



STUDENT CONDUCT POLICY AND PROCEDURES

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POLICY STATEMENT

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

Students are expected to:

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

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

SCOPE

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

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

COLLEGE REGULATIONS

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

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

7. Unauthorized entry, use, or occupation of college facilities or the unauthorized use or possession of college equipment.
 8. Illegal purchase, use, possession or distribution of alcohol, drugs, or other controlled substances.
 9. Failure/refusal to comply with a reasonable request from a college official acting within the scope of his/her duties.
 10. Unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons, or hazardous materials.
 11. Interference with or misuse of fire alarms, elevators, or other safety and security equipment or programs, including but not limited to initiating, or causing to be initiated, any false report, warning or threat of fire, explosion or other emergency.*
 12. Violation of a condition or sanction imposed (or agreed upon) due to a violation of the policy on student conduct.
 13. Violation of any federal, state or local law that poses a threat to the health, safety or well being of the college or its individual members.
- * See Empire State College Firearms policy

RIGHTS OF THE PARTIES

Students are entitled to equal care and fairness in the application of the policy on student conduct. A student accused of a breach of student conduct and others in the college community have equally important interests. Thus, the college takes into account the interests of all parties in order to reach a fair resolution.

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

CONSIDERATION OF INFORMATION

In both formal and informal investigations of complaints and concerns, the college may review and consider relevant information about prior complaints and their outcomes and informal steps toward changing the behavior. The college will not include information about conduct complaints for which a student was found not responsible.

INTERIM SUSPENSION

1. Interim suspension is used only in the following circumstances:
 - To ensure the safety and well-being of members of the community or preservation of college property or;
 - To ensure the student's own physical or emotional safety and well-being;
 - If the student poses a definite threat of disruption of or interference with the normal operations of the college
2. The dean or provost's designee may place a student on interim suspension upon making a determination that such an action is necessary to maintain safety and order. The dean or provost's designee normally consults with the provost and/or judicial officer before taking such action. The interim suspension remains in effect until responsibility and sanctions have been determined and any appeals have been resolved.
3. Upon placing the student on interim suspension, the dean or provost's designee immediately forwards a formal complaint to the judicial officer. Consequently, the dean or provost's designee is a party to the

complaint.

4. The judicial officer assembles a student conduct committee as outlined and conducts the hearing within 15 calendar days of the notice to the student of the interim suspension.

5. A student placed on interim suspension may request reconsideration in writing to the dean or provost's designee. The student must provide evidence that s/he is not a risk to safety and order. The dean or provost's designee reviews the request and considers the information the student provides. If the dean or provost's designee reconsiders and sustains the suspension, the student may appeal to the Provost.

INFORMAL RESOLUTION

Center, program and functional staff (financial aid, student accounts, business services, admissions, etc) are expected to resolve issues around student behavior informally through discussion and advisement before moving to formal complaints. Any resolution reached through this process is binding. Staff summarize in writing both informal resolutions reached with student and attempts to resolve issues informally and send that summary to the student and any other relevant parties. In some cases, it is appropriate to move directly to a formal complaint.

FORMAL COMPLAINTS

The office of Academic Affairs is responsible for administering formal student conduct procedures. A staff member within the office of academic affairs serves as the college's judicial officer.

The college uses the procedures that follow only if there is a formal allegation of a breach of student conduct as defined in this policy. The procedures support investigation of alleged misconduct and hearings are an extension of that investigation and not trials.

The college's standard for finding a student responsible for a violation of the policy on student conduct is that there is a preponderance of evidence supporting the complaint.

There are three possible formal sanctions. The sanctions of expulsion and suspension result in a loss of good standing with the college. Repeated violations may be a basis for determining that a sanction of suspension or expulsion from the college is warranted.

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

Suspension: A student who is suspended from the college is excluded from all college activities, functions, facilities and buildings and may not use any college resources for the period of the suspension. The student is restored to good standing at the end of the suspension period.

