

SUNY Orange CODE OF STUDENT CONDUCT

ARTICLE I: STATEMENT OF PURPOSE

Orange County Community College Board of Trustees, administration, faculty, and staff have a primary concern for the academic achievement, standards, and personal integrity of our students. We recognize our obligation to protect college property and we take a special interest in the mental and physical health and safety of our community. We are committed to preserving the peace, uplifting campus morale, and creating a civil climate on our campuses. The College has adopted the following policies and procedures as an expression of its expectations of student conduct.

ARTICLE II: CODE OF STUDENT CONDUCT

SECTION A: Jurisdiction of the College

College jurisdiction shall be limited to conduct which occurs on College premises or which occurs off College premises and adversely affects members of the College community and/or the pursuit of the College mission.

SECTION B: Conduct – Rules and Regulations

Any student or organization found to have committed or to have attempted to commit any of the following acts of misconduct is subject to the disciplinary sanctions outlined in Article IV.

1. Acts of dishonesty, including, but not limited to:
 - a) Cheating, including cyber-cheating
 - b) Fabrication
 - c) Facilitating academic dishonesty
 - d) Plagiarism, including internet plagiarism
 - e) Forgery
 - f) Bribery
 - g) Multiple submission (submitting the same assignment to more than one instructor without the permission of the instructors). Please refer to the College Academic Policy for other means of resolution for academic dishonesty issues.
2. Violation of any provisions of the professional and/or ethical codes of programs in the fields of Allied Health, Nursing, Lab School or any other applicable programs.
3. Interference with the College approved operation of any College recognized student organization.
4. Disorderly conduct, including but not limited to: disruption or obstruction of teaching, research, administration, disciplinary proceedings, other College activities, and other campus activities.
5. Conduct which alarms, threatens or in some manner disrupts the learning process of another student and/or the ability of faculty to teach.
6. Physical abuse, verbal abuse, threats, intimidation, stalking, coercion and/or other conduct which threatens or endangers the health, well-being or safety of any person.
7. Sexual misconduct (see the following section: Sexual Violence Response Policy).

8. Harassment which serves to degrade the status of another person. Most often, harassment focuses on a personal attribute, singling it out for ridicule, attack or disparagement. Attributes include, but are not limited to: race or ethnic origin, gender, physical or mental disability, age, religion, economic class, and sexual orientation. Harassment may include physical contact, written or verbal comments or suggestions, obscene or offensive pictures or “jokes,” hostile or threatening gestures or other forms of degradation. This includes acts of harassment carried out by one or more students on behalf of and/or at the request of another student.
9. Theft of and/or damage to property of the College, property of a member of the College community, or other personal or public property.
10. Hazing, which is an act which endangers the mental or physical health or safety of a student, or involves the forced consumption of liquor or drugs, or which destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Consent of the participants is not a defense against a complaint of hazing.
11. Failure to comply with directions of a College employee or emergency or service personnel acting in performance of their official duties.
12. Failure to identify oneself to a College employee or emergency or service personnel acting in performance of their official duties when requested to do so.
13. Unauthorized possession, duplication or use of keys, combinations, or access cards to any College premises or unauthorized entry to or use of College property.
14. Violation of published College policies, rules or regulations found in, but not limited to, the Student Handbook, the Rights and Responsibilities booklet, Parking and Traffic Regulations, Individual Department Handbooks, Academic Policy, and the College Catalog.
15. Use, possession or distribution of illegal drugs, narcotics or other controlled substances, and drug-related paraphernalia, except as permitted by federal, state and/or local law.
16. Public intoxication or the use, possession or distribution of alcoholic beverages except as expressly permitted by federal, state and/or local law and College regulations (see the College Alcohol Policy).
17. Possession of firearms, explosives, or other weapons, or unauthorized use of dangerous chemicals or substances on College premises.
18. Participation in a campus demonstration which disrupts the normal operations of the College and infringes on the rights of other members of the College community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
19. Intentional obstruction of the free flow of pedestrian or vehicular traffic on College premises or at College sponsored or supervised functions.
20. Conduct which is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on College premises or at functions sponsored by, or participated in, by the College.
21. Theft or other abuse of computer resources, including, but not limited to:
 - a) Commercial use of computing resources;
 - b) Data interception;
 - c) Forgery;

