited to: a) inflicting bodily harm upon a person by using a self-defense spray in circumstances that do not justify the use of such a device; b) in response to verbal provocation; c) when retreat or withdrawal is a viable option; or d) 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 Appendix B for further information.

5. Intimate Partner Abuse

Also referred to as: relationship violence, domestic violence, or dating violence. It is a pattern of coercive behaviors that serve to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders; between current or former intimate partners who have dated, lived together, or been married.

6. Stalking

A course of conduct (pattern or repeated) by a stranger or acquaintance directed at a specific person that directly or indirectly distresses, intimidates or threatens and places a reasonable person in fear.

7. Cyber-stalking

An extension of the physical form of stalking (defined in Prohibited Conduct #6) where electronic media such as the internet, pagers, cell phones, or other similar devices are used to pursue, intimidate or threaten and place a reasonable person in fear.

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 Appendix B for further information.

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.¹

The University's Sexual Assault Prevention statement and Statement of Principles and Rights are set forth in Appendix J.

10. Hazing

Hazing is defined as 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, or which damages, destroys or removes any public or private property. See Appendix F for examples and additional detail.

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.

*The University standards of academic integrity are set forth in Appendix C. ***

****Students should be warned that if found guilty 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 judicial system outlined in Community Rights and Responsibilities.**

12. Forgery, Fraud, Dishonesty

Altering or misusing documents, records, stored data or instrument of identification, or furnishing false information to any University official or faculty member.

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.

14. Theft

Stealing property and/or services; knowingly possessing stolen property.

15. Unauthorized Entry or Use

Entering or using University facilities or property, or property belonging to individuals or University-recognized groups or corporate entities, without proper authorization, or permitting others to do so by willful tampering with locks or security devices.

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. No student shall introduce to the campus or possess drug paraphernalia including, but not limited to: bongs, water pipes, or hypodermic needles that are not specifically required for the administration of prescribed

¹ Sexual exploitation definition adapted from Students Active for Ending Rape, c 2003.

medications. 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 Appendix E.

17. Alcohol

Use, possession, or distribution of alcoholic beverages except as expressly permitted by the law and University regulations or public intoxication. The entire policy governing the use of alcoholic beverages on campus is available in Appendix E.

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. Organization and Event Registration

Failing to comply with policies or regulations governing the registration of student organizations, events on campus, and use of University facilities. Policies are available at <http://www.albany.edu/involvement/reservations.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.

20. Compliance

Failing to comply with the directions of an authorized University official, faculty or staff member 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. It is the responsibility of the University official or person acting on behalf of the University to identify him or herself and to state the reasons for the direction that is given. Compliance with this regulation does not supersede the right not to incriminate oneself.

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) or using verbal or physical abuse, or threats of violence against any Parking and Mass Transit staff member". 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 judicial process.

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

Acting to impair, interfere with or obstruct 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: <https://wiki.albany.edu/display/public/askit/Responsible+Use+of+Information+Technology+Policy>. Violations of this policy are subject to referral to The Office of Conflict Resolution and Civic Responsibility.

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 Appendix I for further information).

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 Judicial System

Abusing the judicial system, including but not limited to:

- a. Failure to obey the summons of a judicial body or University official.
- b. Falsification, distortion, or misrepresentation of information before a judicial body.
- c. Disruption or interference with the orderly conduct of a judicial proceeding.
- d. Knowingly instituting a judicial referral without cause.
- e. Attempting to discourage an individual's proper participation in, or use of, the judicial system.
- f. Attempting to influence the impartiality of a member of a judicial body prior to, and/or during, and/or after a judicial proceeding.
- g. Harassment (verbal or physical) and/or intimidation of a member of a judicial body prior to, and/or during, and/or after a judicial proceeding.
- h. Failure to comply with the sanction(s) imposed under the Student Conduct Code.
- i. Influencing or attempting to influence another person to commit an abuse of the judicial system.

29. Rules for the Maintenance of Public Order,

These rules are promulgated by the SUNY Board of Trustees and are binding of all persons on the campus. Regulations are detailed in Appendix A.

30. Retaliation

Retaliation is an intentional act taken against an individual who initiates **any** sexual misconduct complaint, including stalking or intimate partner violence, pursues legal recourse for such a complaint, or participates in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to judicial referral. Information on how to report retaliation is found in Appendix J.

VII. Judicial System

1. Introduction

Students wishing to discuss matters pertaining to the judicial system may speak to the Director of the Office of Conflict Resolution & Civic Responsibility. Other resources include Residence Hall Directors, Quadrangle Coordinators, Judicial Board Advisors, Judicial Administrators and the Student Association Attorney. In keeping with the University's philosophy of encouraging student participation in the governance of the institution, provision is made for student involvement in the judicial system. Campus judicial bodies are advised by professional staff in Student Success and by other staff and faculty as authorized by the Vice President.

The Director of Conflict Resolution bears responsibility for the disposition of all cases. Options available for the disposition of cases include:

- a. Referral to a judicial board or committee.
- b. Assignment of the case to a hearing officer.
- c. Administrative resolution of the case at an informal disciplinary conference or through an administrative review process.
- d. Referral to mediation services.

A copy of each judicial referral will be filed with the Office of Conflict Resolution (or the Office of Residential Life for residence-based cases) prior to the actual hearing. Prior to forwarding the referral to an appropriate judicial body, the Office shall notify the subject(s) of the referral that a referral has been received. A summary of the case and the recommendation by the judicial body for University action will be provided to the Vice President for review and action.

2. Judicial Referrals

Any member of the University community may file charges against any student for misconduct. Charges shall be prepared in writing and directed to the judicial administrator responsible for the administration of the University judicial system. 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. All charges shall be presented to the accused student in written form five days in advance of any hearing before a judicial body. The accused shall have the opportunity to respond to the evidence against them, the right to be accompanied by an advisor and the right to appeal the disciplinary decision as applicable.

The judicial administrator may conduct an investigation to determine if the charges have merit and/or if the judicial administrator can dispose them of through an administrative review. Such disposition shall be final and there shall be no subsequent proceedings. If the charges cannot be disposed of by administrative review, the judicial administrator may later serve in the same matter as the judicial body or a member thereof.

3. Types of Hearings

a. Judicial Body

The Vice President shall be responsible for establishing the Judicial Board and for establishing its operating procedures. In that process, the Vice President may consult with the Student Association but the ultimate responsibility for establishment of the Board rests with the Office of the Vice President. A pool of students will be identified to hear cases stemming from referrals from the residence halls or on University premises. The pool will consist of resident and non-resident students, and sub-groups will be convened as frequently as necessary to handle the caseload. Selection, training and advisement shall be the responsibility of Student Success.

b. Committee on Student Conduct

The University Senate establishes the Committee on Student Conduct. This Committee is established to serve as the primary hearing body in cases initiated by faculty and administrative offices, including residence-based cases, as

circumstances require, and in cases, which involve graduate students. The Committee also considers, reviews, and recommends policies, procedures, and regulations relating to student conduct.

c. Hearing Officer

The Director of the Office of Conflict Resolution & Civic Responsibility may refer, or either party may request that his or her case be considered by a hearing officer in lieu of a hearing before a judicial body.

d. Administrative Review

When the referred student agrees to the facts in a judicial referral and waives his/her rights under Community Rights and Responsibilities, s/he may consent to an administrative review of the referral and to the imposition of a disciplinary sanction(s). This consent shall be in writing to the Director of Conflict Resolution & Civic Responsibility. There are no appeal rights for cases resolved via the Administrative Review process.

e. Informal Disciplinary Conference

Students subject to less severe sanctions (e.g. Warning, Probation and Community Service) will be entitled to an informal disciplinary conference with a representative from the Office of Conflict Resolution & Civic Responsibility. The judicial administrator will impose lower level sanctions commensurate with the offense. Complex or contested cases may be referred by the judicial administrator for a formal hearing.

f. Mediation

This procedure is governed by operating procedures established by the Vice President and is generally reserved for first and less serious violators. It is employed when a violation arises out of a dispute between a referred student and another party or parties. The goal is to design a mechanism to resolve the dispute and to prevent it from recurring. The Office of Conflict Resolution & Civic Responsibility will retain a record of the mediation efforts and the agreed-upon resolution. If the referred party fails to live up to the agreed settlement, the referral will be forwarded to a judicial body.

g. University Community Accountability Board (U.C.A.B)

This procedure is governed by operating procedures established by the Vice President and is generally reserved for first-time and less serious violators. UCAB facilitators are selected from a pool of faculty, staff and students. The UCAB was born out of the *Restorative Justice* model, 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 their behavior.

4. Conduct of Hearings

Each judicial body shall conduct hearings so as to assure the basic concept of procedural fairness. The following procedures shall be adhered to:

- a. The judicial administrator shall give appropriate advance notice, in writing, of the charges against the student, to insure that he or she may adequately prepare for such hearing. The notice shall clearly indicate the violated regulations, and shall indicate the date, time and place of the hearing. The student should receive the notification at least five calendar days prior to the hearing.
- b. The hearing shall not be considered to be a formal legalistic trial. Rather, the judicial body or hearing officer shall examine all relevant facts and circumstances at the hearing and shall come to a decision based upon a preponderance of the evidence. In all cases the burden of proof rests with the referring party.
- c. It shall be the initial responsibility of the hearing officer or chair of the judicial body to insure the relevancy of testimony. The primary function of any hearing body or officer is to determine whether the accused student has violated the provisions of Community Rights and Responsibilities and if so, recommend an appropriate sanction.

- d. Hearings are generally regarded as confidential and closed to all but the principals of the case, unless both parties agree to the presence of others.
- e. Tape recording will be made of the proceedings unless a request not to do so is received and approved by the Office of the Vice President three (3) days prior to the hearing. If approved, a written record of the hearing will be made.
- f. At the hearing the student being referred and the referring party should have ample opportunity to explain the circumstances surrounding the incident and are encouraged to present pertinent evidence and the testimony of witnesses in person. In addition, both parties should be afforded the opportunity to ask questions of any witnesses who appear, to comment on any written statements or other evidence presented, and to respond to questions.
- g. Both parties have the right to be assisted in their presentation by an advisor of their choice. The advisor may be, but is not limited to, a fellow student, faculty member, or a lawyer. The advisor may speak privately to the advisee during the proceedings. Either party may request a brief recess to consult with the advisor. At no time during the hearing, however, will such advisor be permitted to speak for the advisee.
- h. No member of the judicial body or the hearing officer should be either a witness for or against the student or a person previously engaged in formulating the charge or in presenting the material relating to the case.
- i. The referred party will be notified, in writing, by the Vice President, of the final decision and of the right to appeal. Consistent with the provisions of the Family Educational Rights and Privacy Act (FERPA) regulations, and in cases involving a non-forcible sex offense or crime of violence, both the referred student and the victim shall be notified of the final decision of the judicial referral.
- j. The student may waive, in writing, to the Director of Conflict Resolution & Civic Responsibility, the requirements of a hearing. In such cases, the judicial administrator will consider the evidence available and base a decision upon a consideration of such evidence.
- k. If the referred party does not waive the right to a hearing and fails to appear at the scheduled hearing after appropriate notice, the case will be considered by the judicial body or hearing officer and a decision rendered based on the available evidence.

5. Conduct of University Community Accountability Board (U-CAB)

The U-CAB is governed by operating procedures established by the Vice President and cases are referred to the U-CAB at the discretion of the Vice President or his/her designee when they meet the following criteria:

- a. The student accepts responsibility for violating the student conduct code;
- b. The student expresses remorse for his/her behavior;
- c. The student's presence on campus does not constitute a threat to the community;
- d. The student expresses an interest in waiving the right to a judicial hearing;
- e. There is an obvious harmed party, whether an individual or a community;
- f. The student can identify who was harmed by his or her behavior;
- g. The student is willing to work with the board to identify ways to repair the harm caused by his or her behavior. This constitutes a binding agreement that is written up and signed prior to the end of the board meeting;
- h. The student actively participates in the process;
- i. The student completes all aspects and phases of the agreement;
- j. The student attends an exit interview;
- k. The student's case is closed and the judicial referral is considered closed;
- l. A student can elect to have the case sent to a judicial hearing at any point during this process;
- m. A student who fails to complete the agreement and exit interview will be referred to a judicial hearing for resolution of the case.

This process is designed to reconnect the student to the community as a productive citizen. Once a student has participated in a U-CAB process, they cannot go through the process a second time for similar behavior.

Note: 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 appear on the undergraduate or graduate record.

VIII. Sanctions

Disciplinary sanctions shall be communicated to students in writing. A copy of the letter to the student describing the sanction will be maintained in the Office of Conflict Resolution & Civic Responsibility and may be used to assist in determining sanctions in subsequent disciplinary cases for which more serious sanctions may be imposed. Letters of dismissal are maintained, with corresponding judicial case files, permanently. All other sanctioning letters and case files are maintained as confidential records for six years after the date of last attendance and thereafter destroyed.

***Note:** A student with no prior disciplinary record may be subject to suspension or dismissal for a serious violation of University regulations including, but not limited to, academic dishonesty, violence, including sexual assault, intimate partner abuse, serious stalking or harassment, hazing, driving while intoxicated, hate/bias-related crimes, criminal use of IT resources, possessing, using or distributing alcohol and/or any drug unlawful to possess, or tampering with fire or other safety devices.

1. Conduct Warning

A written notice to a student that the behavior is counter to the community standards set in the student code of conduct. A conduct warning is issued for low level behavior infractions. (This sanction is utilized by the Department of Residential Life and does not involve a formal referral to Conflict Resolution.)

2. Disciplinary Warning

A written notice to a student that the behavior is counter to the community standards set in the student code of conduct. A disciplinary warning is for higher level infractions or is used when there is a second low level breach by the student of community standards. For a resident student, a discipline warning is notice that on-campus housing is in jeopardy and an additional infraction could result in removal from residence. Students who wish to apply for University positions on J-Board or Residential Life may not have a disciplinary warning on record for the semester prior to the application.

3. Disciplinary Probation

Disciplinary probation is imposed for more serious breaches of the code of conduct, or because of a series of less serious breaches in the code. It is implemented for an indefinite period of time. The student that has 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 have the probation lifted and must be able to demonstrate how he/she is making a positive contribution to the University community. During a disciplinary probation, a student cannot apply for campus leadership positions, run for office, attend Fountain Day or hold a position in Residential Life or on J- Board. 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.

4. Terminal Disciplinary Probation

A student is placed on Terminal Disciplinary Probation when he/she has a serious breach of the code and is already on disciplinary probation. Terminal Disciplinary Probation will be assigned in an effort to preserve the student's ability to remain as a member of the residential community. In such circumstances, the student will be mandated to work with an appointed mentor to help address the issues that got him/her to this point. Students who fail to participate in the mentor program will be asked to leave the residential community and will assume the penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs.

5. 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.

6. 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 six years from the last date of attendance. Suspension is a severe sanction and the student forfeits tuition money 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.

7. Dismissal - Disciplinary

A student who is dismissed from the University is permanently separated from the community and may never return. A transcript notation of “dismissed-disciplinary” is also in place for a period of six years from the last date of attendance. The student forfeits tuition money 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.

8. Restitution

Available at any violation to compensate for damages done or pay for expenses incurred as a result of the student's behavior.

9. Community Service

Available at any violation to supplement or replace any other judicial action.

Administrative Sanctions:

1. 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 student or to the safety of persons or property on the campus. The suspension is temporary, pending proper service of charges, referral to the appropriate judicial body, and a review of the charges by the judicial body or officer. Upon request of the suspended student, the Vice President shall provide for an immediate conference with respect to the basis for such suspension.

2. Temporary Removal from Residence

When the Director of Residential Life 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 proper service of charges, referral to the appropriate judicial body, and review of the charges by the judicial body or officer. Upon request of the removed student, the Director shall provide for an immediate conference with respect to the basis for such removal.

