

# Code of Student Conduct

**2017-2018**



The College at  
**BROCKPORT**  
STATE UNIVERSITY OF NEW YORK



Welcome to our  
smoke-free campus

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All students at The College at Brockport have access to the *Code of Student Conduct*. This document is in the annual *Student Handbook/Planner* and on the College’s Student Policy Webpage at [www.brockport.edu/support/policies](http://www.brockport.edu/support/policies). This Student Policy Webpage has the most current version of the Code and the College’s academic policies.

Students with documented disabilities may request an accommodation, if needed; for example, students may request an interpreter, accommodations for test taking, etc., from The Office for Students with Disabilities, by contacting that office at (585) 395-5409 or [osdoffic@brockport.edu](mailto:osdoffic@brockport.edu).

**Student Conduct Contact Information:**

Location: Residential Life/Living Learning Communities and Student Conduct, Thompson Hall, West Wing  
 Phone Number: 585-395-2122 or 585-395-2108. Fax Number: 585-395-2732  
 Email: [studentconduct@brockport.edu](mailto:studentconduct@brockport.edu) Webpage [https://www.brockport.edu/life/student\\_conduct/](https://www.brockport.edu/life/student_conduct/)

## Code of Student Conduct 2017-2018

The College at Brockport is committed to fostering a safe and healthy campus environment conducive to education, study, work and personal development. In order to establish and maintain this desired environment, the College has adopted the *Code of Student Conduct* by which all students and student organizations are expected to abide at all times.

The *Code of Student Conduct* states the behavioral expectations and standards of conduct for all students. **Students are accountable for their behavior.** The rules pertain to the actions of students, either on or off the campus grounds. When a nexus between a student's behavior and the College exists and the College is aware of the behavior, a student may be subject to College disciplinary action. The student conduct officer shall use discretion regarding whether the *Code of Student Conduct* shall be applied to conduct occurring off campus.

Student groups and organizations may also be charged with violations of the *Code of Student Conduct*. A student group or organization and its officers may be held collectively and/or individually responsible when violations of this *Code of Student Conduct* occur.

The student conduct system procedures have been established to ensure due process and fundamental fairness to all individuals and organizations involved. The evidentiary standard that guides the student conduct system is the preponderance of the evidence and provides the standard of proof required to determine if a student violated the *Code of Student Conduct*. The standard is met when the evidence brought forth through the conduct process proves the charges to be more likely true than not true.

This document provides an explanation of the process involved for responding to allegations of student misconduct, in addition to explaining what actions the College will take in dealing with violations of the Code. The *Code of Student Conduct* includes procedures for investigating and processing violations, organized by two distinct sets of procedures: Category I: General Student Conduct Case Policies & Procedures; and Category II: Sexual/Gender Based Discrimination and Misconduct Policies & Procedures. Category II procedures are required by Title IX, Violence Against Women Act (VAWA) reauthorization, the Clery Act, Office for Civil Rights guidance, and New York State law, including Education Law Article 129-B. The student conduct officer may also determine that the Category II conduct procedures are appropriate for misconduct unrelated to Sexual/Gender Based Discrimination based on the severity of the conduct, such as violations or incidents involving physical violence. If a student is charged with Category I and Category II violations, the College may proceed by using Category II conduct proceedings for all charges.

### Section 1: Rules of Student Conduct: Prohibited Behavior

The College, as a state-operated institution, is governed by federal, state and local laws, rules, and regulations. Consistent with those laws, rules and regulations, each student is expressly advised that the following behavior is prohibited. Students or student organizations engaging, attempting to engage, or assisting in the following are subject to disciplinary sanctions:

1. Conduct that violates any local, state, or federal law or rule, and/or any regulation established by the Board of Trustees of the State University of New York.
2. Possession, use and/or storage of air guns, firearms, rifles, shotguns, and other weapons, explosives, dangerous objects or chemicals, even if legally possessed, on College property or at an official College function.
3. Violation of any provision of the *On Campus Housing License* or rules contained in the document *Residence Hall/Student Townhomes Alcohol Policy*.
4. Attempted or actual theft of or damage to College property or services or property belonging to any member of the College community or unauthorized possession of stolen property. Property also

includes, but is not limited to, data and information stored on electronic or computer media and passwords.