- d) Willfully engaging in practices that place undue burdens on college resources (ie. Spamming);
 - e) Engaging in or disseminating illegal, obscene, threatening, discriminating, fraudulent, defamatory, intimidating, harassing, embarrassing or unwelcome electronic communication;
 - f) Copying, modifying or destroying college network or internet-based files; and,
 - g) Accessing or attempting to access the college network or internet resources for which the user is not authorized or granted explicit permission.
22. Abuse of the judicial system, including but not limited to:
- a) Failure to comply with the directive to appear before a hearing panel or disciplinary conference administrator after having received appropriate notification of such a directive.
 - b) Falsification, distortion, or misrepresentation of information before a hearing panel or disciplinary conference administrator.
 - c) Disruption or interference with the orderly conduct of a judicial proceeding.
 - d) Knowingly instituting a judicial proceeding without cause.
 - e) Influencing or attempting to influence another person to commit an abuse of the judicial system.
 - f) Attempting to discourage an individual's proper participation in, or use of, the judicial system.
 - g) Attempting to influence the impartiality of a member of a hearing panel or of a disciplinary conference administrator prior to and/or during the course of a judicial proceeding.
 - h) Harassment (verbal or physical) and/or intimidation of any person involved in a judicial proceeding.
 - i) Failure to comply with a sanction imposed under the Student Rights and Responsibilities.
 - j) Failure to comply with an agreed upon informal resolution.
23. Engaging in gambling activities defined as illegal by federal, state or local law and/or by College regulations.
24. Behavior prohibited by federal, state and/or local laws.

ARTICLE III: JUDICIAL PROCEDURES

SECTION A: Complaints and Hearings

1. Any member of the College community may file a complaint against a student for allegedly violating the Code of Conduct. The person who files the complaint shall be the Complainant. The student alleged to have violated the Code of Conduct shall be the Respondent.
2. All complaints shall be prepared in writing and directed to the Vice President for Student Services. If the incident occurs on the Newburgh campus, the Vice President for the Newburgh Campus will be notified and receive copies of all documents pertaining to alleged violations of the Code of Conduct occurring on the Newburgh campus and may initiate such action with the Vice President for Student Services. A complaint shall contain;
 - a) The identity of the Complainant, the Respondent;
 - b) The specific element(s) of the Code of Conduct alleged to have been violated;

- c) The date, time and place of the alleged violation(s); and,
- d) The names of any witnesses.
- 3. Complaints should be submitted as soon as possible, but in no event later than 30 days, after the violation occurs. A complaint may be filed after 30 days only when the Vice President for Student Services finds special circumstances exist that warrant a late filing. Incident/security reports may be considered complaints and filed with the Vice President for Student Services, in which case the College may be considered the Complainant.
- 4. The Vice President for Student Services shall determine if the alleged conduct may constitute a violation of the Code of Conduct. If so, the case shall proceed for adjudication.

SECTION B: Informal Resolution

- 1. Filing a complaint shall not always require a formal adjudication process. In the event that the Vice President for Student Services elects to seek an informal resolution, he/she will review all relevant information, interview pertinent witnesses, and bring together the Complainant and Respondent, if desirable.
- 2. Resolution shall be achieved when the Vice President for Student Services, Complainant and Respondent are satisfied that the behavior at issue has been addressed and a mutually acceptable outcome has been achieved. The resolution shall be reduced to writing by the Vice President for Student Services or designee and mailed to the parties.
- 3. Respondent's failure to respond to a request by the Vice President for Student Services or designee's request to participate in an informal resolution may result in a letter to the Respondent warning the Respondent that failure to respond may result in referral of the complaint to the Board of Inquiry for a hearing.
- 4. At the informal stage, resolution of an incident occurring on the Newburgh campus will be achieved when the Vice President for Student Services, the complainant, the respondent, and the Vice President for the Newburgh Campus are satisfied that the behavior at issue has been addressed, and when an outcome acceptable to both the Vice President for Student Services and the Vice President for the Newburgh Campus has been achieved.
- 5. If the Vice President for Student Services is unable to resolve the complaint to the mutual satisfaction of the Complainant and the Respondent, the Vice President for Student Services shall advise the Complainant of his/her right to proceed formally.

SECTION C: Formal Adjudication

- 1. If the complaint is to be adjudicated using formal procedures, the Vice President for Student Services shall convene the Board of Inquiry to act as the hearing panel.
- 2. All complaints to be adjudicated by the Board of Inquiry shall be presented to the Respondent in written form.
- 3. No student may be found responsible for the alleged violation of the Code of Conduct solely because the student failed to appear before a hearing panel, however, the hearing will proceed as scheduled if the Respondent fails to attend. In all cases, the evidence in support of the complaint shall be presented and considered.
- 4. As the Board of Inquiry does not meet during the summer months, all alleged violations of the Code of Conduct during that time period shall be resolved by the Vice President for Student Services through informal resolution. If informal resolution fails, the case will

be referred to an alternate Board of Inquiry composed of faculty, staff and students as available.