3. Residence Hall or Campus Restriction

A student may be restricted from appearing in any or all of the residences on campus if it is reasonably believed that the student poses a threat to the health or safety of the residents. 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.

4. 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.

IX. Appeals

The Vice President bears responsibility for the review of appeals of student conduct decisions and shall review appeals of all cases heard by the Judicial Board or a hearing officer. The Vice President may establish a designee or an Appeal Review Board comprised of students from the pool with prior experience hearing disciplinary cases. The Appeal Review Board or appeal designee shall hear such appeals as referred to it and shall recommend its findings to the Vice President. The Vice President shall render a final decision.

Appeals arising from cases heard by the Committee on Student Conduct may be referred by the Vice President in appropriate circumstances to a subcommittee comprised of Committee members who did not participate in the original hearing. The sub-committee shall hear such appeals as referred to it and shall recommend its findings to the Vice President. The Vice President shall render a final decision.

Except as provided in Section VII. 3. D., grounds for appeal are: procedural error, new evidence or appropriateness of the sanction. The Vice President will review the appeal in accordance with these criteria and determine if the appeal is accepted for further review.

- a. The referred party has the right to one appeal of a disciplinary sanction(s). The act of filing an appeal usually postpones the sanction required by the initial decision until the appeal process is completed, unless the Vice President determines postponement of the sanction may result in a threat to the University community.
- b. A student must file an appeal with the Vice President within seven days of receiving notification of the decision on the judicial referral. An extension of the appeal period may be requested in writing to the Vice President to accommodate periods of University recess or for other extenuating circumstances.
- c. The individual seeking the appeal must indicate, in writing, the specific bases or reasons for his or her appeal. The appeal statement should be of sufficient detail to permit the evaluation of the merit of the appeal.
- d. The appeal board or committee will consider the written statement of appeal and recommend action to be taken. The individuals involved will receive written notification of the decision by the Vice President.
- e. If the result of the appeal is an order for a rehearing, the hearing rules described above shall apply.

Appeals in Cases of Sexual Misconduct, Sexual Harassment, or Sexual Violence

In such cases, both parties will receive written notification of the judicial board's decision and either party can then request an appeal according to the procedures described above under "Appeals".

If one party requests an appeal, the non-requesting party will receive notice of the appeal and may 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 appeal board will consider the appeals together. Both parties will be notified of the appeal board's decision within thirty days of the last appeal received and the decision is final.

Appendix A:

Rules and Regulations for the Maintenance of Public Order

I. Applicability

The Board of Trustees of the State University of New York adopted the following rules and regulations pertaining to the maintenance of public order on State University campuses. These rules and regulations are binding on all persons on University-controlled premises.

Section 535.1 Statement of Purpose

The following rules are adopted in compliance with section 6450 of the Education Law and shall be filed with the Commissioner of Education and the Board of Regents on or before July 20, 1969, as required by that section. Said rules shall be subject to amendment or revision and any amendments or revisions thereof shall be filed with the Commissioner of Education and Board of Regents within 10 days after adoption. Nothing herein is intended, nor shall it be construed, to limit or restrict the freedom of speech or peaceful assembly. Free inquiry and free expression are indispensable to the objectives of a higher educational institution. Similarly, experience has demonstrated that the traditional autonomy of the educational institution (and the accompanying institutional responsibility for the maintenance or order) is best suited to achieve these objectives. These rules shall not be construed to prevent or limit communication between and among faculty, students and administration, or to relieve the institution of its special responsibility for self-regulation in the preservation of public order. Their purpose is not to prevent or restrain controversy and dissent but to prevent abuse of the rights of others and to maintain that public order appropriate to a college or university campus without which there can be no intellectual freedom and they shall be interpreted and applied to that end.

Section 535.2 Application of rules

These rules shall apply to all State-operated institutions of the State University except as provided in Part 550 as applicable to the State University Maritime College. These rules may be supplemented by additional rules for the maintenance of public order heretofore or hereafter adopted for any individual institution, approved and adopted by the State University trustees and filed with the Commissioner of Education and Board of Regents, but only to the extent that such additional rules are not inconsistent herewith. The rules adopted shall govern the conduct of students, faculty and other staff, licensees, invitees, and all other persons whether or not their presence is authorized, upon the campus of any institution to which such rules are applicable and also upon or with respect to any other premises or property, under the control of such institution, used in its teaching, research, administrative, service, cultural, recreational, athletic and other programs and activities: provided, however, that charges against any student for violation of these rules upon the premises of any such institution other than the one at which he is in attendance shall be heard and determined at the institution in which he is enrolled as a student.

Section 535.3 Prohibited Conduct

No person, either singly or in concert with others, shall:

- a. Willfully cause physical injury to any other person, nor threaten to do so for the purpose of compelling or inducing such other person to refrain from any act which he has a lawful right to do or to do any act which he has a lawful right not to do;
- b. Physically restrain or detain any other person from any place where he is authorized to remain;
- c. Willfully damage or destroy property of the institution or under its jurisdiction, not remove or use such property with authorization;
- d. Without permission, expressed or implied, enter into any private office of an administrative officer, member of the faculty or staff member.
- e. Enter upon and remain in any building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use by others;
- f. Without authorization, remain in any building or facility after it is normally closed;
- g. Refuse to leave any building or facility after being required to do so by an authorized administrative officer;
- h. Obstruct the free movement of persons and vehicles in any place to which these rules apply;
- i. Deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures and meetings or deliberately interfere with the freedom of any person to express his views, including invited speakers;
- j. Knowingly have in his possession upon any premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm or weapon without the written authorization of the chief administrative officer; whether or not a license to possess the same has been issued to such person;
- k. Willfully incite others to commit any of the acts herein prohibited with specific intent to procure them to do so; or
- l. Take any action, create, or participate in the creation of, any situation which recklessly or intentionally endangers mental or physical health or which involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization.

Section 535.4 Freedom of Speech and Assembly; Picketing and Demonstrations

- a. No student, faculty or other staff member or authorized visitor shall be subject to any limitation or penalty solely for the expression of his views nor for having assembled with others for such purpose. Peaceful picketing and other orderly

demonstrations in public areas of ground and building will not be interfered with. Those involved in picketing and demonstrations may not, however, engage in specific conduct in violation of the provisions of the preceding section.

- b. In order to afford maximum protection to the participants and to the institutional community, each State-operated institution of the State University shall promptly adopt and promulgate, and thereafter continue in effect as revised from time to time, procedures appropriate to such institution for the giving of reasonable advance notice to such institution of any planned assembly, picketing or demonstration upon the grounds of such institution, its proposed locale and intended purpose; provided, however, that the giving of such notice shall not be made a condition precedent to any such assembly picketing or demonstration and provided, further, that this provision shall not supersede nor preclude the procedures in effect at such institution for obtaining permission to use the facilities thereof.

Section 535.5 Penalties

A person who shall violate any of the provisions of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall:

- a. If he is a licensee or invitee, have his authorization to remain upon the campus or other property withdrawn and shall be directed to leave the premises. In the event of his failure or refusal to do so he shall be subject to ejection.
- b. If he is a trespasser or visitor without specific license or invitation, be subject to ejection.
- c. If he is a student, be subject to expulsion or such lesser disciplinary action as the facts of the case may warrant, including suspension, probation, loss of privileges, reprimand or warning.
- d. If he is a faculty member having a term or continuing appointment, be guilty of misconduct and be subject to dismissal or termination of his employment or such lesser disciplinary action as the facts may warrant including suspension without pay or censure.
- e. If he is a staff member in the classified service of the civil service, described in section 75 of the Civil Service Law, be guilty of misconduct, and be subject to the penalties prescribed in said section.
- f. If he is a staff member other than one described in subdivisions (d) and (e) of this section, be subject to dismissal, suspension without pay or censure.

Section 535.6 Procedure

- a. The chief administrative officer or his designee shall inform any licensee or invitee who shall violate any provisions of these rules (or of the rules of any individual institution supplementing or implementing these rules) that his license or invitation is withdrawn and shall direct him to leave the campus or other property of the institution. In the event of his failure or refusal to do so such officer shall cause his ejection from such campus or property.
- b. In the case of any other violator, who is neither a student nor faculty or other staff member, the chief administrative officer or his designee shall inform him that he is not authorized to remain on the campus or other property of the institution and direct him to leave such premises. In the event of his failure or refusal to do so such officer shall cause his ejection from such campus or property. Nothing in this subdivision shall be construed to authorize the presence of any such person at any time prior to such violation nor to affect his liability to prosecution for trespass or loitering as prescribed in the Penal Law.
- c. In the case of a student, charges for violation of any of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be presented and shall be heard and determined in the manner hereinafter provided in section 535.9 of this part.
- d. In the case of a faculty member having a continuing or term appointment, charges of misconduct in violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be made, heard and determined in accordance with title D of Part 888 of the policies of the Board of Trustees.
- e. In the case of any staff member who holds a position in the classified civil service, described in section 75 of the Civil Service Law, charges of misconduct in violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be made, heard and determined as prescribed in that section.
- f. Any other faculty or staff member who shall violate any provision of these rules (or of the rules of any individual institution supplementing or implementing these rules) shall be dismissed, suspended or censured by the appointing authority prescribed in the policies of the Board of Trustees.

Section 535.7 Enforcement Program

- a. The chief administrative officer shall be responsible for the enforcement of these rules (or of the rules of any individual institution supplementing or implementing these rules) and shall designate the other administrative officers who are authorized to take action in accordance with such rules when required or appropriate to carry them into effect.
- b. It is not intended by any provision herein to curtail the right of students, faculty or staff to be heard upon any matter affecting them in their relations with the institution. In the case of any apparent violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) by such persons, which, in the judgment of the chief administrative officer or his designee, does not pose any immediate threat of injury to person or property, such officer may make reasonable effort to learn the cause of the conduct in question and to persuade those engaged therein to desist and to resort to permissible methods for the resolution of any issues which may be presented. In doing so such officer shall warn such persons of the consequences of persistence in the prohibited conduct, including their ejection from any premises of the institution where their continued presence and conduct is in violation of these rules (or of the rules of any individual institution supplementing or implementing these rules).
- c. In any case where violation of these rules (or of the rules of any individual institution supplementing or implementing these rules) does not cease after such warning and in other cases of willful violation of such rules, the chief administrative officer or his designee shall cause the ejection of the violator from any premises which he occupies in such violation and shall initiate disciplinary action as herein before provided.
- d. The chief administrative officer or his designee may apply to the public authorities for any aid which he deems necessary in causing the ejection of any violator of these rules (or of the rules of any individual institution supplementing or implementing these rules) and he may request the State University counsel to apply to any court of appropriate jurisdiction for an injunction to restrain the violation or threatened violation of such rules.

Section 535.8 Communication

In matters of the sort to which these rules are addressed, full and prompt communication among all components of the institutional community, faculty, students and administration, is highly desirable. To the extent that time and circumstances permit, such communication should precede the exercise of the authority, discretion and responsibilities granted and imposed in these rules. To these ends, each State-operated institution of the State University shall employ such procedures and means, formal and informal, as will promote such communication.

Section 535.9 Notice, Hearing and Determination of Charges against students

(Additional statutory authority; Education Law, 355(2)(b))

- a. The term chief administrative officer, as used in these rules, shall be deemed to mean and include any person authorized to exercise the powers of that office during a vacancy therein or during the absence or disability of the incumbent and for purposes of this section shall also include any designee appointed by said officer.
- b. Whenever a complaint is made to the chief administrative officer of any State-operated institution of the university of a violation by a student or students of the rules prescribed in the part (or of any rules adopted by an individual institution supplementing or implementing such rules) or whenever he has knowledge that such a violation may have occurred, he shall cause an investigation to be made and the statements of the complainants, if any, and of other persons having knowledge of the facts reduced to writing. If he is satisfied from such investigation and statements that there is reasonable ground to believe that there has been such a violation, he shall prepare or cause to be prepared charges against the student or students alleged to have committed such violation which shall state the provision prescribing the offense and shall specify the ultimate facts alleged to constitute such offense.
- c. Such charges shall be in writing and shall be served on the student or students named therein by delivering the same to him or them personally, if possible, or, if not, by mailing a copy of such charges by registered mail to such student or students at his or their usual place or places of abode while attending college and also to his or their home address or addresses, if different.
- d. The notice of charges so served shall fix a date for a hearing thereon not less than 10 or more than 15 days from the date of service, which shall be the date of mailing where necessary to effect, service by mail. Failure to appear in response to the charges on the date fixed for hearing, unless there has been a continuance for good cause shown, shall be deemed to be an admission of the facts stated in such charges and shall warrant such action as may then be appropriate thereon. Before taking such action the hearing committee, hereinafter referred to, shall give notice to any student, who has failed to appear, in the manner prescribed in subdivision (c), of its proposed findings and recommendations to be submitted to the chief administrative officer and shall so submit such findings and

recommendations 10 days thereafter unless the student has meanwhile shown good cause for his failure to appear, in which case a date for hearing shall be fixed.

- e. Upon demand at any time before or at the hearing, the student charged or his representative, duly designated, shall be furnished a copy of the statements taken by the chief administrative officer in relation to such charges and with the names of any other witnesses who will be produced at the hearing in support of the charges; provided, however, that this shall not preclude the testimony of witnesses who were unknown at the time of such demand.
- f. The chief administrative officer may, upon the service of charges, suspend the student named therein, from all or any part of the institution's premises or facilities, pending the hearing and determination thereof, whenever, in his judgment, the continued presence of such student would constitute a clear danger to himself or to the safety of persons or property on the premises of the institution or would pose an immediate threat of disruptive interference with the normal conduct of the institution's activities and functions; provided, however, that the chief administrative officer shall grant an immediate hearing on request of any student so suspended with respect to the basis for such suspension.
- g. There shall be constituted at each State-operated institution a hearing committee to hear charges against students of violation of the rules for maintenance of public order prescribed by or referred to in this part. Such committee shall consist of three members of the administrative staff and three members of the faculty, designated by the chief administrative officer, and three students who shall be designated by the members named by the chief administrative officer. Each such member shall serve until his successor or replacement has been designated. No member of the committee shall serve in any case where he is witness or is or has been directly involved in the events upon which the charges are based. In order to provide for cases where there may be such a disqualification and for cases of absence or disability, the chief administrative officer shall designate an alternate member of the administrative staff and an alternate member of the faculty, and his principal designees shall designate an alternate member of the faculty, and his principal designees shall designate an alternate student member to serve in such cases. Any five members of the committee may conduct hearings and make findings and recommendations as hereinafter provided. At any institution where the chief administrative officer determines that the number of hearings which will be required to be held is, or may be, so great that they cannot otherwise be disposed of with reasonable speed, he may determine that the hearing committee shall consist of six members of the administrative staff and six members of the faculty to be designated by him. In such event the chief administrative officer shall designate one of such members as chairman who may divide the membership of the committee into three divisions each to consist of two members of the administrative staff, two faculty members and two students and may assign charges among such divisions for hearing. Any four members of each such division may conduct hearing and make recommendations as hereinafter provided.
- h. The hearing committee shall not be bound by the technical rules of evidence but may hear or receive any testimony or evidence which is relevant and material to the issues presented by the charges and which will contribute to a full and fair consideration thereof and determination thereon. A student against whom the charges are made may appear by and with representatives of his choice. He may confront and examine witnesses against him and may produce witnesses and documentary evidence in his own behalf. There may be present at the hearing: the student charged and his representatives and witnesses; other witnesses; representatives of the institutional administration; and, unless the student shall request a closed hearing, such other members of the institutional community or other person, or both, as may be admitted by the hearing committee. A transcript of the proceedings shall be made.
- i. Within 20 days after the close of a hearing, the hearing committee shall submit a report of its findings of fact and recommendations for disposition of the charges to the chief administrative officer, together with a transcript of the proceedings, and shall at the same time transmit a copy of its report to the student concerned or his representative. Within 10 days thereafter the chief administrative officer shall make his determination thereon. Final authority to dismiss the charges or to determine the guilt of those against whom they are made and to expel, suspend or otherwise discipline them shall be vested in the chief administrative officer. If he shall reject the findings of the hearing committee in whole or in part, he shall make new findings, which must be based on substantial evidence in the record and shall include them in the notice of his final determination which shall be served upon the student or students with respect to whom it is made.