5. Tampering with fire safety equipment, fire alarm equipment and/or setting off alarms in any building or on College premises or intentionally interfering with or failing to follow emergency procedures.
6. Intentionally overloading, damaging, dismantling or tampering with elevators or elevator equipment.
7. Trespassing/unauthorized use of facilities and services. No person shall enter into and/or utilize any College facility or service without proper authorization. No one shall enter a facility from which they have been restricted, as part of a student conduct sanction.
8. Unauthorized possession, duplication or use of any keys to any College premises or unauthorized entry to or use of College premises.
9. Unauthorized Presence. Students who have no specific legitimate reason for being in College buildings or on campus grounds may be subject to a charge of unauthorized presence. This includes, but is not limited to, being present in buildings and facilities that are officially closed or where the individual does not have a College official's written permission.
10. Advertising, soliciting, or selling any goods or services on campus without prior written permission from the vice president for enrollment management and student affairs or designee. Unaddressed handbills, announcements, election flyers, or advertisements are not to be placed under campus doors or on vehicles on campus property. Students should refer to the campus posting policy for more information.
11. Smoke-free Campus Policy with Minor Exemptions. Smoking is prohibited on all College managed property, both indoors and outdoors, unless officially designated otherwise. Exceptions to the smoke-free provisions include the following parking lots designated as the College's only official smoking areas which are: Parking Lots A and D-1.
12. Disorderly and/or disruptive conduct that interferes with the normal operations of the College or infringes on the rights of others, and includes leading or inciting others to disrupt scheduled and/or normal activities associated with the College.
13. Harassment, which may include any of the following: 1) Unwelcome conduct directed against a person based on one or more of that person's protected characteristics or status, including age, color, race, disability, marital status, national/ethnic origin, religion, veteran's status, sex [including pregnancy], gender expression or gender identity, sexual orientation, political activities or genetic information, and which is so severe or pervasive that it interferes with an individual's employment, academic performance or participation in working or learning programs or activities, and creates a working or academic environment that a reasonable person would find intimidating, hostile or offensive; 2) Threatening or intimidating behavior, which would cause a reasonable person to become fearful; 3) Engaging in a course of conduct or repeatedly committing acts directed at another person, which would seriously annoy a reasonable person; 4) Creating a condition which endangers or threatens the health, safety or welfare of another person; and 5) Physically restraining or detaining another person or forcibly removing any person from any place where they are authorized to remain.
14. Physical assault. Any act that intentionally or recklessly causes physical injury to another person. Physical assault includes, but is not limited to, inflicting bodily harm upon any person, taking any action for the purpose of inflicting harm upon any person, or subjecting another person to unwanted physical contact.
15. Hazing: Hazing is, regardless of intent, any action that degrades, humiliates, abuses or endangers the mental, emotional, or physical health or safety of a student, 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, team or organization whether officially recognized or not recognized by The College. The express or implied consent of the victim(s) does not mean that hazing did not occur. Please refer to The College at Brockport's *Hazing Policy* found at [www.brockport.edu/support/policies](http://www.brockport.edu/support/policies).
16. Sexual/Gender Based Misconduct is a broad range of prohibited behaviors, and for the purposes of this Code, includes: 1) dating violence; 2) domestic violence; 3) stalking; 4) sexual harassment; 5) non-

consensual sexual contact; 6) non-consensual sexual intercourse; and 7) sexual exploitation. All sexual misconduct cases will be managed through Category II: Sexual/Gender Based Discrimination and Misconduct Policies & Procedures, Section 9 of the *Code of Student Conduct*.