5. During the disciplinary process, the victim's rights are:
 - a) To have a person or persons of the victim's choice accompany the victim throughout the disciplinary hearing
 - b) To remain present during the entire proceeding
 - c) As established in state criminal codes, to be assured that his/her irrelevant past sexual history will not be discussed during the hearing
 - d) To make a "victim impact statement" and to suggest an appropriate penalty if the accused is found in violation of the code
 - e) To be informed immediately of the outcome of the hearing
 - f) During the disciplinary process, the rights of the "accused" are as described under the Due Process Procedure of the College Judicial System

SECTION D: Hearing Procedures

The following procedures apply when a complaint has been directed by the Vice President for Student Services to the Board of Inquiry, which will serve as the hearing panel.

1. Composition of the Board of Inquiry-The Board of Inquiry is composed of seven members; four students appointed by the Student Senate, and three faculty members appointed by the College Governance System. One of these faculty members shall be designated as the Chair of the Board of Inquiry. The College Governance System shall appoint alternate faculty members and the Student Senate shall appoint alternate student members.
2. Advisors-The Complainant and Respondent may only be advised by one current faculty or staff member of Orange County Community College. (except in cases of sexual violence; see section regarding Sexual Misconduct). Family members and other individuals may not serve as advisors and may not be present during the hearing. The Complainant and Respondent may not appear by or be represented by an attorney and no attorneys may be present at any time during a hearing.
3. Scheduling the Hearing-Absent exigent circumstances, or unless the student and the College otherwise agree in writing, a hearing shall be scheduled to take place not more than fifteen (15) business days after the Respondent has been notified of the complaint.
4. Attendance-The hearing shall be closed and attendance shall be limited to members of the Board of Inquiry, the Judicial Advisor, the Complainant, the Respondent, their respective advisors, and any witnesses deemed necessary by the parties.
5. Role of Panel Chair-The chair of the hearing panel shall preside over the hearing. All procedural questions shall be subject to the final direction and discretion of the chair. The chair of the hearing panel shall introduce members of the hearing panel and ask all hearing participants to identify themselves. All testimony and questioning shall be at the direction and the discretion of the chair. The chair may limit or exclude testimony or questioning of any hearing participant to the extent that such testimony or questioning is repetitive of matters previously presented or is not relevant to the incident in question. The chair may recess the hearing at any time.
6. Role of Judicial Advisor-The Judicial Advisor shall be available to the hearing panel for consultation regarding procedural elements any time during the hearing. The Judicial Advisor may request that the chair recess the hearing at any time.

7. Hearing Procedures-All hearings shall contain the following elements:
 - a) The chair shall make opening remarks.
 - b) The Complainant shall have the opportunity to present a statement about the incident in question. The Respondent shall then have the opportunity to present a statement about the incident in question.
 - c) After the statements by the Complainant and the Respondent, members of the hearing panel shall have the opportunity to question both the Complainant and the Respondent. The Complainant and the Respondent shall have the opportunity to question each other. Only questions relevant to the alleged incident, and not repetitive to the hearing panel's questioning, shall be allowed.
 - d) The Complainant shall be offered the opportunity to present relevant evidence and witnesses one at a time. Members of the hearing panel shall have the opportunity to ask questions at the conclusion of each witness's testimony. The Complainant and the Respondent shall have the opportunity to question the witness at the conclusion of each witness's testimony. The chair shall permit witnesses to be present in the hearing room only during their testimony.
 - e) The Respondent shall be offered the opportunity to present relevant evidence and witnesses one at a time. Members of the hearing panel shall have the opportunity to ask questions at the conclusion of each witness's testimony. The Complainant and the Respondent shall have the opportunity to question at the conclusion of each witness's testimony. The chair shall permit witnesses to be present in the hearing room only during their testimony.
 - f) Members of the hearing panel shall have the opportunity to ask final questions. Prior to deliberations, the Complainant and the Respondent shall be asked if they have any other testimony they wish to present.
 - g) After the presentation of all testimony, witnesses and evidence, and subsequent questioning, the chair shall call the board to deliberate. The Complainant, the Respondent, and their advisors shall be excused by the Judicial Advisor. The witnesses shall remain available at the hearing site until dismissed by the board.
8. A record of the proceedings shall be kept, including the evidence presented, documents and other exhibits, witnesses who testified, and the final findings and recommendations of the Board of Inquiry and the members' votes.