Section 535.10 Rules for Organizations

- a. Organizations. Organizations which operate upon the campus of any State-operated institution or upon the property of any State-operated institution used for educational purposes shall be prohibited from authorizing the conduct described in subdivision (a) of Section 535.3 of this part.
- b. Procedure. The chief administrative officer at each State-operated institution shall be responsible for the enforcement of this section, and, as used herein, the term chief administrative officer shall include any designee appointed by said officer.

1. Whenever the chief administrative officer has determined on the basis of a complaint or personal knowledge that there is reasonable ground to believe that there has been a violation of this section by any organization, the chief administrative officer shall prepare or cause to be prepared written charges against the organization which shall state the provision proscribing the conduct and shall specify the ultimate facts alleged to constitute such violation.
 2. Such written charges shall be served upon the principal officer of the organization by registered or certified mail, return receipt requested, to the organization's current address and shall be accompanied by a notice that the organization may respond in writing to the charges within 10 days of receipt of said notice. The notice of the charge so served shall include a statement that the failure to submit a response within 10 days shall be deemed to be an admission of the facts stated in such charges and shall warrant the imposition of the penalty described in subdivision (c) of this section. The response shall be submitted to the chief administrative officer and shall constitute the formal denial or affirmation of the ultimate facts alleged in the charge. The chief administrative officer may allow an extension of the 10-day response period.
 3. Upon written request, by an authorized representative of the organization, the chief administrative officer shall provide the representative organization an opportunity for a hearing. A hearing panel designated by the chief administrative officer shall hear or receive any testimony or evidence which is relevant and material to the issues presented by the charge and which will contribute to a full and fair consideration thereof and determination thereon. The organization's representative may confront and examine witnesses against it and may produce witnesses and documentary evidence on its behalf. The hearing panel shall submit written findings of fact and recommendations for disposition of the charge to the chief administrative officer within 20 days after the close of the hearing.
 4. Final authority to dismiss the charges or to make a final determination shall be vested in the chief administrative officer. Notice of the decision shall be in writing, shall include the reasons supporting such decision; and shall be served on the principal officer of the organization by mail in the manner described in paragraph (2) of this subdivision within a reasonable time after such decision is made.
- c. Penalties. Any organization which authorizes the prohibited conduct described in subdivision (a) of Section 535.3 of this part shall be subject to the rescission of permission to operate upon the campus or upon the property of the State-operated institution used for educational purposes. The penalty provided in this subdivision shall be in addition to any penalty which may be imposed pursuant to the Penal Law and any other provision of law, or to any penalty to which an individual may be subject pursuant to this part.
 - d. Bylaws. Section 6540(1) of the Education Law requires that the provisions of this part which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be deemed to be part of the bylaws of all organizations which operate upon the campus of any State-operated institution used for educational purposes. The statute further requires that each such organization shall review these bylaws annually with individuals affiliated with the organization.
 - e. Distribution. Copies of the provisions of this part, which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization, shall be given to all students enrolled in each State-operated Institution.

Appendix B:

Harassment/Sexual Harassment

Harassment or sexual harassment (as defined under Prohibited Conduct #4 and #5) can take a variety of forms. Classifications include:

Sexual harassment, which may range from inappropriate sexual innuendoes to coerced sexual relations. Examples of sexual harassment that are unwelcome include but are not limited to: leering at a person's body, unnecessary touching, pressure for sexual behaviors, sexually explicit statements communicated verbally, or through social networking sites, e-mail, and texting.

Harassment based on protected class, i.e. race, color, national origin, sex, age, disability, creed, religion, sexual orientation, or veteran status. Further information on protected class harassment can be found at the EEOC website <http://www.eeoc.gov/youth/harass.html>.

Criminal harassment, which is harassment that is prohibited by law and is defined by the New York State penal code at <http://ypdcrime.com/penal.law/article240.htm>.

Harassment or sexual harassment can occur from student to student, and in some circumstances, from a student to a faculty or staff member. Sexual harassment may occur between individuals of the same or different genders.

Complaint procedures for Harassment of any type:

Harassment or sexual harassment occurring between students living in the residence halls should be reported to your Residence Hall Director.

Harassment or sexual harassment occurring between students regarding situations that occur outside the residence halls should be reported to the Office of Conflict Resolution and Civic Responsibility at 442-5501.

Harassment or sexual harassment of a student by a faculty or staff member should be reported to the Office of Diversity and Inclusion at 956-8110.

Any incident of harassment or sexual harassment can be reported to the University Police Department at 442-3131. Harassment that involves violence or the threat of violence should always be reported to University Police.

For counseling and support, contact:

Sexual Assault Resource Center (SARC) (518) 956-8461
University Counseling Center (UCC) (518) 442-5454
Office of Diversity and Inclusion 518-956-8110

Appendix C:

Standards of Academic Integrity

(Approved by Undergraduate Academic Council and Graduate Academic Council, May 2006).

As a community of scholars, the University at Albany has a special responsibility to integrity and truth. By testing, analyzing, and scrutinizing ideas and assumptions, scholarly inquiry produces the timely and valuable knowledge that guide and inform important and significant decisions, policies, and choices. Our duty to be honest, methodical and careful in the attribution of data and ideas to their sources establishes the foundations of our work. Misrepresenting or falsifying scholarship undermines the essential trust on which our community depends. Every member of the community, including both faculty and students, shares an interest in maintaining the highest standards of academic integrity.

Violations of trust harm everyone. The academic community has to trust that its members do not misrepresent their data, take credit for another's ideas or labor, misrepresent or interfere with the work of other scholars, or present previous work as if it were new. Acts of academic dishonesty undermine the value and credibility of the institution as a whole, and may distract others from important scholarship or divert resources away from critical research. In particular, students who plagiarize or falsify their work have not only failed to adhere to the principles of scholarly inquiry and failed their peers by taking undeserved credit or reward, they have failed to learn.

When the entire University community upholds the principles of academic integrity, it creates an environment where students value their education and embrace experiences of discovery and intellectual growth. In this environment, grades and degrees are awarded and applauded as the recognition of years of achievement, discipline, and hard work. Maintaining the highest standards of academic integrity insures the value and reputation of our degree programs; these standards represent an ethical obligation for faculty intrinsic to their role as educators, as well as a pledge of honor on the part of University at Albany students. If a violation of academic integrity occurs, faculty, deans, and students all share in the responsibility to report it.

These guidelines define a shared context of values to help both students and faculty to make individual and institutional decisions about academic integrity. Every student has the responsibility to become familiar with the standards of academic integrity at the University. While it is strongly recommended that faculty specify in their syllabi information about academic integrity, as well as a description of the possible responses to violations, claims of ignorance, unintentional error, or personal or academic pressures are not sufficient reasons for violations of academic integrity. Students are responsible for familiarizing themselves with the standards and behaving accordingly, and University at Albany faculty are responsible for

teaching, modeling and upholding them. Anything less undermines the worth and value of our intellectual work, and the reputation and credibility of the University at Albany degree.

Resources for Students

The University Libraries offers the following helpful information:

You have access to many research and information literacy resources here at the University at Albany.

Take an information literacy course. These courses will help you to locate and evaluate information effectively —skills that will help you not only with your studies, but also in the workplace. More information is available at: <http://library.albany.edu/usered/unl205/index.html>.

Check out helpful tip sheets and other tutorials (<http://library.albany.edu/usered/>). The University Libraries provide a wide array of guides and other instruction to answer your research-related questions. These include help on the research process, citation tip sheets, explanations of types of resources, information on how to locate a wide range of materials and how to evaluate them effectively, and much more.

The University Libraries homepage (<http://library.albany.edu/>) will provide you with access to resources for doing research, including the online catalog and a wide variety of research databases. You will find links to contact librarians and how to ask for help.

Examples of Academic Dishonesty

The following is a list of types of behaviors considered to be academically dishonest and therefore unacceptable. Even the attempt to commit such acts is a breach of integrity and is subject to penalty. No such list can, of course, describe all possible types or degrees of academic dishonesty, so these should be understood as examples rather than as a comprehensive list. Individual faculty members, Deans of Schools and Colleges as appropriate, and the Office of Conflict Resolution and Civic Responsibility will continue to judge each case according to its particular merit.

Plagiarism: Presenting as one's own work, the work of another person (for example, the words, ideas, information, data, evidence, organizing principles, or style of presentation of someone else). Plagiarism includes paraphrasing or summarizing without acknowledgment, submission of another student's work as one's own, the purchase of prepared research or completed papers or projects, and the unacknowledged use of research sources gathered by someone else. Failure to indicate accurately the extent and precise nature of one's reliance on other sources is also a form of plagiarism. The student is responsible for understanding the legitimate use of sources, the appropriate ways of acknowledging academic, scholarly, or creative indebtedness, and the consequences for violating University regulations.

Examples of plagiarism include: failure to acknowledge the source(s) of even a few phrases, sentences, or paragraphs; failure to acknowledge a quotation or paraphrase of paragraph-length sections of a paper; failure to acknowledge the source(s) of a major idea or the source(s) for an ordering principle central to the paper's or project's structure; failure to acknowledge the source (quoted, paraphrased, or summarized) of major sections or passages in the paper or project; the unacknowledged use of several major ideas or extensive reliance on another person's data, evidence, or critical method; submitting as one's own work, work borrowed, stolen, or purchased from someone else. For more information concerning plagiarism, see the library's tutorial on the subject on the library web site. Graduate students will find additional information concerning Academic Integrity, Conduct, and Research Regulations on the Graduate Studies web site.

Cheating on Examinations: Giving or receiving unauthorized help before, during, or after an examination. Examples of unauthorized help include collaboration of any sort during an examination (unless specifically approved by the instructor); collaboration before an examination (when such collaboration is specifically forbidden by the instructor); the use of notes, books, or other aids during an examination (unless permitted by the instructor); arranging for another person to take an examination in one's place; looking upon someone else's examination during the examination period; intentionally allowing another student to look upon one's exam; the unauthorized discussing of the test items during the examination period; and the passing of any examination information to students who have not yet taken the examination. There can be no conversation while an examination is in progress unless specifically authorized by the instructor.

Multiple Submission: Submitting substantial portions of the same work for credit more than once without receiving the prior explicit consent of the instructor to whom the material is being submitted the second or subsequent time.

Forgery: Imitating another person's signature on academic or other official documents.

Sabotage: Destroying, damaging, or stealing of another's work or working materials (including lab experiments, computer programs, term papers, or projects).

Unauthorized Collaboration: Collaborating on projects, papers, or other academic exercises when this is regarded as inappropriate by the instructor(s). Although the usual faculty assumption is that work submitted for credit is entirely one's own, standards on appropriate and inappropriate collaboration vary widely among individual faculty and the different disciplines. Students who want to confer or collaborate with one another on work receiving academic credit should make certain of the instructor's expectations and standards.

Falsification: Misrepresenting material or fabricating information in an academic exercise or assignment (for example, the false or misleading citation of sources, the falsification of experimental or computer data, etc.)

Bribery: Offering or giving any article of value or service to an instructor in an attempt to receive a grade or other benefits not legitimately earned or not available to other students in the class.

Theft, Damage, or Misuse of Library or IT Resources: Removing uncharged library materials from the library, defacing or damaging library materials, intentionally displacing or hoarding materials within the library for one's unauthorized private use, or other abuse of reserve-book privileges. Any violation of the University's Responsible Use of Information Technology policy. This includes, but is not limited to, unauthorized use of the University's or another person's computer accounts, codes, passwords, or facilities; damaging computer equipment or interfering with the operation of the computing system of the University. All students are expected to be familiar with the Responsible Use Policy, which can be viewed at http://www.albany.edu/its/policies_responsible_use_of_IT.htm.

Penalties and Procedures

The faculty member responsible for educating the student is also responsible for determining when that student has violated academic integrity. When a faculty member determines that a student has violated academic integrity, he or she will inform the student and impose an appropriate sanction. A faculty member may make any one or a combination of the following responses to the infractions of academic dishonesty cited above:

- (1) Lowering of a paper or project grade by one full grade or more;
- (2) Giving a failing grade on a paper containing plagiarized material;
- (3) Giving a failing grade on any examination in which cheating occurred;
- (4) Lowering a course grade by one full grade or more; or
- (5) Giving a failing grade in a course or other academic exercise.

In addition, faculty members will complete the **"Violation of Academic Integrity Report"**, including the sanction they have imposed along with a brief description of the incident, and send it to the Office of the Vice Provost for Undergraduate Education or Graduate Studies, as appropriate. A copy of the report is to be given to the student. The Deans of Undergraduate or Graduate Studies will maintain a copy of such reports for the duration of a student's enrollment at the University.

If a faculty member informs the student that he or she will receive a failing grade in the course or other academic exercise as a result of academic dishonesty, the student receiving such a penalty will not be permitted to withdraw from the course unless the grievance process or Office of Conflict Resolution and Civic Responsibility rules in favor of the student. Students who feel they have been erroneously penalized for an academic integrity infraction or think that a penalty is inappropriate may grieve these issues through procedures developed for each college, school, program, or department of the University. Copies

of the procedures are maintained in the School and College Deans' Offices or on their respective websites. A copy of the disposition of any grievance arising in matters of academic dishonesty will be attached to the Violation of Academic Integrity Report filed in the Office of the Vice Provost for Undergraduate Education or the Dean of Graduate Studies.

Any faculty member or School or College Dean encountering matters of academic dishonesty in a class or academic program for which he or she has responsibility may, in addition to, or in lieu of, the actions cited above,

(6) Refer a case to the Office of Conflict Resolution and Civic Responsibility.

After considering the case, the Office of Conflict Resolution and Civic Responsibility will recommend to the Vice Provost of Undergraduate Education or the Dean of Graduate Studies, as appropriate, the disposition of the case, which can include revoking a student's scholarship or fellowship, or teaching or research assistantship, as well as or in addition to disciplinary probation, suspension, or expulsion. Students should be aware that violations of academic integrity may cause subsequent difficulties in admission to graduate or professional schools and/or in employment in certain professions.

When a student violates academic integrity in more than one academic exercise, whether those infractions occurred during the same or different periods of time, or in the same or different courses, the University regards the offense as an especially serious subversion of academic integrity. The matter becomes particularly severe when the student has been confronted with the first infraction before the second is committed. Whenever the Office of the Vice Provost for Undergraduate Education or Dean of Graduate Studies receives a second Violation of Academic Integrity Report on a student, the Dean will request a hearing before the Office of Conflict Resolution and Civic Responsibility.

The Director of Libraries or Chief Information Officer, upon a finding of theft, damage, misuse of facilities or resources, or a violation of University policies, will forward all such cases to the Office of Conflict Resolution and Civic Responsibility for review and disposition, which can include suspension or expulsion from the University. The Director of the Libraries or Chief Information Officer may, in individual cases, limit access to the Library or IT resources pending action by the Office of Conflict Resolution and Civic Responsibility. In all other cases of academic dishonesty by students, which come to the attention of any staff, faculty, or student, it is expected that the Vice Provost for Undergraduate Education or Dean of Graduate Studies, as appropriate, will be consulted about such infractions.

If a faculty member announces a failing grade in the course as a possible result of academic dishonesty, the student receiving such a penalty will not be permitted to withdraw from the course unless the grievance or judicial system rules in favor of the student.