17. Sex and/or Gender Discrimination includes discrimination on the basis of sex, gender expression, identity, or sexual orientation.
18. Abuse of the Student Conduct System, including, but not limited to:
  - a. Failure to comply with the instructions of a student conduct officer, student conduct body or College official.
  - b. Disruption or interference with the orderly conduct of a student conduct proceeding.
  - c. Providing false or misleading information to the student conduct officer or College official.
  - d. Attempting to discourage an individual's participation in, or use of, the student conduct system through intimidation or any other means.
  - e. Retaliating against an individual who made a complaint/report, served as a witness, opposed the reported conduct, is a friend or acquaintance of the person who made a complaint/report, or who participated in the student conduct process.
  - f. Attempting to influence the impartiality of a member of a student conduct body prior to, and/or during the course of, the student conduct proceeding.
  - g. Harassment (verbal or physical) and/or intimidation of a member of a student conduct body prior to, during, and/or after a student conduct proceeding.
  - h. Influencing or attempting to influence another person to commit an abuse of the student conduct system.
  - i. Violating any disciplinary sanction imposed in accordance with the *Code of Student Conduct*.
19. Failure to identify oneself or present a valid student identification card when requested to do so by any faculty, staff, or student staff or law enforcement officer in the performance of their official duties.
20. Failure to comply with the reasonable and lawful requests or directives of College officials or law enforcement officers acting in the performance of their duties and/or interference with faculty, staff, or student staff acting in the performance of their official duties. Compliance includes, but is not limited to, appearing at offices when directed to do so, showing identification and leaving areas when directed to do so.
21. Forgery or any other act of knowingly furnishing false information to the institution in the form of a false complaint or report or unauthorized alteration or use of institutional documents, including those stored on electronic or computer media, or instruments of identification (such as an ID card).
22. Falsifying information or failing to report required information (such as previous college attendance, prior conduct sanctions or felony history) on any admissions application or related materials.
23. Theft or other abuse of electronic technologies, including but not limited to:
  - a. Unauthorized entry into a system (voice/data/video/mechanical/security), to use, read or change the contents, or for any other purpose;
  - b. Unauthorized transfer of a file;
  - c. Unauthorized use of another individual's identification and password;
  - d. Intentional use of computing facilities to interfere with the operation of any computing system;
  - e. Use of electronic mail/instant messages to send chain letters, harassing messages;
  - f. Use of College computing facilities for commercial activities;
  - g. Unauthorized transfer/copying of copyright material (e.g., software, mp3 files) that is not protected by fair use; and
  - h. Gaining unauthorized access to data or information in College files or stored on College systems.

24. Prohibited substances.<sup>1</sup> The following behaviors related to substance use, whether on or off campus, are prohibited at The College:
- Unlawful possession of a prohibited substance;
  - Purchasing a prohibited substance;
  - Manufacturing a prohibited substance;
  - Distributing a prohibited substance;
  - Selling a prohibited substance;
  - Using or being under the influence of any controlled substance (as defined in NYS Public Health Law 3306), or synthetic cannabinoids;
  - Abuse of over-the-counter drugs;
  - Abuse and or exchange or distribution of prescription drugs prescribed to self or another person; and
  - Possession of drug paraphernalia, including, but not limited to, hookahs, pipes, and other smoking devices, weights, scales, and/or rolling papers.
25. Alcohol violations.<sup>2</sup> The following behaviors related to alcohol use, whether on or off campus, are prohibited at The College. For more information, please refer to the College's Alcohol Policy found at [www.brockport.edu/policies](http://www.brockport.edu/policies) and [www.brockport.edu/life/residential\\_life](http://www.brockport.edu/life/residential_life):
- Consumption under twenty-one (21) years of age;
  - Possession under twenty-one (21) years of age;
  - Distribution to someone under twenty-one (21) years of age;
  - Purchase of alcoholic beverages by any persons less than twenty-one (21) years of age;
  - Possession of alcohol paraphernalia;
  - Public intoxication, regardless of age; and
  - Driving While Intoxicated.
26. Responsibility for Guest(s). Students will be held accountable for the behavior of all guests in accordance with all College alcohol policies. Therefore, all students are responsible for the actions of their guests for any violations of the *Code of Student Conduct* committed on College premises, or at College-sponsored or supervised functions. Students will be held responsible for damage to or loss of College property by the actions of their guest(s) and may be required to reimburse the College, or the student's account may be charged accordingly. Students are expected to take reasonable action to prevent their guests from violating College policies and are expected to remain with their guests for the length of their visit. The College reserves the right to restrict any guest from campus who violates the *Code of Student Conduct*, in the interest of the general welfare of the College community.

## Section 2: Student Conduct Definitions

- "College at Brockport" or "College" means the State University of New York, College at Brockport.

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<sup>1</sup> **Parental Notification.** As permitted by the Family Educational Rights and Privacy Act, the student conduct officer or designee may notify the parents of students under the age of 21, who are found responsible for drug violations of the *Code of Student Conduct*. In addition, parents may also be notified for other violations of the *Code of Student Conduct*, as permitted by the Family Educational Rights and Privacy Act (FERPA).