SECTION E: Deliberations

1. Normally, deliberations shall be carried out and completed as soon as practical following the hearing. Deliberations shall take place in private, with only the members of the hearing panel present. The Judicial Advisor shall be available to the hearing panel during the deliberations for consultation regarding the hearing procedure. During the sanctioning phase of the deliberations, the Judicial Advisor shall provide information regarding any previous judicial action involving the Respondent.

SECTION F: Findings of Fact and Recommendations

1. Upon hearing all testimony, witnesses and evidence and after deliberations, the hearing panel shall either dismiss the complaint or find that the Respondent violated the Code of Conduct.
2. Findings that the Respondent violated the Code of Conduct shall be made on the basis of whether it is more likely than not that the Respondent violated the Code of Conduct.

3. A Respondent shall be presumed not responsible for a violation of the Code of Conduct until it has been demonstrated through credible testimony and evidence that it is more likely than not that the student committed the violation.
4. If the Board of Inquiry determines that the Respondent violated the Code of Conduct, it shall recommend to the Vice President for Student Services a sanction for the violation.
5. Prior to making a recommendation of sanction, the Judicial Advisor shall advise the Board of Inquiry of any previous judicial action taken against the Respondent. The hearing panel may recommend any level or combination of sanctions.
6. The findings of fact and recommendations shall reflect the majority opinion of the Board of Inquiry.

SECTION G: Communication and Implementation of Findings of Fact and Recommendations

1. The written findings of fact and recommendations shall be forwarded to the Vice President for Student Services for action within two business days after the end of the hearing under normal circumstances.
2. The Vice President for Student Services may accept, reject, or modify the Board's recommendation which shall be implemented unless an appeal is filed.
3. The Vice President for Student Services shall communicate his/her decision in writing to the Respondent, the Board of Inquiry, the Judicial Advisor, the Complainant (as appropriate with concern to the Respondent's privacy rights) and any other appropriate College authorities. Under normal circumstances, the Vice President for Student Services shall communicate his/her decision within five days after receipt of the Board of Inquiry's recommendation.

SECTION H: Appeal Procedures

1. The Respondent may file a written appeal to the hearing panel's decision to the President of the College not more than five business days after receiving notification of the decision. Filing shall mean "received in the Office of the President."
2. In the written appeal, it shall be the responsibility of the appellant to provide evidence of one or more of the following grounds for appeal:
 - a) The original hearing was not conducted in conformity with prescribed procedures;
 - b) Insufficiency of the evidence to reasonably support the decision;
 - c) The sanction imposed was unduly harsh for the violation committed;
 - d) Availability of new evidence that was not available at the time of the hearing sufficient to alter the decision.
3. If an appeal is granted by the President, he/she shall have access to the hearing record, including all documentary evidence, the written findings, and any other pertinent written information. After receiving the materials, he/she shall proceed in one of the following manners:
 - a) The President alter the recommended sanction by making it more severe, less severe or otherwise different; or
 - b) The manner may be remanded to the hearing panel for re-opening of the hearing to allow reconsideration of the original determination and/or recommended sanction(s).
4. If an appeal is denied by the President, the decision of the hearing panel shall stand and the recommended sanction(s) shall be imposed.

5. The President shall provide written notification of the appeal decision to the hearing panel, Complainant (when necessary and appropriate), Respondent, the Judicial Advisor, and any other appropriate College authorities.
6. Recommended sanctions shall not be imposed during the pendency of an appeal unless the nature of the conduct under review or the circumstances involved dictate otherwise.