Any faculty member encountering matters of academic dishonesty in an academic program or class for which he or she has responsibility may, in addition to, or in lieu of, the actions cited above, refer a case to the University Judicial System. After considering the case under the procedures provided by the University, the appropriate University judicial body will recommend the disposition of the case which can include disciplinary probation, suspension, or expulsion from the University.

The University at Albany operates under a presumptive penalty system for cases of academic dishonesty. Generally, a student with no prior disciplinary record who is found guilty of academic dishonesty will be suspended from the University for a minimum of one semester. Those guilty of a serious offense or repeated offenses can expect to be suspended for two or more semesters or, in aggravated cases, expelled.

The University Council fixes the general rules for the University's judicial system. The following procedures for matters of academic dishonesty are consistent with those general rules.

1. Any member of the University Community encountering matters of academic dishonesty may report such matters to the Office of the Vice Provost for Undergraduate Education or the Dean of Graduate Studies, as appropriate. Those offices are responsible for describing the options available for dealing with cases of academic dishonesty. Representatives of those offices may attend any subsequent hearing as a nonparticipating observer.
2. If a faculty, student, or staff member wishes to pursue a matter formally, he or she may refer the case to the University judicial system through the Office of Conflict Resolution and Civic Responsibility. The Dean of Graduate Studies or the Vice Provost for Undergraduate Education may also refer cases to the University judicial system through the Office of the Vice President for Student Success.

3. The Vice President for Student Success is responsible for the implementation of hearing procedures as defined in the Community Rights and Responsibilities. The Vice President or an appointed designee will schedule cases referred to his or her office for hearing before a panel made up of members from the Committee on Student Conduct or Hearing Officer.
4. The purpose of a hearing is to determine the facts of the case and to recommend sanctions. The results of the hearing are communicated to each of the three parties to the case: the student, the complainant, and the appropriate Dean. If no appeal for a rehearing is made by any of those, the recommended sanction will be forwarded to the Vice President for Academic Affairs for review and implementation.
5. If any of the three parties to the case believe that (1) due process was not followed in the case, or (2) that the recommended sanction was not commensurate with the offense, or (3) that important new evidence is available, that party has a right to appeal the case. Such appeals are made to the Vice President for Academic Affairs or an appointed designee who shall review the appeal in accordance with these criteria and determine if the appeal is to be accepted and a rehearing ordered. In such a case a subcommittee composed of members of the Committee on Student Conduct not involved in the original hearing will be convened. The results of such a rehearing, along with all other records of the case, will be communicated to the Vice President for Academic Affairs who will make final disposition of the case and provide for its implementation.
6. In some cases, a hearing will not be necessary if a student admits to the charges filed or if a resolution is achieved between the student and faculty or staff member by mutual consent. In either case, a faculty Hearing Officer will review the case and, if satisfied with the plea or resolution, may proceed without a hearing to recommend a sanction in the case as provided above.

In those instances where faculty or staff members do not refer a violation to the University judicial system but instead deal with the matter entirely within the bounds of discretion available to them, they are expected to report in writing to the Offices of Graduate Studies or the Vice Provost for Undergraduate Education, as appropriate, all sanction they impose, along with a brief description of the incident. A copy of the report is to be given to the student. These offices will maintain a copy of such reports for the duration of a student's enrollment at the University. Upon graduation or separation of the student from the University, these confidential reports will be destroyed. Violations of academic integrity by graduate students are reported by faculty directly to the Office of the Graduate Admissions and Policy Graduate Office for appropriate action. This office replaces the Office of the Vice Provost for Undergraduate Education in all matters involving graduate student violations of academic integrity.

Students who feel they have been erroneously penalized by a faculty or staff member for an academic integrity infraction or think that a penalty is inappropriate may grieve these issues through procedures developed for each college, school, program, or department of the University. Copies of the procedures are maintained in Deans' offices and in the Office of the Vice Provost for Undergraduate Education or Graduate Studies. A copy of the disposition of any grievance arising in matters of academic dishonesty will be attached to the faculty correspondence in the Offices of the Vice Provost for Undergraduate Education or Graduate Studies.

When a student violates academic integrity in more than one academic exercise, whether those infractions occurred during the same or different periods of time, or in the same or different courses, the University regards the offense as an especially serious subversion of academic integrity. The matter becomes particularly severe when the student has been confronted with the first infraction before the second is committed. Whenever the Offices of the Vice Provost for Undergraduate Education or Dean of Graduate Studies receive a second academic integrity report on a student, the Dean will request a hearing before the University judicial system.

The Director of Libraries or the Computing Center, upon finding of theft, damage, or misuse of facilities or resources, will forward all such cases to the University judicial system for review and disposition, which can include suspension or expulsion from the University. The Director of the Library or the Computing Center may, in individual cases, limit access to the Library or Computing Center pending action by the University judicial system. In all other cases of academic dishonesty, which come to the attention of any staff, faculty, or student, it is expected that the Dean of Undergraduate Studies will be notified of such infractions. The Vice Provost of Undergraduate Education or the Dean of Graduate Studies, as appropriate, will process all such alleged matters of academic dishonesty and refer them to the University judicial system.

The University judicial system was established by the governing bodies of this campus and is administratively the responsibility of the Vice President for Student Success. Any questions about the procedures of the University judicial system may be secured by inquiry to that office. (Approved by the University Senate and the President of the University at Albany – SENATE BILL #0506-25)

Appendix D:

Investigation of Missing Students

A missing student is defined as any currently registered student of the University at Albany who has not been seen by friends, family members or associates for a reasonable length of time, and whose whereabouts have been questioned and brought to the attention of a member of the University staff or faculty member. The University Police will initiate an investigation when they are notified that a student, who resides in a University operated residence is missing, with no reasonable explanation for his/her absence. Ordinarily, the investigation will be initiated immediately after this notification. In the event the student does not reside in a University residence, the appropriate municipal local police authorities should be notified. In the event of a missing student residing on campus, University Police will notify the parents/family members regarding the student's whereabouts.

Appendix E:

I. Policy Governing Use of Alcohol on Campus Outside of Residence Halls

Introduction

The University at Albany adheres to and enforces all federal, state and local legislation concerning alcohol. Violations of the Alcohol Policy will be addressed as prescribed by federal, state and local laws, by University policies, and by regulations described in *Community Rights and Responsibilities*

1. No alcohol may be consumed in academic buildings, on University grounds, on the academic podium, the CESTM Building, in the Physical Education complex, on the Downtown Campus and the East Campus complex, except at "alcohol approved" social functions. An alcohol approved social function is one where the Alcohol Use Registration Form is filled out and approved by the Alcohol Administrator for that building. Events at which alcoholic beverages are served and which are not under the jurisdiction of a specific local alcohol policy administrator require an "Alcohol Use Registration Form" to be filed with the Vice President for Student Success in University Hall 206 (http://www.albany.edu/studentconduct/assets/UAlbany_Alcohol_Policy_and_Alcohol_Use_Registration_Form.pdf).
2. Under New York law, only persons twenty-one (21) years of age or older are legally entitled to purchase, be sold, given, or served alcohol. A person under 21 years of age may not possess or consume alcoholic beverages at any time on the University campus.
3. Under New York law, persons under the age of 21 are prohibited from possessing any alcoholic beverages with intent to consume the beverage. Violators are subject to a fine up to \$50.00 per offense. Authorized law enforcement personnel may seize alcoholic beverages involved in alleged violations of this law.
4. New York law further provides that any person, other than a parent or guardian, who purchases alcohol for, procures for, or gives alcohol to anyone under 21 years of age is guilty of a misdemeanor.
5. Under New York law, anyone under 21 years of age who uses fraudulent proof of age to obtain alcohol is guilty of a misdemeanor. This violation is punishable by a fine of up to \$100.00 and a community service requirement of up to thirty (30) hours.
6. Under New York law, anyone who is apparently intoxicated or who is behaving in an intoxicated manner may not be served alcohol.
7. A substantial part of the University at Albany is in the City of Albany and is subject to its open container law. Thus no open container of an alcoholic beverage is permitted on the campus, except at approved social functions as described in #1 above.
8. Any event at which alcoholic beverages are sold requires a license from the New York State Liquor Authority. The sale of alcoholic beverages under the terms of State law and University policy is permitted at the licensed premises of the University Auxiliary Services (UAS) in the Campus Center. Any alcoholic beverages sold outside the Campus Center require a special liquor permit from the State of New York. This includes events or performances where tickets are sold and alcohol is provided free of charge or in exchange for a purchased ticket. This permit must be

secured through UAS and arranged at least two weeks in advance in order to allow time for the State permit to be issued.

9. Under New York law, a person under the age of 21 who presents an altered New York State driver's license for the purpose of illegally purchasing an alcoholic beverage may be subject to a suspension of that driver's license for up to ninety (90) days and may also be required to apply to the Department of Motor Vehicles for a restricted use driver's license following the suspension.
10. Sponsor(s) of social events at which alcohol is served assume full responsibility for the enforcement of all federal, state and local laws and University policies with respect to the consumption of alcohol. This responsibility includes:
 - a. Serving appropriate amounts of non-alcoholic beverages and food at events where alcohol is served.
 - b. Double proof of age is required and must be presented to the appropriate "responsible person" as designated on the Alcohol Use Registration Form at all functions where alcoholic beverages are served and students are present. The following are acceptable forms of proof:
 - a valid driver's license
 - a birth certificate or an official state or federal ID
 - a passport
 - a laminated ID card from another University/College
11. Camp Dippikill consists of 850 acres in Warrensburg, NY owned and operated by the Student Association. Alcohol use at Camp Dippikill is subject to all federal, state and local laws and University policies with respect to the consumption of alcohol. Administration of this policy is the responsibility of the Director of this property. No alcohol may be sold by any organization on this property.
12. Driving under the influence of alcohol on University property is prohibited and violators will be subject to arrest.
13. The Vice President for Student Success is responsible for implementing and interpreting the alcohol use policy.

II. Policy for Governing the Use of Alcohol in Residence Halls

All University at Albany students who live in residence and their visitors/guests are subject to New York State Law and the University at Albany's policy regarding possession and consumption of alcohol, as well as specific policies governing the Residence Halls.

1. Definition of Residence Hall/University Apartment Areas

Residence Halls are defined as the quadrangles and the University Apartment complexes, including outdoor areas. The boundaries of Indian, State, Colonial and Dutch Quadrangles are defined by the first paved roadway or sidewalk adjacent to the quadrangle. Indian and Dutch Quadrangles include the playing fields adjacent to the west and east respectively with regard to the application of this policy. The boundaries of Alumni Quadrangle are defined by the exterior city sidewalks surrounding the quad. The boundaries of Freedom Quad are defined by the entrance road to the complex from Tricentennial Drive. The boundaries of Empire Commons are defined by the University roadways surrounding the complex.

2. Alcohol Policy in Freshmen Designated Residence Halls

Alcoholic beverages are never permitted in freshman residence halls. This includes all residential buildings on Indian Quad and the designated freshman buildings on State Quad. Designated freshman buildings on State Quad are identified on a yearly basis on the Residential Life web site at <http://www.albany.edu/housing/>. Visitors or guests of students residing in these areas are not permitted to possess or consume alcohol in these areas regardless of whether they are of legal drinking age. **These areas are designated as alcohol free.**

3. Alcohol Policy for Students Under 21 Years of Age Living in Non-Freshmen Areas

A person under 21 years of age may not possess or consume alcoholic beverages at any time on the University at Albany campus.

No possession or consumption of alcohol is permitted by any student or guest in private residence rooms where all the assigned residents are under 21 years of age.

Visitors or guests of students under 21 years of age are not permitted to possess or consume alcohol in the suite or bedroom of an underage student regardless of whether they are of legal drinking age.

Alcohol containers, including empty liquor bottles, wine bottles and/or beer cans are prohibited.

4. Alcohol Policy for Students Over 21 Years of Age Living in Non-Freshmen Areas

The following regulations regarding alcohol use apply to students and visitors/guests in the non-freshmen areas who are 21 years of age or older:

No individual student may possess more than 12, 12 oz. bottles/cans of beer (or the equivalent), or one liter of hard liquor or wine at one time in their assigned residence room/apartment. Guests or visitors are prohibited from bringing alcohol for consumption or distribution into any residence hall room/apartment.

Binge drinking is defined as consuming five or more drinks on one occasion for men or four or more drinks on one occasion for women. Binge drinking is strictly prohibited.

Individuals of legal drinking age may not provide alcohol to underage roommates, suitemates, visitors or guests.

Drinking games (e.g. beer pong) and other activities that promote the irresponsible use of alcohol are prohibited. This includes the use of alcohol paraphernalia such as funnels and ice luges.

Kegs and beer balls, whether empty or full, tapped or untapped, are prohibited. Spiked punch and Jell-O shots containing alcohol, regardless of alcohol content are also prohibited.

Behavior that encourages or contributes to excessive alcohol consumption by another student is prohibited.

Carrying open containers of alcoholic beverages or consuming them in any public area of the campus is prohibited. This includes movement between residence hall rooms or apartments with an alcoholic beverage.

Compliance with all requests by University officials, including Residential Life staff or University Police, for proof of 21-year-old status is required. If there is reasonable suspicion to believe that alcohol might be in squeeze bottles, cups or other such containers, University staff reserve the right to approach students and hold individuals accountable under the provisions of this policy.

Possession, consumption, and storage of alcohol are prohibited in all public areas, e.g. lounges, hallways, stairwells, common bathrooms, or outdoor areas.

Driving on University property while under the influence of alcohol is strictly prohibited and will result in arrest, loss of driving privileges on campus, and possible suspension or expulsion from the University.

5. Alcohol and Other Drug Education and Prevention Services and Programs

The University Counseling Center provides alcohol and drug prevention services and educational programs.

The University Counseling Center can be reached at (518) 442-5800. Middle Earth Crisis Intervention can be reached at (518) 442-5777 and on the web at www.albany.edu/counseling_center/middle_earth.

Both the University Counseling Center and the Middle Earth Peer Assistance program are located at 400 Patroon Creek Boulevard, Suite 104 Albany NY 12206.

6. The Incident-Sanction Protocol for Alcohol & Other Drug Violations

The sanctions specified in the following chart are the minimal expectations applied by staff in most student conduct cases involving alcohol and other drugs. The University's response is not restricted to those sanctions listed in the protocol. Students are advised that illegal possession and/or use of alcohol and other drugs are strictly prohibited at the University.

Student Behavior	First Offense	Subsequent Offense
Under age possession/consumption of alcohol (under bulk)	Conduct Warning (Res Hall only), Disciplinary Warning, Notification of Parents, Community Service, Alcohol Education Program (AEP)	Disciplinary Probation, Removal from Residence, or Suspension from the University, Notification of Parents
Damage to property while under the influence	Disciplinary Probation, Removal from Residence, Restitution, Notification of Parents, Community Service, AEP	Suspension from the University, Notification of Parents
Driving while intoxicated	Disciplinary Probation to Suspension from the University, Notification of Parents, Community Service, AEP, Loss of Parking/Driving Privileges	Dismissal from the University, Notification of Parents
Noise violation w/alcohol present	Conduct Warning (Res Hall only), Disciplinary Warning, Disciplinary Probation, Notification of Parents, Community Service, AEP	Disciplinary Probation, Removal from Residence, or Suspension from the University, Notification of Parents
Intoxicated student/Disruptive Conduct	Disciplinary Warning, Disciplinary Probation, Notification of Parents, Community Service, AEP	Disciplinary Probation, Removal from Residence, Suspension from the University, Notification of Parents
Possessing or using illegal drugs	University Police notified, possible arrest, Disciplinary Warning, Removal from Residence, Notification of Parents, Community Service, Referral to the University Counseling Center	Disciplinary Probation, Removal from Residence, Suspension from the University, Notification of Parents
Violent behavior while under the influence of alcohol	University Police notified, Disciplinary Probation, Removal from Residence to Suspension from the University, Notification of Parents, AEP (where appropriate)	Suspension to Dismissal from the University, Notification of Parents
Possession of illegal drugs with intent to sell	University Police notified, possible arrest, Suspension or Dismissal from the University, Notification of Parents	Dismissal from the University, Notification of Parents
Hosting a party involving illegal use of alcohol	Disciplinary Probation, Removal from Residence, Notification of Parents, Community Service	Removal from Residence, Suspension from the University, Notification of Parents
Possessing kegs, beer balls or punch spiked with liquor	Disciplinary Probation, Removal from Residence, Notification of Parents	Suspension from the University, Notification of Parents

Appendix F: Hazing

Hazing is a societal problem that is not limited to fraternities or sororities, but can occur in any organization. Hazing is a pre-meditated act of power and control over others and is considered victimization. It is abusive, degrading and often life-threatening.