<sup>2</sup> **Parental Notification.** As permitted by the Family Educational Rights and Privacy Act, the student conduct officer or designee may notify the parents of students under the age of 21, who are found responsible for alcohol violations of the *Code of Student Conduct*. In addition, parents may also be notified for other violations of the *Code of Student Conduct*, as permitted by the Family Educational Rights and Privacy Act (FERPA).

2. "Student" means an individual taking courses at The College at Brockport either full time or part time, matriculated or non-matriculated, pursuing undergraduate, graduate, or professional studies, including, individuals on College premises for any purpose related to enrollment, such as orientation activities. Persons who are not officially enrolled for a particular term but who have a continuing relationship as a student with the College are considered "students." This includes persons who withdraw after an alleged violation of the *Code of Student Conduct*, and persons who are living in the College's residence halls, although not enrolled in this institution.
3. "The College at Brockport official" or "College official" includes faculty and staff, and any person employed by The College at Brockport, performing assigned administrative or professional responsibilities.
4. "The College at Brockport premises" includes all land, buildings, facilities, and other property in the possession of, or owned, used or controlled by, The College at Brockport (including adjacent streets and sidewalks). The *Code of Student Conduct* applies at all locations of The College at Brockport, including the MetroCenter.
5. "Student organization" means any number of persons who have complied with the formal requirements for The College at Brockport recognition/registration.
6. "Policy" means the written regulations of SUNY or The College at Brockport, as found in the *Code of Student Conduct*, the *On Campus Housing License*, *Residence Hall/Student Townhomes Alcohol Policy*; the *Residence Hall Handbook*; policy statements regarding sexual harassment and non-discrimination, as well as bias and bias-related incidents; any policy listed on the College's website, the Student Policy Web page at [www.brockport.edu/support/policies](http://www.brockport.edu/support/policies), and the graduate/undergraduate catalogs. Copies of these policies may be obtained from their respective offices and at [www.brockport.edu](http://www.brockport.edu).
7. "Investigator" means that person(s) assigned by the director of student conduct, assistant director or student conduct, student conduct coordinator, Title IX & college compliance officer, or president's designee, to investigate allegations of a violation(s) of the *Code of Student Conduct*.
8. "Assistant director of student conduct" is that person(s) designated by the College president to be responsible for the administration of the *Code of Student Conduct*.
9. "Student conduct coordinator" is that person(s) designated by the assistant director of student conduct to support the administration of the *Code of Student Conduct*.
10. "Student conduct officer" means The College at Brockport official authorized by the director of student conduct, assistant director of student conduct, the student conduct coordinator, vice president of enrollment management and student affairs or designee, or other investigator, to conduct a hearing, conference, or investigative meeting with a student to discuss allegations of misconduct. The assistant director of student conduct/student conduct coordinator/president's designee may authorize the student conduct officer to impose sanctions in all cases.
11. "Student charged," "student organization charged," "accused," or "responding party" means any student or student organization accused of violating the *Code of Student Conduct*.
12. "Reporting individual" means any person or persons who have brought allegations against a student or student organization, alleging a Category II Sexual/Gender Based Discrimination and Misconduct violation of the *Code of Student Conduct*.
13. "Conduct board" means any person or persons authorized by the assistant director of student conduct/student conduct coordinator/vice president of enrollment management and student affairs or designee to determine whether a student has violated the *Code of Student Conduct* and to recommend sanctions that may be imposed when a rules violation has been committed.
14. "Appeal officers" and "Appeal Panel" mean the vice president for enrollment management and student affairs and any person authorized by the vice president to serve on the Appeal Panel to decide upon the appeal outcome for a student or student organization conduct case.
15. "Business days," as used in this *Code of Student Conduct*, with reference to scheduling and notification, refers to days in which the administrative offices of the College are officially open for business.

16. "Preponderance of the evidence" means the standard of proof required to determine if a student violated the *Code of Student Conduct*. The standard is met when the evidence brought forth in the conduct case proves to be more likely true than not true.