SECTION I: Interim/Involuntary Medical Withdrawal

1. In most cases, a student's status is not altered pending a hearing or an appeal, unless preliminary information reasonably demonstrates that the student's continued presence on campus would:
 - a) pose a threat to the health, safety, or well-being of the student others within the College community, and/or
 - b) threaten to cause a disruption to or interruption of College operations.
2. In the event the student's continued presence poses such threat(s), the Vice President for Student Services or his/her designee may place the student on Interim/Involuntary Medical Withdrawal and deny the student access to the campus including all classes and co-curricular activities, on an interim basis.
 - a) Except in an emergency, the Vice President for Student Services or his/her designee, will communicate with the student prior to instituting Interim/Involuntary Medical Withdrawal stating in writing the terms of the Interim/Involuntary Medical Withdrawal.
 - b) The Vice President for Student Services or his/her designee will review the facts underlying the Interim/Involuntary Medical Withdrawal within five (5) business days of its commencement for the purpose of determining whether to continue the Interim/Involuntary Medical Withdrawal. At a minimum, the review will include:
 - i. an opportunity for the student to meet and confer with the Vice President for Student Services or his/her designee.
 - ii. notice as to the reason(s) for the Interim/Involuntary Medical Withdrawal if not already communicated to the student
 - iii. the opportunity for the student to present his/her version of the events leading up to the imposition of the Interim/Involuntary Medical Withdrawal. The Vice President for Student Services or his/her designee will decide whether to continue the Interim/Involuntary Medical Withdrawal within one (1) business day of the review and will communicate that decision to the student in an appropriate manner.

ARTICLE IV: SANCTIONS

SECTION A: Interim Suspension of Privileges

1. Faculty members retain the right to remove from the classroom (for the duration of that class period) any student demonstrating disruptive behavior. It is the responsibility of the faculty member to report the incident to the Vice President for Student Services and to indicate if they do not want the student to return to class (interim suspension) and the rationale for that request. This request will be acted upon by the Vice President for Student Services or designee prior to the next class session.
2. The Vice President for Student Services may issue an interim suspension of privileges for the following reasons:

- a) To insure the safety and well-being of members of the College community or to preserve College property;
 - b) To insure a student's own safety or well being; or
 - c) If a student poses a threat of disruption or interference with the normal operations of the College.
3. During the interim suspension, a student may be denied access to College activities, facilities and/or classes or other privileges for which the student might otherwise be eligible, as the Vice President for Student Services may determine to be appropriate.
 4. The decision to alter or suspend privileges for an interim period shall be communicated by the Vice President for Student Services in writing to the Respondent and shall be effective immediately. Notification shall either be hand-delivered or sent by certified mail. Failure or refusal to take receipt of notification shall not negate or postpone said action. The appropriate College officials shall be notified of the interim suspension including those directly involved in the pending complaint.
 5. The interim suspension or altered privileges shall remain in effect until a final decision has been made regarding pending complaints or until the Vice President for Student Services determines that the reason for imposing the interim suspension of privileges no longer exists. Absent exigent circumstances, or unless otherwise agreed to by both parties, an expedited hearing shall take place within 10 business days of notification of the interim suspension.

SECTION B: Other Sanctions

1. The following sanctions may be imposed individually or in combination for any violation(s) of the Code of Conduct:
 - a) Warning – A written notice to the student, identifying the nature of the Code of Conduct violation(s). The warning shall be placed in the student's official record.
 - b) Loss of privileges – Revocation of specified privileges for a specified time period (e.g. use of College facilities, co-curricular activities, work study).
 - c) Restitution – Compensation for loss, damage or injury. Restitution may be monetary, an appropriate form of service, or the replacement of specific materials, as dictated by the situation.
 - d) Educational Project – Completion of a project specifically designed to help the student understand why the Code of Conduct violation was inappropriate.
 - e) Probation – A written reprimand for violation of a specified item in the Code of Conduct. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found responsible for violating the Code of Conduct during the probationary period.
 - f) Suspension – Separation from the College for a specified period of time, after which the student is eligible to return or the organization may resume its activities.
 - g) Expulsion – Permanent separation from the College.
 - h) Other sanctions as deemed appropriate by the Associate Vice President for Student Services.
2. The proper College authorities shall be notified of any sanction imposed.
3. Disciplinary sanctions shall be recorded in the student's confidential file maintained in the Office of Student Services.
4. The following sanctions may be imposed upon student clubs or organizations:
 - a) Those sanctions listed above in section B 1, a-f.

- b) Deactivation – Loss of recognition for a specified period of time.

ARTICLE V: WITHDRAWAL AND READMISSION

The Registrar shall be advised of any student who voluntarily withdraws from the College while a complaint is pending. The student must present adequate evidence of permission to re-enroll. Permission for re-enrollment may be granted only after the complaint has been resolved, unless circumstances dictate otherwise. If the complaint cannot be resolved because the complainant, witnesses or evidence are not available, such permission may be denied by the Vice President for Student Services.