Written Warning: A written warning describes the breach of conduct and directs the student not to repeat the conduct in question. A written warning indicates that the student has damaged his or her relationship with the college, but does not carry a loss of good standing. A written warning issued for a breach of conduct will be reviewed when considering any future breaches of conduct.

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

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

PROCEDURES

Formal Complaint

Any member of the college community may file a complaint alleging a breach of student conduct. The complainant(s) submits a signed, written complaint to the judicial officer within 30 calendar days of the occurrence of the event or discovery thereof. The complaint must describe the alleged violation and include any available documentation/information. The complaint may include information about previous behavior that demonstrates a recurrent pattern of behavior that is relevant to the current conduct violation. In the initial review, (described below) the judicial officer determines if the college will charge the accused with a violation of the conduct policy.

Given the role of the judicial officer in resolving behavioral concerns, the judicial officer is often aware of the full range of a student's behavior across the college and may be the most knowledgeable. Consequently, the judicial officer may initiate formal proceedings based on her/his knowledge of the student's behavior. If there is a conflict of interest the judicial officer may excuse herself/himself and the provost will appoint an alternate judicial officer.

Initial Review

The judicial officer first determines if there are grounds for the allegation and whether the allegation falls within the scope of the policy on student conduct.

1. If the judicial officer determines that the allegation is groundless or the alleged violation does not fall within the scope of this policy, the judicial officer so notifies the complainant in writing.
2. If the judicial officer determines the allegation falls within the scope of this policy, s/he determines whether a formal or informal process should be followed. If the judicial officer decides that a formal process is required, then the judicial officer charges the student with a violation of the student conduct policy.

Informal Resolution

The judicial officer may address the concern through discussion with the student or other appropriate means and make an effort to resolve the matter informally. The formal process is followed if the judicial officer determines that the informal process is insufficient or inappropriate.

Formal Process

1. If the judicial officer determines that the alleged violation does not potentially warrant a sanction of suspension or expulsion from the college, but still warrants formal action, the next step is a review conference with the student.
2. If the judicial officer determines that the alleged violation is serious enough to potentially warrant a sanction of suspension or expulsion from the college, the next step is referral to the Student Conduct Committee for a hearing. Repeated violations may be a basis for determining that a referral must be made to the Student Conduct Committee

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

Review Conference

1. The review conference includes the judicial officer and the student who has been charged with a violation and may take the form of a meeting, phone conference or videoconference. The conference usually takes place within 15 calendar days of the written notice to the student.
2. In the review conference, the judicial officer reviews the allegation and the college's policy on student conduct with the student and gives the student an opportunity to respond. The judicial officer may consult with others, as she/he deems necessary.
3. The judicial officer makes a determination about the allegation and may:
 - a. Determine that the student is not responsible.
 - b. Determine that the student is responsible and resolve the issue administratively by mutual consent of the parties in a way that is acceptable to the judicial officer.
 - c. Redefine the alleged violation as potentially warranting a sanction of suspension or expulsion from the college, and refer the case to the Student Conduct Committee for a hearing.
 - d. Determine that the student is responsible for a violation for which a written warning is appropriate. In this case, the administrator may impose the sanction of a written warning.
4. The judicial officer provides a written summary of the issue and its disposition to the student, the complainant and the student's home center or program dean, and maintains a copy for the college's records.
5. The judicial officer copies all correspondence arising from the review conference to the student's home center dean, the provost/VPAA and to relevant parties as appropriate.
6. The judicial officer is responsible for producing and maintaining an accurate record of the review conference.

Student Conduct Committee

1. A Student Conduct Committee (SCC) considers alleged violations of the policy on student conduct that may warrant a sanction of suspension or expulsion from the college.
2. A SCC consists of three members, at least one Empire State College faculty member, one student service professional and if possible one Empire State College student. If a student is not available another faculty member will be added. The Office of Academic Affairs establishes and maintains a list of faculty and student service professionals trained to conduct hearings. One member of the group of trained faculty and professionals serves as convener.
3. The judicial officer identifies a conduct committee for a particular case and establishes a faculty or staff member of the committee as the hearing officer.
4. If a member of the SCC is a party to a complaint or has a conflict of interest, he or she excuses himself or herself. The judicial officer identifies a substitute member who is not involved in the case replaces the original member.