### Section 3: Student Conduct Authority

The President of the College has the ultimate authority in student disciplinary matters. However, responsibility for adjudication and other processing of most disciplinary matters is delegated to professional staff in certain institutional offices including, but not limited to, the director of student conduct, assistant director of student conduct, student conduct coordinator, associate dean of students/director of residential life, residential life staff, the conduct boards, student conduct officers, Title IX & college compliance officer, deputy Title IX coordinator, assistant to the vice president for enrollment management and student affairs, the associate/assistant vice president for enrollment management and student affairs, and the vice president for enrollment management and student affairs.

### Section 4: Policies Pertaining to the Student Conduct System

1. **Good Samaritan Policy.** The term "Good Samaritan" is used to refer to a student(s) who summons medical attention for a person (including themselves) in need of medical assessment and/or treatment for a problem to which the student may have contributed or caused by participating in the use and abuse of alcohol and/or other drugs. While the College does not condone violations of the *Code of Student Conduct* or state and federal laws, the College may take into consideration actions of students who act as "Good Samaritans" by reducing the disciplinary actions associated with alcohol and/or other drug use violations, including limited immunity to campus student conduct charges.
2. **Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases.** The health and safety of every student at the College at Brockport is of utmost importance. The College 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. The College strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith, or a reporting individual acting in good faith, who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College officials or law enforcement will **not** be subject to the College's *Code of Student Conduct* 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.
3. **Proceeding without a Reporting Individual.** In Sexual/Gender Discrimination and Misconduct cases, the College may proceed with an investigation and/or a hearing, without the participation of a reporting individual.
4. **Withdrawal During Conduct Action.** A student who withdraws from the College while an investigation against them is pending or after being charged with a violation will not be exempt from campus student conduct action. The normal student conduct procedure may be followed at any time, but must be concluded in all cases before a student is allowed to re-enroll. If a student withdraws during a preliminary review or investigation, a hold may be placed on the student's account until the case is resolved. This hold will restrict the student from registering and being able to obtain an official transcript. The College may hold a hearing even if a responding party has withdrawn, and if it does, the responding party will receive due notice. If the College does not hold a hearing, and the case remains unresolved, a responding party who withdraws prior to a conduct hearing will have a notation on their transcript that reads, "Withdrew with conduct charges pending."
5. **Receipt of Diploma for Suspended or Dismissed Graduating Senior.** A graduating senior who is found responsible for a violation and who receives a suspension for a period extending beyond their graduation date may not receive the diploma until the term of suspension has been served and all

requirements of their sanctions are fulfilled. A graduating senior who is found responsible for a violation and who is dismissed prior to receipt of their diploma may not receive the diploma.

6. **Maintenance of Records.** A student's student conduct record will be maintained for a period of seven (7) years from the date of the last entry or until the student graduates, except in a matter of suspension or dismissal, in which case the record is maintained indefinitely.
7. **FERPA.** In accordance with the Family Educational Rights and Privacy Act of 1974, the College may release information pertaining to individual student conduct cases to appropriate College personnel and to parents of students who are dependent. Information from a student's student conduct file will not be made available, without the student's written consent, to anyone other than the student, appropriate College personnel, and parents of dependent students, except by court order or lawfully issued subpoena unless otherwise allowed by FERPA.
8. **Additional Information.**
  - a) A student who is charged with a violation just prior to the termination of a semester will be given a hearing as soon as is feasible after the semester ends, including during breaks when the College is open. The responding party who leaves the Brockport area is responsible for transportation and other expenses related to their right to be present at the scheduled hearing. A reporting individual will also be responsible for their own transportation and other expenses related to being present at the scheduled hearing.
  - b) Failure to appear in response to the charge(s) on the date fixed for the hearing, unless there has been a continuance approved by the student conduct officer prior to the hearing, will result in the hearing being held without the responding party. The hearing will be held and a determination of responsibility/non-responsibility and recommended sanction, if any, will be made. The student will be notified of the determination and, if applicable, the sanction(s). Within five (5) business days of the date of the notice of outcome/sanction, if the student shows good cause for failure to appear and failure to give prior notice of intention not to appear, the student conduct officer may withdraw the outcome/sanction and schedule a rehearing.
  - c) Conduct board hearings may be audio recorded by the College.
  - d) Cameras or other reproduction equipment, other than the College's audio recording device, are **not** permitted in a student conduct hearing, unless as a result of a reasonable accommodation.
  - e) All student conduct hearings are closed; guests, with the exception of advisors, are not permitted.