ARTICLE VI: INTERPRETATION AND REVISION

- Any question of interpretation regarding the Student Rights and Responsibilities shall be referred to the Vice President for Student Services or designee for final determination.
- The Student Rights and Responsibilities shall be reviewed every three (3) years by the Board of Inquiry, the Vice President for Student Services and the College Attorney. The Ad Hoc Committee on the Code of Student Conduct may also be re-formed at this time to give input.

SUNY Policies on Sexual Violence Prevention and Response

Students' Bill of Rights

The State University of New York and SUNY Orange are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in SUNY Orange programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressures from the institution.;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and

- respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
- Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

Options in Brief:

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention;
- Confidentially disclose a crime or violation by contacting the Wellness Center and speaking with a licensed mental health professional and/or a registered nurse; and
- Anonymously disclose a crime or violation by utilizing the blue light emergency phones or red phones available on campus.

Make a report to:

- An employee with the authority to address complaints, including the Title IX Coordinator or Deputy Coordinators, an employee from the Office of the Vice President for Student Services, or a Human Resources employee;
- Safety and Security;
- Local law enforcement; and/or
- Family Court or Civil Court

Definition of Terms

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

When consent is withdrawn or can no longer be given, sexual activity must stop.

Sexual assault is defined as any unwanted physical contact, or attempts to have physical contact, of a sexual nature without the clear and express consent of both individuals, or under threat of coercion. A sexual assault can be committed by a male or a female on a member of the opposite or same sex. Sexual assault can occur forcibly and/or against a person's will. It can also occur when a person is incapable of giving consent or is unable to give consent. Examples of sexual assault include, but are not limited to, rape (whether by an acquaintance or stranger) including penetration with a body part of foreign object, sodomy, oral copulation, sexual abuse, sexual battery, fondling (e.g., unwanted touching or kissing for purposes of sexual gratification), and threats of sexual assault.

Dating violence is defined as any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

Domestic violence is defined as any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

Stalking is defined as intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the

safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her.

Confidential Reporting means reporting to individuals who are *confidential* resources and will not report crimes to law enforcement or college officials without your permission, except for extreme circumstances such as a health and/or safety emergency. At SUNY Orange this includes the personal counselors and nurses at the Wellness Center.

Privacy vs. Confidentiality means that even SUNY Orange offices or employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator who is responsible under the law for tracking patterns and spotting systemic issues.

Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases

The health and safety of every student at the State University of New York and its State operated and community colleges is of utmost importance. SUNY Orange recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. SUNY Orange strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SUNY Orange officials or law enforcement will not be subject to SUNY Orange's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Sexual Violence Response Policy

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

I Reporting:

- To disclose *confidentially* the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential report is available in the Options for Confidentially Disclosing Sexual Violence Policy):

- o Anonymously via campus blue light phones or red phones
 - o Wellness Center 3414870
- To disclose *confidentially* the incident and obtain services from the New York State, New York City or county hotlines:
<http://www.opdv.ny.gov/help/dvhotlines.html>
 Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages:
<http://www.opdv.ny.gov/help/index.html> (or by calling 18009426906), and assistance can also be obtained through:
 - o SurvJustice: <http://survjustice.org/ourservices/civilrightscomplaints/>;
 - o Legal Momentum: <https://www.legalmomentum.org/>;
 - o NYSCASA: <http://nyscasa.org/responding>;
 - o NYSCADV: <http://www.nyscadv.org/>;
 - o Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
 - o GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>; and
 - o RAINN: <https://www.rainn.org/gethelp>.
 - o Safe Horizons: <http://www.safehorizon.org/>.
 - o Rape Crisis Services Mental health Association in Orange County: www.mhaorangenyc.com/rapecrisis
 - o Safe Homes of Orange County: <http://www.safehomesorangecounty.org>

(Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Reporting individuals are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).

- To disclose the incident to one of the following college officials who can offer *privacy* and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the institution from retaliation, and to receive assistance and resources from the institution. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or district attorney:
 - o Title IX Coordinator or Deputy Coordinator;
 - o Safety and Security; and
 - o Office of the Vice President for Student Services.
- To file a criminal complaint with Safety and Security and/or with local law enforcement and/or state police:

- o Safety and Security, Middletown Campus. 8453414710, 1st floor, Horton Hall
- o Safety and Security, Newburgh Campus. 8453419533, Tower Building Lobby
- o State Police 24hour hotline to report sexual assault on a NY college campus: 18448457269.
- o Middletown Police Department. 8453433151, 2 James Street, Middletown
- o Newburgh Police Department. 8455613131, 55 Broadway, Newburgh
- To receive assistance by Safety and Security in initiating legal proceedings in family court or civil court.
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with SUNY Orange policy and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity anonymous, he or she may call the Office of Human Resources, Safety and Security or the Office of the Vice President for Student Services anonymously to discuss the situation and available options:
 - o Wendy Holmes, Title IX Coordinator, 8453414662, Office of Human resources, Orange Hall, Middletown NY ; wendy.holmes@sunyorange.edu
 - o Ed Kiely, Safety and Security, 8453414710, 1st floor, Horton Hall, Middletown, NY, ed.kiely@sunyorange.edu
 - o Chris Clark, Safety and Security, 8453419533, Tower Building, Newburgh, NY, chris.clark@sunyorange.edu
 - o Madeline Torres Diaz, Title IX Deputy Coordinator, 8453414470, 3rd fl, Shepard Center, Middletown, NY madeline.torresdiaz@sunyorange.edu
 - o Wayne Smith, Title IX Deputy Coordinator for Athletics, 8453414261, Physical Education Building, Middletown, NY wayne.smith@sunyorange.edu

When the accused is an employee, a reporting individual may also report the incident to the SUNY Orange Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a personal non grata letter, subject to legal requirements and college policy.

- o Human Resources Office, 8453414662, Orange Hall, Middletown, NY
- You may withdraw your complaint or involvement from the SUNY Orange process at any time.
- Every college shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a college representative, the following information shall be presented to the reporting individual: "You have the right to make a report to University Police or Campus Security, local law enforcement, and/or State Police or choose not to

report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

Public Awareness/Advocacy Events

The College is not obligated to begin an investigation if a disclosure is made at a Sexual Assault Prevention public awareness event or training. SUNY Orange may use this information to inform planning of additional education and awareness programming.

II Resources:

- To obtain effective intervention services.
 - Wellness Center, 2nd fl Shepard Center, Middletown, 8453414870. There is no charge for mental health or nursing services.
 - Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available through Planned Parenthood, 18002307526, <http://www.plannedparenthood.org/plannedparenthoodmidhudsonvalley>. There may be charges for these services.
 - Sexual Assault Nurse Examiners Program through Rape Crisis Services, 18008321200, http://www.mhaorangenyny.com/rapecrisis/rapecrisis_sane.html. There is no charge for these services.
- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 18002478035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.
- To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

III Protection and Accommodations:

- When the accused is a student, to have the college issue a “No Contact Order,” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual

may request a prompt review of the need for and terms of a No Contact Order, consistent with SUNY Orange policy. Parties may submit evidence in support of their request.

- To have assistance from Safety and Security or other college officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the Order about the accused's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from Safety and Security in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of Safety and Security or, if outside of the jurisdiction or if Campus Security does not have arresting powers to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension.
- When the accused is not a student but is a member of the college community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and SUNY Orange policies and rules.
- When the accused is not a member of the college community, to have assistance from Safety and Security or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures:
 - Office of the Vice President for Student Services, (845) 341- 4000

IV Student Conduct Process:

- To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the SUNY Orange Code of Conduct as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

- Throughout conduct proceedings, the respondent and the reporting individual will have:
 - The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;
 - The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
 - The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
 - The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
 - The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
 - The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by the College).
 - The right to present evidence and testimony at a hearing, where appropriate.
 - The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
 - The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
 - The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
 - The right to make an impact statement during the point of the proceeding

where the decision maker is deliberating on appropriate sanctions.

- o The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
- o The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- o Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
- o The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.

Office of the Vice President for Student Services, 3rd fl Shepard Center,
Middletown, NY; (845) 341-4000.
- o The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

The Conduct Process for Sexual Misconduct

Conduct proceedings are governed by the procedures set forth in the SUNY Orange Code of Conduct as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions. The procedures set forth in this section will control for cases of sexual misconduct.

Investigating Complaints of Sexual Misconduct

If the College becomes aware that sexual misconduct may have been committed against a student or by a student or employee, and determines that an investigation is required, it shall notify the reporting individual and take immediate steps to protect the complainant, prevent recurrence of the sexual harassment or sexual violence, and correct its effects on the complainant and others. The College will take also steps needed to ensure that it provides a prompt, fair, and impartial process from the initial investigation to the final result.