Student Conduct Hearing

1. A SCC hearing takes place within 30 calendar days of the referral, not counting college no-appointment periods. The hearing may take the form of a meeting, conference call or videoconference, at the discretion of the SCC.
2. The SCC is responsible for conducting a fair hearing of the facts and relevant information.
3. The hearing officer is responsible for procedural decisions, correspondence, and coordinating and chairing the hearing.
4. The judicial officer serves as advisor to the hearing officer; either may designate additional staff support for the hearing.
5. Each party has the right to have an advisor at a SCC hearing, but advisors may not question witnesses, address the SCC or participate directly in the hearing.
6. Each party has the right to refuse to answer questions.

7. The hearing officer must require all witnesses to swear or affirm that the information they provide will be truthful.
8. A single, verbatim record (e.g., transcript or recording) is made of the hearing. It and any copies made for safekeeping remain the property of the college. The college provides supervised, post-hearing access to the record, but does not provide copies to the parties.
9. The SCC is responsible for obtaining and reviewing any supporting documentation it deems necessary from the student, the complainant and/or others.
10. Following the hearing, the SCC deliberates in closed session.
11. The SCC is responsible for determining whether the student violated the policy on student conduct and for determining an appropriate sanction. The SCC may:
 - a. Determine that the student is not responsible.
 - b. Determine that a violation has occurred which does not warrant even a written warning sanction, and refer the case back to the judicial officer for resolution through a review conference.
 - c. Determine that the student has violated the policy on student conduct and decide on a sanction of expulsion, suspension or written warning. Since alleged violations are referred to the SCC only when a sanction of suspension or expulsion from the college is potentially warranted, an SCC finding of misconduct normally results in a decision for either of those two sanctions. However, the SCC may decide upon the lesser sanction of a written warning.
12. The SCC transmits its written decision and rationale to student, the complainant, the student's home center or program dean and the judicial officer within 15 calendar days of the hearing. The SCC also transmits the verbatim record of the hearing session to the judicial officer within 15 calendar days of the hearing.

Sanctions and Imposition of Sanctions

The judicial officer is responsible for implementing any sanction for misconduct within seven calendar days of the SCC decision. The judicial officer provides a written notice to the student, the complainant and the dean of the student's home center or program, and maintains a copy for the college's records.

Appeals

1. The student has the right to appeal a decision by the judicial officer or by the SCC to the provost/vice president for academic affairs. Such appeals are not a rehearing of the complaint; rather, they provide a safeguard against errors or unfairness. The student may appeal the determination of responsibility, the sanction or both.
2. Appeals are considered on one or more of the following grounds:
 - a. Significant new information not available at the time of the hearing /decision,
 - b. Information/documentation presented at the hearing /decision that was disregarded,
 - c. Substantive procedural violation that may have altered the outcome of the hearing/decision, or
 - d. Imposition of an unreasonable sanction.
3. The student must submit any appeal in writing to the provost/vice president for academic affairs (provost/VPAA) within 30 calendar days of transmittal of the decision and must include an explanation or justification for the appeal.
4. The provost/VPAA notifies other parties in the case within seven calendar days of receipt of an appeal. Those parties normally provide any written response within 15 calendar days. The provost/VPAA normally provides a written decision and rationale within seven calendar days of receipt of responses to the appeal. The provost/VPAA's decision is final.
5. If the student files a timely appeal, no sanction is imposed until the provost/VPAA renders a decision, except that an interim suspension imposed to maintain safety and order remains in effect.

Maintaining Records

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

REVIEW OF POLICIES AND PROCEDURES

Changes to this policy are subject to approval by the appropriate governance bodies, the college president and the College Council. The provost/vice president for academic affairs approves procedural changes.

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