Examples of hazing activities include, but are not limited to:

- Forced or required participation in physical activities such as calisthenics, exercises, games or “make work” activity;
- Forced consumption of food, alcohol, water, illegal substances;
- Forced, required or condoned application of foreign substances to the body resulting in lewdness or a potential for ridicule or bodily harm (such as tattooing or branding);

- Participation in activities that involve illegal acts such as “pledge ditches” and kidnappings, scavenger hunts and thefts;
- Creation of excessive fatigue and stress through deprivation of privacy or sufficient sleep (defined as a minimum of six consecutive hours per day) or decent and edible meals;
- Deprivation of access to means of maintaining personal hygiene;
- Forced or required conduct that would embarrass or negatively affect the dignity of the individual, such as forced nudity or partial nudity, including coercing or allowing an individual to dress in a degrading manner as part of initiation or affiliation with a group;
- Use of physical brutality (including paddling; striking with fists, feet, open hands or objects; and branding);
- Participation in or creation of situations that cause psychological harm or substantial emotional strain, such as causing a member or pledge to be the object of malicious amusement or ridicule or other verbal abuse, causing embarrassment or shame to a member or pledge, or compromising the dignity of a member or pledge.

If you have been hazed, have witnessed hazing, or suspect that someone you know has been hazed, you can report your observations confidentially. You can do this by contacting the Office of Student Involvement & Leadership at 518-442-5566 OR you can report your observations confidentially on the web at <http://www.albany.edu/involvement/hazing.shtml>. This website also has additional information about hazing.

Appendix G:

Intimate Partner Abuse, Stalking, Cyber-Stalking

The University at Albany is committed to providing a campus environment that is free of violence for all its members and for this reason does not tolerate intimate partner abuse, stalking or cyber stalking. The University's coordinated response to Stalking and Intimate Partner Abuse, including detailed information regarding responding and reporting, health care needs and services, resources and victim's rights can be found at www.albany.edu/studentaffairs/sarc.

Examples:

Intimate partner abuse includes, but is not limited to:

- Knowingly restricting the movements of another person, e.g., isolating, confining or obstructing a person for a period of time; monitoring a person's activities; preventing a person from engaging in academic pursuits, University employment, or participation in activities sponsored by the University or organizations or groups related to the University; removing a person from residence or University;
- A course of conduct that places a reasonable person in fear, e.g., threats, manipulations, intimidations, verbally and/or emotionally abusive behaviors, or exhibiting extreme possessiveness or jealousy;
- Vandalism of property owned, rented or in the possession of the victim that induces fear, intimidation or manipulation;
- Defamation or slander against the victim or those close to the victim;
- Attempting to cause or causing bodily injury or offensive physical contact, e.g., slapping, pulling hair, punching, sexual assault.

Stalking and/or cyber stalking behaviors include, but are not limited to:

- Non-consensual communication, including, but not limited to: face-to-face, telephone, voice message, electronic mail, text messages, social network postings, instant messages, postings of pictures or information on web sites, letters, unwelcome gifts and/or contact;

- Following, pursuing, waiting or showing up uninvited to workplace, place of residence, classroom or other locations frequented by the victim;
- Defamation or slander against the victim or those close to the victim;
- Threatening or obscene gestures directed towards the victim;
- Trespassing;
- Vandalism;
- Surveillance and other types of observation, whether by physical proximity or electronic means including, but not limited to: gaining unauthorized access to personal, medical, and financial, identifying information;
- Threats by the harasser to engage in self-harm (e.g., I will kill myself) or threat to harm others the victim cares about (this can also include harm to pets);
- Unwelcome touching or physical contact;
- Direct physical or verbal threats towards victim.

Reporting

The University at Albany respects the victim's right to choose whether or not to report incidents of stalking and intimate partner abuse to the police. It strongly encourages reporting of all incidents of stalking and intimate partner abuse to law enforcement authorities. Victims of stalking or intimate partner abuse who choose to pursue the reporting process have the right to assistance or consultation with advocates. The University at Albany offers services to victims even if they choose not to report the incident(s). The Sexual Assault Resource Center is available to inform students of appropriate referrals and reporting options.

University Police: call 911 from a campus phone OR 442-3131.

Local Police at: Albany Police 438-4000, Colonie Police 783-2811; Guilderland Police 356-1501; or East Greenbush Police 479-1212.

Contact the **Sexual Assault Resource Center** for information and referrals to resources both on and off campus at 956-8461. Resources are also available on the web at www.albany.edu/studentaffairs/sarc.

Appendix H:

Campus Crime Information

A copy of the University at Albany Campus Crime Statistics under the Cleary Act as reported annually to the U.S. Department of education is available on the following website: <http://police.albany.edu/ASR.htm>. Please direct any requests for a paper copy of this report to the University Police Department at 442-3130.

Appendix I:

Hate or Bias-Related Crime

The University at Albany strives to protect all members of the University community by prosecuting hate or bias-related crimes that occur within the campus jurisdiction. Criminal offenses may include, but are not limited to, assault, endangerment, imprisonment, manslaughter, murder, stalking, rape, kidnapping, burglary, larceny, and robbery.

The full text of the applicable NYS law may be found in Section 485 of the NYS Penal Code. As with any conviction for a misdemeanor or a felony under NYS law, the punishment for hate crimes may include fines and/or imprisonment, depending on the underlying crime. For sanctions that may be imposed by the University for violations of prohibited conduct, please see Article VIII of this document, Sanctions.

If you are a victim of, or witness to, a hate or bias-related crime on campus, report it to the University Police by calling 911 in an emergency, using a Blue Light Phone, or campus telephone at (518) 442-3131. You may also report to the Office of Conflict Resolution and Civic Responsibility at (518) 442-5501 or crcr@albany.edu.

You may seek support through the Victim Assistance Liaison at (518) 442-3130. The University counseling Center can also offer assistance at (518) 442-5480 or at consultation@albany.edu. For peer assistance when classes are in session or after normal business hours, call the Middle Earth Hotline at (518) 442-5777.

Nothing contained in this Appendix shall be construed to limit or restrict freedom of speech and peaceful assembly.

Appendix J:

Sexual Assault: Reporting Options, Victim's Rights Statement and Prevention Programs

I. HOW TO REPORT A SEXUAL ASSAULT

1) REPORT TO POLICE

All students are encouraged to report incidents of sexual assault to the police. Students who wish to press charges may contact the police in the jurisdiction where the assault occurred.

It is very important that the victim make a decision about whether to file criminal charges without pressure from any individual or group. For students who are uncertain about whether to prosecute, it may be important for them to first obtain information about what to expect from police agencies, the process of investigation and prosecution. There are resources where students may seek such information: Albany County's Crime Victim and Sexual Violence Center (CVSVC) (518-447-7100), UAlbany's Sexual Assault Prevention Program (518-442-5800) and the University Counseling Center (518-442-5800).

On-Campus Incidents: The University Police Department (UPD) conducts investigations of on-campus sexual assaults, and they can be reached 24 hours a day at 518-442-3131 (or 911 from an on campus phone). As a community policing organization, UPD makes every effort to be sensitive to the needs of victims. Reporting a sexual assault to UPD does not obligate the victim to cooperate in pressing charges. Other reasons for the victim to inform police include: 1) giving themselves the option of pressing charges at a later date; 2) making police aware of potential danger to other students; and 3) having an incident report on file in case the same assailant harms someone else.

Off-Campus Incidents: If the assault took place off-campus, the victim may report the incident to the police department with jurisdiction (e.g., Albany City Police at 518-438-4000). The student may request that a victim's advocate (from Albany County's CVSVC) accompany her/him throughout the criminal proceedings.

University Police can document a report of an off-campus assault, but do not take an official report leading to criminal charges. This must be done by the victim at the local police agency. UPD will seek the victim's consent to notify the appropriate off-campus authorities. Neither the name nor other identifying information will be disclosed without the victim's consent (note that identifying information includes the names or residential addresses of either the victim or perpetrator). This is meant to ensure that the victim decides whether or not an investigation is pursued. However, it is the practice of UPD to report that a felony may have been committed in the jurisdiction of another police department. The incident may be reported to off-campus police by date, time, approximate location, and type of crime. In such cases, a designated representative from UPD will share information with a designated representative from the off-campus police department.

2) REPORT TO UNIVERSITY PERSONNEL

Students are encouraged to report all incidents of sexual assault to a member of the University such as a Residential Life Staff member, the Coordinator for Sexual Assault Prevention (518-442-5800) or to a staff member in

the Office of Conflict Resolution and Civic Responsibility (518-442-5501), in order to receive help in accessing support services and in referring the sex offender to the on-campus judicial system. However, this decision must be made by the victim and shall be respected by all members of the University.

WHY REPORT TO THE CAMPUS JUDICIAL OFFICE?

If a victim makes a report to the campus judicial office - the Office of Conflict Resolution and Civic Responsibility, the Director of Conflict Resolution and Civic Responsibility (518-442-5501) will assist in filing a complaint for possible university disciplinary action against the alleged sex offender. The Associate Director of Residential Life/Quad Supervisor (518-442-5875) can also assist in this process.

An individual charged with a crime related to sexual assault may be subject to University disciplinary procedures, whether or not an individual is prosecuted under the New York State Penal Code. During the disciplinary process, the rights of the accused are as described in this document under "Conduct of Hearings".

Where there is reason to believe the University's regulations prohibiting sexual misconduct have been violated, the University will pursue strong disciplinary action, with allegations evaluated using a "Preponderance of the Evidence" standard, which means "it is More Likely than Not" that a violation of the Student Code of Conduct and, in this instance, that sexual misconduct or sexual assault has occurred. This discipline includes the possibility of suspension or dismissal from the University.

3) MAKE A CONFIDENTIAL REPORT

The following are **Confidential Reporting Options**:

- University Counseling Center, (518-442-5800)
- Sexual Assault Prevention Program, (518-442-5800)
- University Health Center (518-442-5454)
- Chapel House (518-489-8573)

4) DELAYING THE REPORT OF AN INCIDENT

Police reporting is an option no matter how much time has elapsed. However, timeliness of the report may affect the ability of law enforcement to obtain corroborative evidence. Medical care and/or an official rape exam continue to be important.

II. SUPPORT SERVICES PROVIDED BY THE UNIVERSITY

Students are encouraged to report to University personnel who will seek the victim's consent to notify the Vice President for Student Success. The Vice President for Student Success will provide a coordinated response that includes a variety of resources. A student's friends and family can also be a source of support; however, friends and family will only be contacted by University personnel with the student's expressed permission. A list of available services to provide support to the victim is included at the end of Appendix J: **It will be up to the victim to choose.**

Note: In accordance with federal law (the Clery Act), all campus security personnel (defined for the University at Albany as staff in Residential Life, Student Involvement & Leadership, University Police, Conflict Resolution and Civic Responsibility, Athletics, Undergraduate Studies and Diversity and Inclusion) are required to make a date, time and location report.

However, neither the name nor other identifying information will be disclosed without the victim's consent.

III. SEXUAL DISCRIMINATION COMPLAINTS

A student can speak with the Title IX Coordinator (518-956-8110) if he/she would like to file a sex discrimination complaint.

The Title IX Coordinator oversees all Title IX complaints, and identifies and addresses any patterns or systemic problems that arise during the review of such complaints. This process is different from any law enforcement investigation, and a law enforcement investigation does not relieve the University from its Title IX obligation to take appropriate action to investigate and end sexual violence, prevent its recurrence and address its effects.

IV. RETALIATION

Any threat of retaliation or other attempts to prevent the reporting of sexual misconduct will be prohibited and is subject to disciplinary action. Reports of retaliation should be made to the Director of Conflict Resolution and Civic Responsibility (518-442-5501) and/or the Associate Director of Residential Life/Quad Supervisor (518-442-5875) who will assist in filing a complaint for university disciplinary action.

Definition: Retaliation is an intentional act taken against an individual who initiates **any** sexual misconduct complaint, including stalking or intimate partner violence, pursues legal recourse for such a complaint, or participates in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to judicial referral.

V. VICTIMS OF CAMPUS SEXUAL ASSAULT: STATEMENT OF PRINCIPLES AND RIGHTS

The University at Albany is committed to providing a safe and secure environment in which all members are treated with dignity and respect, and a campus free from all discrimination on the basis of sex. To that end, the University takes the strongest possible stance against sexual misconduct in all its forms, including sexual harassment, sexual assault, sexual violence or the use of coercion, intimidation or exploitation of others for sexual purposes. The University is actively engaged in educating its members about these vital issues and in providing timely support and assistance to victims of sexual assault.

Should a sexual assault be reported, the University will investigate allegations and take appropriate actions, to the fullest possible extent. The University supports the victim's right to privacy. In the event that a victim wishes to remain anonymous, the University will respect that request while evaluating the obligation to protect the safety and well-being of the broader community. For example, in the event that the assault/crime must be reported, the request for anonymity would be weighed against other factors, such as whether the accused individual is the subject of other complaints. In such instances, every safeguard will be taken in order to ensure the victims' anonymity. It is imperative that victims be fully supported in their efforts to heal and respond as they determine is in their own best interests. To this end the University will provide information about campus and community medical and counseling resources and support the victim's right to make choices about these resources and options.

All members and representatives of the University at Albany community, including campus officers, administrators, faculty, professional staff, employees, and students are expected to recognize and abide by the following principles regarding victims of campus-related sexual assaults:

1) THE RIGHT TO HUMAN DIGNITY

Victims shall:

- Be treated with fairness and respect for their dignity;
- Have their privacy honored;
- Be free from any suggestions that they must report sexual assaults to be assured; recognition of any other identified principles or rights;
- Have their allegations of sexual assault treated seriously;
- Be free from any suggestion that they are responsible for the sexual assaults committed against them;
- Be free from any threat of retaliation or other attempt to prevent the reporting of sexual misconduct;

- Be free from unwanted pressure from campus personnel to:
- Report sexual assaults if they do not wish to do so,
- Report sexual assaults as less serious offenses,
- Refrain from reporting sexual assaults for any reason, including the fear of unwanted personal publicity.

2) THE RIGHT TO RESOURCES ON AND OFF CAMPUS

Victims shall:

- Receive notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the University's disciplinary process, or to pursue both processes simultaneously;
- Be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault whether or not the assault is formally reported to campus or civil authorities;
- Have access to campus counseling;
- Be informed of and assisted in exercising:
 - Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy,
 - Any rights to preventive measures such as emergency contraception or HIV prophylaxis,
 - Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects;
- Be informed of the possible availability of crime victim assistance compensation through the New York State Crime Victims Board;
- **Additional information about resources and options to aid in recovery** are available at the end of Appendix J and at www.albany.edu/counseling_center/sarc.