## Section 5: Students' Rights when Charged with a Violation

1. The College is obligated to determine whether the responding party is found responsible or not responsible of a Code violation. The College may find the responding party "responsible" if the responding party makes an admission of responsibility or the conduct board or conduct officer finds the student responsible for violation of the *Code of Student Conduct*, supported by a preponderance of the evidence. If there is no admission and the charge(s) are not supported by a preponderance of the evidence, then the responding party will be found "not responsible."
2. The responding party has the right to be given written notice of the nature of the charges in advance of the hearing and to be informed of their rights prior to a hearing.
3. The responding party has the right to receive, in advance of the hearing, a list of the witnesses who will appear at the hearing in support of the charges.
4. The responding party has the right to receive, in advance of the investigation and the hearing respectively, the names of the investigators, student conduct officer and/or board members. If the student believes any assigned investigator, student conduct officer or member(s) of the board cannot objectively and fairly investigate or hear the case, the student must make a written request to the Title IX & college compliance officer or designee, student conduct officer, or vice president for

enrollment management and student affairs, in writing within 24 hours of receipt of the a) identity of the investigators or b) Notice of Hearing, stating the specific reason(s) in support. The Title IX & college compliance officer or designee, student conduct officer, or vice president or designee will review the merits of the request, and decide whether or not to replace the investigator, student conduct officer or board member(s) in question.

5. The responding party has the right to deny responsibility for the conduct charge(s) in a preliminary review and the right to an administrative hearing before a student conduct officer, or a hearing before a conduct board. A responding party does not have the option of an administrative hearing when charged with the Category II non-consensual sexual intercourse.
6. The responding party has the right to have an advisor (which may include an attorney) present at the hearing. The advisor may privately consult with and advise the student during the proceedings, but may not examine the witnesses or otherwise directly participate on behalf of the responding party. Federal and state law and the *Code of Student Conduct* govern advisor participation. The names of those serving in this capacity must be provided to the student conduct officer within twenty-four hours in advance of the hearing.
7. The responding party has the right to bring relevant witnesses to the hearing. The student conduct officer may allow postponement of a scheduled hearing on the basis of unavailability of important witnesses or representatives, but only if good cause for the unavailability is shown. Generally, postponement will not be allowed beyond (10) ten business days.
8. The responding party has the right to raise questions that may be directed to witnesses and/or the reporting individual, if such person(s) are available for the hearing. These questions must be submitted to the student conduct officer, who will determine appropriateness of questions. The student conduct officer will ask approved questions on behalf of the parties involved.
9. The responding party has the right to produce documentary evidence on their own behalf for consideration. The responding party also has the right to review documentary evidence produced by others and/or the College.
10. The responding party has the right of access to the audio recording of the hearing, if applicable. The responding party may request to review the audio recording by scheduling a meeting time with the student conduct officer.
11. The responding party has the right to appeal the case outcome.
12. The responding party has the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the decision on appeal becomes a final determination, unless otherwise required by law.

## Section 6: Student Conduct System

### 1. Student Conduct Coordination

The director of student conduct oversees the student conduct system at The College at Brockport. The assistant director of student conduct, with support from the student conduct coordinator, administers the conduct system.

Responsibilities of the assistant director of student conduct include, but are not limited, to:

- a. Administers the student conduct system.
- b. Publishes the *Code of Student Conduct* annually and recommends revisions that are subject to the approval of the vice president for enrollment management and student affairs or designee.
- c. Provides availability of the *Code of Student Conduct* to any party, upon verbal or written request to the student conduct coordinator.
- d. Functions as a student conduct officer and trains and supervises other student conduct officers appointed by the vice president for enrollment management and student affairs or

designee. The assistant director of student conduct assigns student conduct cases among the student conduct officers for preliminary review and resolution.

- e. Monitors the process for receiving charges against individual students for violations of College regulations.
- f. Conducts an investigation (preliminary or full investigation) to determine if the charges have merit.
- g. Recruits and trains students, faculty and staff conduct board members.
- h. Arranges conduct board hearings as required and presents student conduct cases at these hearings.
- i. Maintains the official student conduct records resulting from enforcement of the *Code of Student Conduct*.