The process includes:

1. An intake meeting with the Student Complainant
2. Information gathering regarding the complaint
3. When appropriate, a disciplinary meeting to resolve the complaint
4. When requested, an appeal

Timeframe

The College will communicate regularly with the Complainant and the Respondent striving to complete the investigation and resolution of the complaint in no more than 15 days. Time frames

may vary depending upon the complexity of the investigation. Additional time may be needed in those instances and will be communicated with the Complainant and Respondent.

Initiation of Investigation by Title IX Coordinators

Upon receipt of a Title IX complaint of sexual discrimination, harassment and/or misconduct, including sexual violence, the Title IX Coordinators will coordinate investigative efforts with other College offices, and may designate another trained individual to conduct all or part of the investigation. The investigation shall be conducted by an individual who has received annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made.

Notice to Respondent

Within 15 business days of receipt of a complaint, the respondent will be given written notice of the charges against him/her.

The respondent will be advised of the nature of the evidence against him/her (unless release of the evidence would endanger the health or safety of victim(s) or witness(es)).

Due Process Rights of Victim and/or Complainant and Respondent

The victim and/or complainant and student respondent will each be notified of the individual(s) with authority to make a finding or impose a sanction in their proceeding before the individual(s) initiate contact with either party. Both parties will have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.

The victim and/or complainant and student respondent will each be afforded the right to present information and witnesses relevant to his or her case.

When the victim and/or complainant or student respondent is requested to appear at an investigatory meeting or proceeding related to a complaint, he or she may be accompanied by an advisor. An **advisor** is defined as a family member, peer, staff/faculty member of the College, or a union representative; *it does not include legal counsel or an attorney at law*.

Evidence Considered

Investigators will interview and receive evidence from the victim, complainant, respondent and any witnesses identified during the course of the investigation.

Concurrent Criminal Investigation

The existence of a concurrent criminal investigation by law enforcement agencies will not necessarily delay or interrupt the investigation procedures outlined herein. However, the law enforcement agency may request that the College investigation be temporarily suspended.

Determination Based Upon Preponderance of the Evidence

The Title IX Coordinators review the investigator's report and all evidence gathered to determine whether the respondent engaged in sexual discrimination, harassment and/or misconduct in violation of College policy. The determination of violations shall be made based

on the preponderance of evidence, meaning whether it is more likely than not that this policy was violated.

Notice to Respondent

For student respondents, within ten (10) days after receipt of the investigator's report, the Title IX Coordinators will notify the student respondent via certified mail, return receipt requested, of his/her determination. If the Title IX Coordinator determines that the student respondent has violated the College's prohibition of sexual misconduct, this notification will also advise the student respondent of:

- a. Disciplinary sanctions; and
- b. The right to appeal the determination and sanctions in accordance with the Appeal Procedures.

Disciplinary Sanctions

If found responsible, sanctions include:

- **Dating Violence** – no contact order, loss of privileges, probation, suspension for a period of one to four semesters; expulsion from the College.
- **Domestic/Intimate Partner Violence** - no contact order, loss of privileges, probation, suspension for a period of one to four semesters; expulsion from the College.
- **Stalking** - no contact order, loss of privileges, probation, suspension for a period of one to four semesters; expulsion from the College.
- **Sexual Assault** - no contact order, loss of privileges, probation, suspension for a period of one to four semesters; expulsion from the College.

Appeals Process

The Complainant and/or the Respondent may appeal the decision of a disciplinary meeting under the following conditions:

- New evidence not reasonably available before the completion of the information gathering process
- Unfair investigation or disciplinary meeting
- College failed to follow policy
- Sanctions imposed are too severe or inadequate

The appeal must be in writing outlining the reason(s) for the appeal request and sent to the Vice President of Student Services within five (5) days of the receiving the outcome of the disciplinary meeting.

The Vice President of Student Services/Title IX Coordinators will review the information related to the complaint, information gathering, and disciplinary meeting and render a decision within five (5) days of receiving the appeal request. The Vice President of Student Services may uphold, overturn, or amend the decision.

As required by federal law, the Vice President of Student Services/Title IX Coordinator will disclose to the Complainant and Respondent the final results of the investigation in writing.

Policy for Transcript Notations for Crimes of Violence

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act, SUNY Orange shall make a notation on the transcript of any student found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.”

For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, SUNY Orange shall make a notation on the transcript that the student “withdrew with conduct charges pending.”

Students may appeal seeking removal of the transcript notation for a suspension through written request to the Vice President for Student Services. The notation shall not be removed prior to one year after the conclusion of the suspension. Notations for expulsion may not be appealed and will not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation will be removed.

(Document updated Summer 2018)