3) THE RIGHT TO CAMPUS JUDICIAL PROCEEDINGS

Victims have the right to:

- Written and advance notice about a disciplinary hearing involving the person or persons accused of sexually assaulting them;
- Have the opportunity to present witnesses and other evidence, and to receive notice of the process, information about procedures, and written notice of the outcome in a manner that is equivalent to the process of the accused;
- Have a person of their choice accompany them throughout the disciplinary hearing;
- Remain present during the entire proceeding, whenever possible; alternative arrangements may be made for those who do not want to be present in the same room as the accused during the disciplinary hearing;
- Be heard at the proceeding;
- Be assured that their irrelevant past sexual history will not be discussed during the hearing;
- Make a "victim impact statement" if the accused is found in violation of the code;
- Be informed in a timely fashion (60 days) of the outcome of the hearing;
- Have the right to appeal the outcome of the hearing.

4) THE RIGHT TO LAW ENFORCEMENT AND CAMPUS INTERVENTION

- Reports of sexual assault will be investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;
- Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;
- Victims shall receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault; "No contact" orders (e.g., Cease and Desist orders) shall be issued promptly and in writing to all parties to a reported sexual assault after the University receives notice of a complaint;
- Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact by victims' alleged assailants;
- Victims shall be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

5) NOTE: STATUTORY MANDATES

- Nothing in this Statement of Principles and Rights shall be construed to preclude or in any way restrict the University at Albany from carrying out its duties under law to report suspected offenses to the appropriate law enforcement authorities. Except as required by law, the University will take care not to identify the victim.
- Nothing in this Statement of Principles and Rights shall be construed to preclude or in any way restrict the University at Albany from issuing a Community Notice when the University is aware of a reported sexual assault incident that potentially puts the campus community at risk. The University will take care not to identify the victim in such notices.

Statement of Principles and Rights adapted from: Rutgers (c 2006), Princeton (c 2006) & Ball State Universities' Rights Statements.

VII) PREVENTION PROGRAMS

The University at Albany has programs in place to inform members of the University community about sexual assault, risk factors and risk reduction measures, and, most especially, to invite all members of the University to be proactive in working to end sexual violence. Among these initiatives are mandatory prevention programs for incoming students during Summer Planning Conference, prevention programs for all students throughout the academic year, targeted outreach to men through Men REACH (Men for Relationship Education and Change), and RAD programs (Rape Aggression Defense) for both women and men. To learn more about these and other prevention activities, visit http://www.albany.edu/counseling_center/sarc/index.shtml and <http://police.albany.edu>.

VII) RESOURCES

With a victim's consent the Vice President for Student Success or designee (518-956-8140) will provide a coordinated response that includes a variety of resources to assist the student. A student's friends and family can also be a source of support and students are encouraged to speak with them, however friends and family would only be contacted by University personnel with the students' expressed permission. The following is a list of available services to provide support to the victim. **It will be up to the victim to choose.**

University Resources for Help and Support:

1. The Coordinator for Sexual Assault Prevention (518-442-5800) for information and referral to on and off campus resources;
2. The University Counseling Center for mental health services (518-442-5800);
3. The University Health Center for health services (518-442-5454);
4. Residential Life staff, if the student lives in University housing (Main Office 518-442-5875);
5. Undergraduate Education (518-442-3950) and Graduate Studies (518-442-3980) and/or teaching faculty to facilitate academic accommodations;
6. Disability Resource Center (518-442-5490), International Student Services (518-591-8189) and Multicultural Student Success (518-442-5566), Student Involvement and Leadership (518-442-5566), as appropriate
7. The Office of Diversity and Inclusion (518-956-8110) for sex discrimination complaints;
8. Title IX Coordinator (518-956-8110) for sex discrimination complaints;
9. Chapel House staff for spiritual support to the student (518-489-8573);
10. Middle Earth Hotline 518- 442-5777 for peer assistance.

Off-Campus Resources:

Crime Victim and Sexual Violence Center (CVSVC) 518-447-7716

Appendix K:

Investigation of Violent Felony Offenses

Violent felony offenses are defined in subdivision one of section 70.02 of the New York State Penal Law to include, but are not limited to, degrees/classes of: murder, manslaughter, kidnapping, rape, sodomy, aggravated sexual abuse, assault, burglary, robbery, arson, criminal possession of a dangerous weapon, etc. All members of the University at Albany community are expected to immediately report all suspected or actual violent felony offenses occurring at or on the grounds of the University, to the University Police Department by dialing 911 from a University telephone or 518-442-3131 from a cell phone.

The materials below consist of regulations of the State University of New York Board of Trustees. However, it is not the Official Compilation of the Codes, Rules, and Regulations of the State of New York. Readers are advised to refer to the Official Compilation (8 NYCRR Part et seq)in case of questions.

PART 500

GUIDELINES ESTABLISHED BY THE BOARD OF TRUSTEES

Sec.

- 500.1 Policy
- 500.2 Standards

§ 500.1 Policy.

(a) The State-operated institutions of State University are located at diverse campuses throughout the State which differ in size and character.

(b) The trustees of State University recognize the need for local participation, flexibility, and responsibility at the various campuses with respect to the establishment of regulations governing student conduct and behavior.

(c) The trustees recognize that among the goals to be pursued by the State University is the encouragement of the independence, maturity and ethical sensitivity of the student, and that this can best be achieved where the educational program is complemented by an appropriate pattern of student governance which respects freedom of inquiry and expression and is administered in accordance with due process.

(d) Section 356 of the Education Law recognizes the need for local participation on the diverse campuses by establishing councils for each State- operated institution, with power to make regulations governing the conduct and behavior of students.

§ 500.2 Standards.

The several councils of the State-operated institutions of higher learning of the State University of New York shall promulgate or review and ratify regulations governing the conduct and behavior of students, subject to general guidelines established by the chancellor, and in accordance with law and such other rules or policies as the trustees may from time to time establish; such regulations to be published and made available to the whole academic community of that campus and shall be given full force and effect as rules and regulations of the State University applicable to that campus. The chancellor of the State University of New York shall, from time to time, cause to be reviewed the regulations established by the councils for consistency with rules and policies of the State University trustees and shall report thereon to the board of trustees at such time and in such manner as it shall direct.

(a) The manner in which regulations are developed. In order to encourage, maintain and assure adequate communication with and participation by the administration, faculty and students at the respective campuses, the council shall act after consultation with the chief administrative head of its campus and with representatives of faculty and students in promulgating or in reviewing and ratifying regulations on student conduct. In the regulations, the council may confer upon student groups, faculty committees, administrative officers, or combinations thereof appropriate responsibilities concerning student conduct and behavior. Authority for the administration of regulations at a campus shall rest with the campuses' chief administrative officer.

(b) The recognition of the rights and responsibilities of students. The regulations shall recognize that students have within the law, the right of free expression and advocacy and that the State University seeks to encourage and preserve freedom of expression and inquiry within the entire University. The regulations shall also recognize the obligation of each student to conduct himself lawfully, maturely and responsibly and shall take into account the responsibility of the University to maintain standards of student conduct essential to the orderly conduct of the University's function as an educational institution. The ways in which students or student groups may use the name of the University or identify their association with it shall also be provided for in the regulations.

(c) The need for due process. Where regulations govern student disciplinary proceedings, they should reflect the basic concepts of procedural fairness and should make certain that no student shall be expelled or suffer other major disciplinary action as defined by the council for any offense, other than failure to meet required academic

standing, without being first given appropriate advance notice of the charges against him and a hearing before an impartial body or officer as established by the council or chief administrative officer at such campus. While a formal judicial hearing is not required, the hearing should be of such nature as to give the hearing body or officer, as the case may be, full opportunity to hear both sides of the issue in considerable detail. The student may waive in writing the requirements of a hearing.

New York Education - Article 8 - § 356 Councils of State-operated Institutions; Powers and Duties

§ 356. Councils of state-operated institutions; powers and duties.

1. Subject to the general management, supervision and control of and in accordance with rules established by the state university trustees, the operations and affairs of each state-operated institution of the state university shall be supervised locally by a council consisting of ten members, nine of whom shall be appointed by the governor and one of whom shall be elected by and from among the students of the institution. Such voting members shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the voting members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. One member shall be designated by the governor as chairman. Where an undergraduate state-operated institution of the state university is located adjacent to another institution of higher education and students of such undergraduate state-operated institution are, under arrangements made by the state university, taking a substantial portion of their courses at such other institution, the president or other head of such other institution shall be an ex-officio member of the council for such undergraduate state-operated institution. Initial appointments, other than the student member and ex-officio members, shall be for terms expiring July first, nineteen hundred fifty-four, July first, nineteen hundred fifty-five, July first, nineteen hundred fifty-six, July first, nineteen hundred fifty-seven, July first, nineteen hundred fifty-eight, July first, nineteen hundred fifty-nine, July first, nineteen hundred sixty, July first, nineteen hundred sixty-one and, where there is no ex-officio member, July first, nineteen hundred sixty-two, respectively, and subsequent appointments, other than the student member, shall be for a full term of nine years from the first day of July of the calendar year in which the appointment is made. Vacancies shall be filled for the unexpired term in the same manner as original selections. The term of office for each council member appointed on or after April first, nineteen hundred eighty-six shall be seven years. The term of office for the student member shall be one year commencing July first of the calendar year in which the election is conducted, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five and expiring June thirtieth, nineteen hundred seventy-six. In the event that the student member ceases to be a student at the institution, such member shall be required to resign. Members of such councils appointed by the governor may be removed by the

governor. Members of such councils elected by the students of the institution may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees. Members of such councils shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties hereunder.

2. The councils of state-operated institutions shall provide for regular meetings at least four times annually, and the chair, or any five members by petition, may at any time call a special meeting of the council and fix the time and place therefor. At least seven days notice of every meeting shall be mailed to the usual address of each member, unless such notice be waived by a majority of the council. Resolutions for the consideration of the councils must be mailed to the usual address of each council member no less than seven days prior to a meeting, unless the chair shall make available in writing on the day of the meeting the facts which necessitate an immediate vote. The agenda for such meetings shall be available three days prior to the meetings and shall be considered public records. Five members attending shall constitute a quorum for the transaction of business and the act of a majority of the members present at any meeting shall be the act of the council.

3. Subject to the general management, supervision, control and approval of, and in accordance with rules established by the state university trustees, the council of each state-operated institution shall, with respect to the institution or institutions for which it serves, exercise the following powers:

a. recommend to the state university trustees candidates for appointment by the state university trustees as head of such institution;

b. review all major plans of the head of such institution for its more effective operation and make such recommendations with respect thereto as it deems appropriate. Such plans shall be submitted for approval by the state university trustees, together with the recommendations of the council with respect thereto. The state university trustees shall determine what constitute such major plans, which are hereby generally defined to include, among others, plans for the appraisal or improvement of the faculty and other personnel, expansion or restriction of student admissions, appraisal or improvement of academic programs and of standards for the earning of degrees, expansion of institutional plants and appraisal or improvement of student activities and housing;

c. make regulations governing the care, custody and management of lands, grounds, buildings and equipment;

d. review the proposed budget requests for such institution prepared by the head thereof and recommend to the state university trustees a

budget for such institution;

e. foster the development of advisory citizens committees to render such assistance as the council may request, and to appoint the members of such citizens' committees. Members of such citizens' committees shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties;

f. name buildings and grounds;

g. make regulations governing the conduct and behavior of students;

h. prescribe for and exercise supervision over student housing and safety;

i. make an annual report to the state university trustees on or before September first of each year, and report to them from time to time on any matter it believes requires their attention;

j. perform such other powers and duties as may be authorized or required by the state university trustees by general rules or special directives; and

k. make and establish, and from time to time alter and amend, such regulations pertaining to the affairs of its institution, not inconsistent with law or the rules of the state university trustees, as may be necessary or appropriate to carry out effectively the foregoing powers and duties.

Policy for Freedom of Expression (from the Undergraduate Bulletin, 2012-13)

The University reaffirms its commitment to the principle that the widest possible scope for freedom of expression is the foundation of an institution dedicated to vigorous inquiry, robust debate, and the continuous search for a proper balance between freedom and order. The University seeks to foster an environment in which persons who are on its campus legitimately may express their views as widely and as passionately as possible; at the same time, the University pledges to provide the greatest protection available for controversial, unpopular, dissident, or minority opinions. The University believes that censorship is always suspect, that intimidation is always repugnant, and that attempts to discourage constitutionally protected expression may be antithetical to the University's essential missions: to discover new knowledge and to educate.

All persons on University-controlled premises are bound by the Rules and Regulations for Maintenance of Public Order, which deal in part with freedom of expression (adopted by the Board of Trustees of the State University of New York June 18, 1969; amended 1969, 1980). Members of the University community should familiarize themselves with those rules and regulations. In addition, University faculty are protected by and bound by Article XI, Title 1, Sec. I of the Policies of the Board of Trustees (adopted January 1987), entitled "Academic Freedom."

University officials or other members of the University community in a position to review posters, publications, speakers, performances, or any other form of expression may establish legitimate time, place, and manner regulations for the maintenance of an orderly educational environment; however, they may not prohibit expression for any reason related to the content of the expression, except as permitted in those narrow areas of expression devoid of federal or state constitutional protection.

Speakers invited to campus by University groups or individuals, and other speakers who may be legitimately present on campus, will be given the utmost protection to communicate their messages without disruptive harassment or interference. Opponents to those speakers enjoy the same protections for expressing their dissent.

All members of the University community share the duty to support, protect, and extend the commitment to the principle of freedom of expression, and to discuss this commitment with groups or individuals who seek to take part in University life. While all persons may seek to peacefully discourage speech that may be unnecessarily offensive to particular individuals or groups, speech that may be antithetical to the University's values, those persons must support the legal right of free speech.

Under Section VII.7.3.2.3 of its charge, the Committee on Academic Freedom, Freedom of Expression, and Community Responsibility (CAFFECOR) will serve as a hearing body available to those members of the University community who feel their freedom of expression has been unfairly suppressed. The Committee will report its findings to the President for further review and action.

Academic Grievances (from the Undergraduate Bulletin, 2012-13)

The Committee on Academic Standing of the Undergraduate Academic Council is responsible for insuring and reviewing procedures for individual student academic grievances at the school and college level. Most academic grievances are expected to be resolved at the school or college level. However, if (1) the student feels due process was not followed at the school or college level or if (2) the student feels the decision rendered at the school or college level warrants further review, the student may address a petition to the Committee on Academic Standing of the UAC for a review of the case. The action of this committee is final except in grievances arising out of grades assigned due to violations of academic integrity. CAS action on academic integrity grievances will be reviewed by and must be approved by the Vice President for Academic Affairs before implementation.

If the case has also been submitted to the student judicial system for University action, the Vice President for Academic Affairs will consult for the Vice President for Student Success before rendering a final decision.

Each school and college shall have established procedures for considering student academic grievances. Copies of the established procedures shall be available to students upon request. Students should contact the office of the dean of the academic unit involved if further information is desired or the Office of the Vice Provost for Undergraduate Education, Lecture Center 30.

Students challenging an academic grade must first discuss their grievances with the instructor involved. If not resolved to the student's satisfaction at this level, the grievance must then be discussed with the appropriate department chair. Failure to obtain satisfactory resolution at this level shall lead to the school or college review as stated in its procedures. Any such requests on the school or college level must be appropriately reviewed and a decision rendered.

Procedures for Resolving Academic Grievances (From the Graduate Bulletin, 2012-13)

Students who seek to challenge an academic grade or evaluation of their work in a course or seminar, or in research or another educational activity may request a review of the evaluation by filing an academic grievance.

The Graduate Academic Council (GAC) and the Undergraduate Academic Council (UAC), through the work of their respective Committees on Admission and Academic Standing (CAAS) are responsible for insuring that approved procedures exist within the schools, colleges, departments (if applicable) and programs of the University for students to file academic grievances. Copies of established grievance procedures shall be filed by each academic unit with the Offices of the Dean of Graduate Studies and the Dean of Undergraduate Studies and available to students at each school/college dean's office.

It is expected that the grounds upon which an academic grievance may be based should be clearly identified. Such grounds may include variance from University grading standards/policies, grade calculation inconsistencies with that announced in published course syllabi, procedural abnormalities, or other factors that are alleged to have denied the student a fair evaluation. It is not expected that grievances will propose that the professional obligation of faculty to fairly evaluate academic material within their field of expertise will be supplanted by alternate means without procedural cause.

A student who seeks to dispute a grade or evaluation must initially pursue the matter directly with the faculty member involved. If not satisfactorily resolved directly with the faculty member, a written grievance may be filed with the program/department, or directly with school/college for units that are not departmentalized.

Should the grievance not be satisfactorily resolved at this initial level of review, students may pursue further consideration of the grievance at the next organizational level until such time as the grievance is considered at the University level by the GAC or UAC CAAS, as appropriate. Action on an academic grievance by the appropriate CAAS, upon acceptance by the GAC or UAC, as appropriate, is final and not subject to further formal review within the University. Only at this final level of grievance determination by the CAAS may a grade or other such evaluation be changed against the will of the faculty member(s) involved. In such rare cases, the Chair of the GAC or UAC, or its respective CAAS, as appropriate, may consult at his/her discretion with departmental faculty and/or appropriate scholars to determine an appropriate grade and authorize its recording by the Registrar.

In reviewing an academic grievance, the CAAS will consider the formal written petition from the student and corresponding written response/comment from the faculty, along with all records of consideration of the matter at prior levels of review. Although rare, the CAAS reserves the right to conduct a hearing with all parties present or it may decide to meet with each party separately. The nature and number of the representatives attending any such meeting will be at the discretion of the CAAS. These procedures adopted are those which the University believes will provide all parties involved the opportunity to present complete and factual information as necessary for the CAAS to render a fair decision.

Academic Termination and Transcripts

Graduate students who are terminated for academic reasons will have placed on their graduate transcripts a notation that they were academically terminated and date of termination. If such students

are subsequently readmitted to the program from which they were terminated, their termination notations will be deleted from their transcripts.

Reinstatement

A graduate student whose authorization to register for further study has been terminated officially by the Dean of Graduate Studies and who seeks reinstatement should submit a formal request for reinstatement along with a supporting statement to the Dean of Graduate Studies.

The Dean of Graduate Studies will refer such a request to the Graduate Academic Council and its Committee on Admissions and Academic Standing for review and action.

University Senate Charter

X.3.8. Committee on Admissions and Academic Standing

X.3.8.1. The Committee shall consist of no more than ten members, including at least three members of the Teaching Faculty, at least two of whom are members of the Council, one Professional Faculty, one Undergraduate Student, and no more than 2 voting members selected from Faculty or Staff who are not students or Voting Faculty.

X.3.8.2. Charges relating to Admissions: The Committee shall establish criteria for the admission of undergraduate students, serve as an appellate body for reviewing admissions decisions, make recommendations concerning the size and composition of the undergraduate student body, review and evaluate special admissions category programs, and establish and review policies governing the awarding of placement and credit for non-University at Albany independent study, proficiency examinations, and experiential learning programs. It shall advise the Undergraduate Admissions Office in cases where the admission criteria do not apply to an applicant's special qualifications and experience.

X.3.8.3. Charges relating to Academic Standing: The committee shall develop and review academic standards and regulations including such matters as classification and status, grading, retention, program registration and adjustments, and course load. It shall insure and review procedures for individual student academic grievances at the school and college level and to serve as an appellate body for academic grievances at the university level.

X.3.8.4. Appellate Subcommittee on Academic Standing

X.3.8.4.1. An appellate Subcommittee on Academic Standing shall consist of a Chair who is a member of the Committee on Admissions and Academic Standing and the Council, at least three Teaching Faculty, one but not more than two designated representatives of the Vice Provost for Undergraduate Education, the Director of the Office of Conflict Resolution and Civic Responsibility or designee, the Director of the Advisement Services Center or designee, the Director of the Educational Opportunities Program or designee, and two undergraduate students. Three representatives shall be invited from the College of Arts and Sciences and one from each of the following: Business, Criminal Justice, Education, Information Science and Policy, Nanoscale Science and Engineering, Public Health, Rockefeller College, and Social Welfare.

X.3.8.4.2. The subcommittee has the authority to grant petitions for students seeking reinstatement and may establish specific academic conditions for any student granted reinstatement. It has the authority to grant petitions for students seeking exception to being placed on Academic or Terminal Probation. The subcommittee has the authority to grant student-requested exceptions to University-wide academic policies. It may develop and propose to the Committee on Academic Standing guidelines whereby designated administrative officers may grant exceptions to University policies.

DEPARTMENT CHAIR MANUAL
COLLEGE OF ARTS AND SCIENCES

August 2012

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SECTION IV: POLICIES AND PROCEDURES

STUDENT ACADEMIC GRIEVANCE PROCEDURES (CAS)

The following procedure has been established for undergraduate and graduate students who seek adjudication of an academic grievance against faculty members or instructors in the College of Arts and Sciences. Such grievances may concern grades assigned or penalties imposed for alleged academic infractions.

University policy states: “It is expected that the grounds upon which an academic grievance may be based should be clearly identified. Such grounds may include variance from University grading standards/policies, grade calculation inconsistencies with that announced in published course syllabi, procedural abnormalities, or other factors that are alleged to have denied the student a fair evaluation. It is not expected that grievances will propose that the professional obligation of faculty to fairly evaluate academic material within their field of expertise will be supplanted by alternate means without procedural cause” (University Senate Bill 0203-10).

Step 1: The Department Level

A student who seeks to dispute a grade or evaluation, or seeks to appeal a penalty that has been imposed by a faculty member for academic dishonesty or alleged academic infractions, must initially pursue the matter directly with the faculty member involved. If the case is not satisfactorily resolved with the faculty

member, a written grievance may be filed with the department chairperson or program director, according to departmental procedure. If the grievance is specifically against the chair/director, the Dean of the College of Arts and Sciences will appoint a designee from the department in question to serve in his or her place.

The chair/director shall consult with the faculty member in question and request a written response to the grievance, copied to the student. The chair/director then provides his or her own recommendation, copied to the student and to the faculty member.

Step 2: The College Level

If the student is not satisfied with the efforts made in Step 1 to achieve a resolution of the grievance, she/he may then submit a request to the College of Arts and Sciences’ Academic Programs Committee, via the Dean’s Office, to consider the grievance. This request must be filed within one year from the end of the semester during which the incident occurred.

An assistant or associate dean of the College will discuss the grievance with the petitioner, the instructor, and the chair/director, and will make a written recommendation to all parties. The matter may be resolved at this stage. If the petitioner wishes to continue the grievance, the assistant/associate dean will coordinate the document file including relevant e-mails and any other materials such as syllabi, excuse notes, or graded assignments that either party wishes to be

taken into consideration. The petitioner, the faculty member, and the chair/director shall receive copies of the completed file.

The College of Arts and Sciences Academic Programs Committee will convene an Ad Hoc Grievance Committee according to its bylaws to review the case. Staff support for the committee will be provided by a member of the College office other than the assistant/ associate dean mentioned above.

Neither the petitioner nor the faculty member appears before the committee, whose assessment is based on the written record.

Upon receiving a completed grievance file for its review, the Ad Hoc Grievance Committee will first determine by majority vote whether the file provides sufficient grounds for it to act. If the Committee agrees to consider the grievance, it will conduct as thorough an investigation as the case warrants to arrive at a statement of findings and a recommendation. The Ad Hoc Grievance Committee shall prepare and send a written statement of its findings, together with its recommendation of resolution to: (1) the petitioner(s), (2) the respondent(s), (3) the Chairperson of the respondent(s), and (4) the Dean of the College of Arts and Sciences.

Students should realize that the function of the Ad Hoc Grievance Committee is advisory. The Committee will find for or against the student's grievance and it may recommend remedies to the appropriate person(s). It does not have the power to enforce any of its findings.

Step 3: The University Level

If the Ad Hoc Grievance Committee

declines to consider the case, or finds against the petitioner, or if the recommendation of the Ad Hoc Committee is not accepted by the instructor, the student may petition the Committee on Academic Standing of the Undergraduate Academic Council (via the Office of the Vice Provost for Undergraduate Education) or the Graduate Academic Council (via the Office of the Dean for Graduate Studies), as appropriate, to consider the grievance.

The decision of the Academic Standing Committee of the Undergraduate or Graduate Academic Council is final (Senate Bill No. 0203-10).

PENALTIES AND PROCEDURES FOR VIOLATIONS OF ACADEMIC INTEGRITY (CAS)

The University at Albany expects all members of its community to conduct themselves in a matter befitting this tradition of honor and integrity. They are expected to assist the University by reporting suspected violations of academic integrity to appropriate faculty and/or administration offices. Behavior that is detrimental to the University's role as an educational institution is unacceptable and requires attention by all citizens of its community.

These guidelines, designed especially for students, define a context of values within which individual and institutional decisions on academic integrity can be made. It is every student's responsibility to become familiar with the standards of the academic integrity at the University. Claims of ignorance, of unintentional

error, or of academic or personal pressures are not sufficient reasons for violations of academic integrity.

Penalties and Procedures for Violations of Academic Integrity

The Dean of the College of Arts and Sciences encourages faculty and instructors to uphold highest standards of academic integrity and to respond to violations in a manner consistent with institutional policy (see Undergraduate Bulletin).

Examples of Violations of Academic Integrity include but are not limited to: plagiarism, cheating on examinations, multiple submissions of the same work, forgery, sabotage of another's work, unauthorized collaboration, falsification, bribery, and theft, damage, or misuses of library or computer resources.

When there is evidence that a student has violated academic integrity, University policy permits the responsible faculty member or instructor to inform the student and impose an appropriate sanction (see *Community Rights and Responsibilities*). The College of Arts and Sciences strongly recommends that all faculty members who encounter a violation of academic integrity report the incident directly to the Associate Dean/Academics. The Associate Dean of the College is available to assist with these procedures, provide guidance with appropriate actions or penalties, and ensure consistency of response throughout the College.

Faculty/instructor responses to violations of academic integrity may include one or a combination of the following: warning without further penalty; requiring rewriting of a paper containing

plagiarized material; lowering the grade of a paper or project by one full grade or more; assigning a failing grade on a paper containing plagiarized material; assigning a failing grade on any examination in which cheating occurred; lowering a course grade by one full grade or more; giving a failing grade in a course.

All penalties imposed by a faculty member in response to a violation of academic dishonesty must be reported in writing to the Office of Undergraduate or Graduate Studies, as appropriate, along with a brief description of the incident. A copy of the report must be given to the student and to the Dean of the College of Arts and Sciences.

If a faculty member imposes a penalty in the course as a possible result of academic dishonesty, the student receiving the penalty may choose to contest this decision by following the Student Academic Grievance Procedures as outlined within this manual.

Alternatively, any faculty member may also choose to refer a case to the University Judicial System, especially when it involves a particularly serious violation of academic integrity. After considering the case under the procedures provided by the University, the appropriate University judicial body will recommend the disposition of the case which can include any of the above penalties as well as disciplinary probation, suspension, or dismissal from the University. Multiple offenses must always be referred to the University Judicial System.

Records of any actions concerning violations of academic integrity will be

maintained for the duration of a student's enrollment at the University. Upon graduation or separation of the student from the University, these confidential reports will be destroyed.

Note: For further information, refer to Student Academic Grievance Procedures

The following is a list of the types of behaviors that are defined as examples of academic dishonesty and are therefore unacceptable. Attempts to commit such acts also fall under the term academic dishonesty and are subject to penalty. No set of guidelines can, of course, define all possible types or degrees of academic dishonesty; thus, the following descriptions should be understood as examples of infractions rather than an exhaustive list. Individual faculty members and the judicial boards of the University will continue to judge each case according to its particular merit.

Plagiarism

Presenting as one's own work the work of another person (for example, the words, ideas, information, data, evidence, organizing principles, or style of presentation of someone else). Plagiarism includes paraphrasing or summarizing without acknowledgment, submission of another student's work as one's own, the purchase of prepared research or completed papers or projects, and the unacknowledged use of research sources gathered by someone else. Failure to indicate accurately the extent and precise nature of one's reliance on other sources is also a form of plagiarism. The student is responsible for understanding the legitimate use of sources, the appropriate ways of acknowledging academic, scholarly, or creative indebtedness, and the

consequences for violating University regulations.

Examples of plagiarism include: failure to acknowledge the source(s) of even a few phrases, sentences, or paragraphs; failure to acknowledge a quotation or paraphrase of paragraph-length sections of a paper; failure to acknowledge the source(s) of a major idea or the source(s) for an ordering principle central to the paper's or project's structure; failure to acknowledge the source (quoted, paraphrased, or summarized) of major sections or passages in the paper or project; the unacknowledged use of several major ideas or extensive reliance on another person's data, evidence, or critical method; submitting as one's own work, work borrowed, stolen, or purchased from someone else.

Cheating on Examinations

Giving or receiving unauthorized help before, during, or after an examination. Examples of unauthorized help include collaboration of any sort during an examination (unless specifically approved by the instructor); collaboration before an examination (when such collaboration is specifically forbidden by the instructor); the use of notes, books, or other aids during an examination (unless permitted by the instructor); arranging for another person to take an examination in one's place; looking upon someone else's examination during the examination period; intentionally allowing another student to look upon one's exam; the unauthorized discussing of test items during the examination period; and the passing of any examination information to students who have not yet taken the examination. There can be no conversation while an examination is in

progress unless specifically authorized by the instructor.

Multiple Submission

Submitting substantial portions of the same work for credit more than once, without the prior explicit consent of the instructor(s) to whom the material is being (or has in the past been) submitted.

Forgery

Imitating another person's signature on academic or other official documents (e.g., the signing of an adviser's name to an academic advising form).

Sabotage

Destroying, damaging, or stealing of another's work or working materials (including lab experiments, computer programs, term papers, or projects).

Unauthorized Collaboration

Collaborating on projects, papers, or other academic exercises which is regarded as inappropriate by the instructor(s). Although the usual faculty assumption is that work submitted for credit is entirely one's own, standards on appropriate and inappropriate collaboration vary widely among individual faculty and the different disciplines. Students who want to confer or collaborate with one another on work receiving academic credit should make certain of the instructor's expectations and standards.

Falsification

Misrepresenting material or fabricating information in an academic exercise or assignment (for example, the false or misleading citation of sources, the falsification of experimental or computer data, etc.).

Bribery

Offering or giving any article of value or service to an instructor in an attempt to receive a grade or other benefits not legitimately earned or not available to other students in the class.

Theft, Damage, or Misuse of Library or Computer Resources

Removing uncharged library materials from the library, defacing or damaging library materials, intentionally displacing or hoarding materials within the library for one's unauthorized private use, or other abuse of reserve-book privileges. Or, without authorization, using the University's or another person's computer accounts, codes, passwords, or facilities; damaging computer equipment; or interfering with the operation of the computing system of the University. The Computing Center has established specific rules governing the use of computing facilities. These rules are available at the Center and it is every student's responsibility to become familiar with them.

GUIDELINES ON THE RELEASE OF STUDENT INFORMATION

It is the responsibility of each person accountable for a record to ensure its security by the manner in which the file or information is generated, maintained, stored and, if necessary, transported. This applies to those responsible for traditional file folders, computer files, computer reports, section lists, grade lists and copies of academic records (transcripts).

For information and assistance on the retention and destruction of such documents, contact the Associate

UNIVERSITY AT ALBANY

Complaint Procedure for Review of Allegations of Unlawful Discrimination/Harassment

Overview

The University at Albany, in its continuing effort to seek equity in education and employment and in support of Federal and State anti-discrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, age, sex, sexual orientation, disability, veteran status or marital status. Harassment is one form of unlawful discrimination on the basis of the above protected categories. Conduct that may constitute harassment is described in **APPENDIX A - DEFINITIONS AND PROHIBITED ACTS AND BEHAVIORS**.

This procedure may be used by any University at Albany student or employee. Employee grievance procedures established through negotiated contracts, academic grievance review committees, student disciplinary grievance boards and any other procedures defined by contract will continue to operate as before. Furthermore, this procedure in no way deprives a Complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the United States Department of Education and the Office of Federal Contract Compliance of the United States Department of Labor. However, after filing with one of these outside enforcement agencies, or upon the initiation of litigation, the complaint will be referred to the Office of University Counsel for review and supervision. Contact information for these agencies is listed in **APPENDIX B - EXTERNAL ENFORCEMENT AGENCIES**.

This Complaint Procedure for the Review of Allegations of Unlawful Discrimination/Harassment provides a mechanism through which the University may identify, respond to and prevent incidents of illegal discrimination. The University recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial grievance process will benefit student, faculty, staff and administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time-consuming procedures of State and Federal enforcement agencies or courts.

The University's Director of Diversity and Affirmative Action, or designee (the "Director"), shall receive any complaint of alleged discrimination, shall assist the Complainant in the use of the complaint form (see **APPENDIX C - CHARGE OF DISCRIMINATION**) and shall provide the Complainant with information about various internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with each agency.

Complainant is not required to pursue the University at Albany internal procedures before filing a complaint with a State or Federal agency. In addition, if the Complainant chooses to pursue the University at Albany internal procedure, the Complainant is free to file a complaint with the appropriate State or Federal agency at any point during the process.

During any portion of the procedures detailed hereafter, the parties shall not employ audio or video taping devices.

PART A: INTRODUCTION

1. The Director on an informal basis may receive initial inquiries, reports and requests for consultation and counseling. Assistance will be available whether or not a formal complaint is contemplated or even possible. It is the responsibility of the Director to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances.

Although in rare instances verbal complaints may be acted upon, the procedures set forth here rest upon the submission of a written complaint that will enable there to be a full and fair investigation of the facts.

2. Complaints or concerns that are reported to an administrator, manager or supervisor concerning an act of discrimination or harassment shall be immediately referred to the Director. Complaints may also be made directly to the Director.

PART B: COMPLAINTS

1. Employees must file a written complaint with the Director or designee within 90 calendar days following the alleged discriminatory act or the date on which the Complainant first knew or reasonably should have known of such act. All such complaints must be submitted on the forms provided by the University at Albany (see **APPENDIX C**). This form will be used for both the initiation of complaints under the informal procedure and the conversion of the complaint to the formal procedure.

Students must file a complaint within 90 calendar days following the alleged discriminatory act or 90 calendar days after a final grade is received, for the semester during which the discriminatory acts occurred, if that date is later.

2. The complaint shall contain:
 - (a) The name, local and permanent address(es), and telephone number(s) of the Complainant.
 - (b) A statement of facts explaining what happened and what the Complainant believes constituted the unlawful discriminatory acts in sufficient detail to give each Respondent reasonable notice of what is claimed against him/her. The statement should include the date, approximate time and place where the alleged acts of unlawful discrimination or harassment occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred as well as detailed information about the prior acts. The names of any potential witnesses should be provided.
 - (c) The name(s), address(s) and telephone number(s) of the Respondent(s), i.e., the person(s) claimed to have committed the act(s) of unlawful discrimination.
 - (d) Identification of the status of the persons charged whether faculty, staff, or student.

- (e) A statement indicating whether or not the Complainant has filed or reported information concerning the incidents referred to in the complaint with a non-college official or agency, under any other complaint or complaint procedure. If an external complaint has been filed, the statement should indicate the name of the department or agency with which the information was filed and its address.
- (f) Such other or supplemental information as may be requested.

IT IS THE COMPLAINANT'S RESPONSIBILITY TO BE CERTAIN THAT ANY COMPLAINT IS FILED WITHIN THE 90 DAY PERIOD THAT IS APPLICABLE UNDER THIS PARAGRAPH.

- 3. If the Complainant brings a complaint beyond the period in which the complaint may be addressed under these procedures, the Director may terminate any further processing of the complaint, refer the complaint to University Counsel or direct the Complainant to an alternative forum (see **APPENDIX B** for a list of alternative forums).

PART C: INFORMAL COMPLAINT RESOLUTION PROCEDURE

- 1. If a Complainant elects to have the matter dealt with in an informal manner, the Director or designee will attempt to reasonably resolve the problem to the mutual satisfaction of the parties.
- 2. In seeking an informal resolution, the Director or designee shall attempt to review all relevant information, interview pertinent witnesses, and bring together the Complainant and the Respondent, if desirable. If a resolution satisfactory to both the Complainant and the Respondent is reached within 30 calendar days from the filing of the complaint, through the efforts of the Director or designee, the Office of Diversity and Affirmative Action (ODAA) shall close the case, sending a written notice to that effect to the Complainant and Respondent. The written notice, a copy of which shall be attached to the original complaint form in the ODAA file, shall contain the terms of any agreement reached by Complainant and Respondent, and shall be signed and dated by the Complainant and the Respondent (see **APPENDIX D - MEMORANDUM: STATUS – RESOLVED** for the appropriate form).
- 3. If the Director or designee is unable to resolve the complaint to the mutual satisfaction of the Complainant and Respondent within 30 calendar days from the filing of the complaint, the Director or designee shall so notify the Complainant. The Director shall again advise the Complainant of his or her right to proceed to the next step internally and/or the right to separately file with appropriate external enforcement agencies.

The time limitations set forth above in paragraphs 2 and 3 may be extended by mutual agreement of the Complainant and Respondent with the approval of the Director, or by the Director for good cause shown. Such extension shall be confirmed in writing by the Complainant and Respondent.

- 4. At any time, subsequent to the filing of a complaint, the Complainant may elect to proceed as specified in Part D of this document and forego the informal resolution procedure.

PART D: THE FORMAL COMPLAINT RESOLUTION PROCEDURE

1. The formal complaint resolution procedure is commenced by the filing of a complaint form as described in Part B.
2. If the Complainant first pursued the informal complaint resolution procedure and subsequently wishes to pursue a formal complaint, he/she may do so by checking the appropriate box, and signing and dating the complaint form.
3. Upon receipt of a complaint, the Director or designee will provide an initialed, signed, date-stamped copy of the complaint to the Complainant. As soon as reasonably possible after the date of filing of the complaint, the Director or designee will mail a notice of complaint and a copy of the complaint to the Respondent(s). Alternatively, such notice with a copy of the complaint may be given by personal delivery, provided such delivery is made by the Director or designee and, that proper proof of such delivery, including the date, time and place where such delivery occurred is entered in the records maintained in the ODAA.
4. Within 10 calendar days of receipt of the complaint, the Director shall send notification to the Complainant, the Respondent and the President or designee, that a review of the matter shall take place.
5. The Director or designee shall review all relevant information, interview pertinent witnesses and, at their discretion, hear testimony from the Complainant and the Respondent. Both the Complainant and the Respondent(s) shall be entitled to submit written statements or other relevant and material evidence and to provide rebuttal to the written record compiled by the Director or designee.
6. Within 60 calendar days from the filing of the complaint the Director shall prepare a summary of his/her findings and recommendations to the President or designee for resolution. The summary shall identify the facts upon which the findings were based. If the President is the Respondent, the findings and recommendation shall be submitted to the Chancellor or designee. When the Director transmits the findings and recommendation to the President or designee, she/he shall transmit, concurrently, copies to the Complainant and Respondent.
7. Within 30 calendar days of receipt of the written summary and recommendations, the President or designee shall issue a written statement to the Complainant and Respondent, indicating what action the President proposes to take. The action proposed by the President or designee, may consist of:
 - (a) A determination that the complaint was not substantiated.
 - (b) A determination that the complaint was substantiated.
 - (i) For Employees (including student employees) not in a Collective Bargaining Unit - The President may take such administrative action as he/she deems appropriate under his/her authority as the chief administrative officer of the college, including but not limited to termination, demotion, reassignment, suspension, reprimand, or training.

(ii) For Students - The President may determine that sufficient information exists to refer the matter to the student judiciary or other appropriate disciplinary panel for review and appropriate action under the appropriate student conduct code.

(iii) For Employees in Collective Bargaining Units - The President may determine that sufficient information exists to refer the matter to his/her designee for investigation and disciplinary action or other action as may be appropriate under the applicable collective bargaining agreement.

For employees (including student employees) not in a Collective Bargaining Unit the action of the President shall be final.

8. If the President is the Respondent, the following procedure shall be followed:

Within 10 business days of receipt of the complaint, the Director shall send notification to the Complainant, the Respondent and the Chancellor, or designee, that a review of the matter shall take place by a Tripartite Panel to be selected by the Complainant and the Respondent from a pre-selected pool of eligible participants (see **Appendix E**).

9. The Tripartite Panel shall consist of one member of the pre-selected pool chosen by the Complainant, one member chosen by the Respondent and a third chosen by the other two designees. The panel members shall choose a Chair among themselves. Selection must be completed and written notification of designees submitted to the Director no later than 10 business days after the Complainant, the Respondent and the Chancellor received notice under Paragraph 8 above.
10. In the event that the procedural requirements governing the selection of the Tripartite Panel are not completed within 10 business days after notification, the Director shall complete the selection process.
11. The Tripartite Panel shall review all relevant information, interview pertinent witnesses and shall hear testimony from the Complainant and the Respondent. Both the Complainant and the Respondent(s) shall be entitled to submit written statements or other relevant and material evidence and to provide rebuttal to the written record compiled by the Tripartite Panel.
12. Within 60 calendar days from the completion of selection of the Panel, the Chairperson of the Tripartite Panel shall submit a summary of its findings and the Panel's recommendation(s) for resolution to the Chancellor, or designee. The summary shall identify the facts upon which the findings were based. When the Panel transmits the findings to the Chancellor, or designee, the Panel shall transmit, concurrently, copies to the Complainant, Respondent and the Director.
- The Chancellor or his designee shall issue a written statement to Complainant and Respondent indicating what action the Chancellor proposes to take. The Chancellor's decision shall be final for purposes of this discrimination procedure.
13. No later than 10 calendar days following issuance of the statement by the President or the Chancellor, as the case may be, the Director shall issue a letter to the Complainant and to the Respondent(s) advising them that the matter, for purposes of this discrimination procedure, is closed.

The time limitations set forth above in paragraphs 4, 6, 7, 8, 9, 10, 12 and 13 may be extended by mutual agreement of the Complainant and Respondent with the approval of the Director, or by the Director, the President, or the Chancellor as the case may be, for good cause shown. Such extension shall be confirmed in writing.

14. If the Complainant is dissatisfied with the President's or Chancellor's decision, the Complainant may elect to file a complaint with one or more State and Federal agencies. The Director will provide general information on State and Federal guidelines and laws, as well as names and addresses of various enforcement agencies (see **APPENDIX B**).

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06/25/2003

APPENDIX A

DEFINITIONS AND PROHIBITED ACTS AND BEHAVIORS

Sexual Harassment in the Employment Setting is defined as:

Unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

- Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment.
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant.
- Such conduct is intended to interfere, or results in interference, with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual Harassment in the Educational Setting is defined as:

Unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the educational institution's program.

Harassment on the Basis of Protected Characteristic(s) other than Sex/Gender

Harassment based on race, color, age, religion, national origin, disability, sexual orientation or other protected characteristics is oral, written, graphic or physical conduct relating to an individual's protected characteristics that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities.

APPENDIX B EXTERNAL ENFORCEMENT AGENCIES

New York State Division of Human Rights

State Headquarters

New York State Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, New York 10458
Tel: (718) 741-8400
Fax: (718) 741-3214

Albany

New York State Division of Human Rights
Empire State Plaza, Agency Building #2
18th Floor
Albany, New York 12220
Tel: (518) 474-2705
Fax: (518) 473-3422

Office of Sexual Harassment

New York State Division of Human Rights
Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, New York 11217
Tel: (718) 722-2060 or 1-800-427-2773
Fax: (718) 722-4525

Office of AIDS Discrimination

New York State Division of Human Rights
Office of AIDS Discrimination
20 Exchange Place, 2nd Floor
New York, New York 10005
Tel: (212) 480-2522 or 1-800-522-4369
Fax: (212) 480-0143

United States Department of Labor

Office of Federal Contract Compliance Programs

201 Varick Street, Room 750
New York, NY 10014
Tel: (212) 337-2006
Fax: (212) 620-7705

United States Department of Labor (continued)

Office of Federal Contract Compliance Programs

New York District Office

26 Federal Plaza, Room 36-116
New York, NY 10278-0002
Tel: (212) 264-7742
Fax: (212) 264-8166

New York State Department of Labor

State Campus, Building 12, Room 500
Albany, NY 12240-0003
Tel: (518) 457-2741
Fax: (518) 457-6908

United States Equal Employment Opportunity Commission

EEOC National Headquarters
1801 L. Street, N. W.
Washington, D. C. 20507
Tel: (202) 663-4900
Fax: (202) 663-4912

EEOC Field Office
6 Fountain Plaza, Suite 350
Buffalo, New York 14202
Tel: (716) 551-4441
Fax: (716) 551-4387

Office for Civil Rights

OCR National Headquarters
U. S. Department of Education
Office of Civil Rights, Customer Service Team
Mary E. Switzer Building
330 C. Street, S. W.
Washington, D. C. 20202
Tel: (800) 421-3481
Fax: (202) 205-9862

Office for Civil Rights, New York Office
75 Park Place, 14th Floor
New York, NY 10007-2146
Tel: (212) 637-6466
Fax: (212) 264-3803

APPENDIX C

CHARGE OF DISCRIMINATION COMPLAINT FORM

This form is to be used by students and employees to file a complaint of discrimination based on RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, SEXUAL ORIENTATION, VETERAN'S STATUS, AGE, DISABILITY, and MARITAL OR PARENTAL STATUS OR SEXUAL HARASSMENT.

(PLEASE PRINT OR TYPE) RECEIVED BY _____ DATE _____

1. Name _____

Phone No. _____

Campus Address _____

Status _____

(Faculty, Staff, Graduate, Undergraduate)

Home Address _____

City _____

State _____ Zip Code _____

2. ALLEGED DISCRIMINATION IS BASED ON (please check all that apply):

<input type="checkbox"/> Race or color	<input type="checkbox"/> Religion	<input type="checkbox"/> National Origin
<input type="checkbox"/> Sexual orientation	<input type="checkbox"/> Veteran's Status	<input type="checkbox"/> Sex
<input type="checkbox"/> Age	<input type="checkbox"/> Disability	<input type="checkbox"/> Marital/Parental Status
<input type="checkbox"/> Sexual Harassment		

3. Alleged Discrimination took place on or about: _____ month _____ day _____ year

Check if alleged discrimination is continuing ☐ Yes ☐ No

4. Respondent(s) Name(s) _____

Title (if known) _____

5. Please check the appropriate box(es):

[] I have filed a complaint on _____
Date

[] I elect to utilize the informal complaint resolution procedure as described
in Part C, paragraph 4 of the Internal Discrimination Procedure.

[] I elect to proceed immediately to the formal complaint resolution procedure
as described in Part D, paragraph 4 of the Internal Discrimination Procedure.

6. Have you filed this charge with a federal, state or local government agency?

[] Yes [] No

If yes, with which agency? _____

When? _____

7. Have you instituted a suit or court action on this charge?

[] Yes [] No

If yes, with which court? _____

When? _____

Court address _____

Contact person _____

8. Describe briefly the act which occurred and your reason for concluding that it was
discriminatory (see COMPLAINT PROCEDURE, PART B: COMPLAINTS, 2.(b)) Attach extra
sheets if necessary.

9. I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Signature: _____

Date _____