## 2. **Student Conduct Officers**

Student conduct officers, including but not limited to, the director of student conduct and associate dean of students/director of residential life, assistant director of student conduct, the student conduct coordinator(s), and residential life staff, are appointed by the vice president for enrollment management and student affairs or designee to adjudicate student conduct cases. The student conduct officer:

- a. Upon receipt of an incident report and/or complaint, schedules a preliminary review with each student who has been charged to explain the charge(s), the student's rights, and potential sanctions. Students may choose to have the student conduct officer hear the case or may have the case referred to a conduct board, if applicable.
- b. Determines the sanction to be applied, when: 1) the student has admitted to charges in a preliminary review; or 2) is found responsible in an administrative hearing.
- c. Officially communicates all student conduct charges and decisions to each student so charged and communicates with any other College officials who have a legitimate interest in the disciplinary status of the student.
- d. Transmits student conduct files to the director or designee for filing when a case has been resolved.

## 3. **Administrative Hearing**

An administrative hearing consists of a student conduct officer who is assigned to adjudicate the student conduct case.

## 4. **Conduct Board**

A conduct board is a formal group comprised of trained faculty, staff and students appointed by the vice president or designee. The board is comprised of at least three members, including faculty, staff, and for Category I violations, one student selected by the board chair. For Category II violations, Sexual/Gender Based Discrimination and Misconduct cases, students will not serve on the Conduct board unless deemed appropriate by the board chair.

The conduct board:

- a. Hears cases as scheduled by the student conduct officer.
- b. Hears statements and information/evidence related to the case in question.
- c. Seeks answers to all questions pertaining to statements and information/evidence presented.
- d. Determines whether the responding party is responsible for violating the charge(s), after a full discussion of the case in closed session.
- e. Recommends disciplinary action, if appropriate, to the student conduct officer.

Faculty, staff, etc. who serve as advisors, may at times, also serve as board members for other cases. A board member who acts as an advisor will not also preside on the board at the hearing.

## 5. **Appeals Chair and Panel**

- a. In cases involving Category I General Student Misconduct, the vice president for enrollment management and student affairs or designee will hear appeals of student conduct cases and student organization conduct cases.

- b. In Category II Sexual/Gender Based Discrimination and Misconduct cases, the vice president for enrollment management and student affairs or designee will i) serve as Appeal Chair; ii) appoint a panel, which may consist of no fewer than two persons; and iii) hear appeals of student conduct cases.

## Section 7: Informal Resolution

1. **Restorative Justice Practices\***. This is an alternative approach that promotes individual responsibility and community restoration through mutually beneficial solutions that foster repair, reconciliation and the rebuilding of relationships. This process involves helping students to understand the harm they may have caused others, and facilitates the development of empathy for those harmed by their behavior(s).
2. **Mediation\***. When a case involves conflict between students, groups or organizations, the parties may be assigned to mediation by the student conduct officer. Mediation is a confidential and non-judgmental process whereby both parties to a dispute meet with a mediator (a neutral party), who will assist them in reaching a written agreement to resolve their conflict. Students are responsible for complying with the terms of the agreement. Violated agreements will not be remediated, but may necessitate further student conduct action.

**\*Note:** Neither restorative justice nor mediation may be used in Category II, Sexual/Gender Based Discrimination and Misconduct cases that involve sexual violence.

## Section 8: Interim Measures/Disciplinary Actions/Sanctions/Loss of Privileges

1. **Interim Measures, Disciplinary Actions and Sanctions.** The following interim measures, disciplinary actions, and sanctions may be imposed by a student conduct officer or conduct board, upon a finding that a student or a student organization has violated the *Code of Student Conduct* and/or the *On-Campus Housing License*:
  - a. **Interim Measures.** The student conduct officer, Title IX & college compliance officer<sup>3</sup> or vice president for enrollment management and student affairs or designee may impose interim measures, including loss of privileges, residence hall relocation, no contact orders, and other reasonable measures, upon learning of a possible student conduct code violation. These measures may remain in place regardless of the outcome of the case. Students have the right to challenge the terms of the interim measure(s) or request a modification, by submitting a letter and any supporting documents, to the director of student conduct or designee within three business days. A decision will be made within five business days of the request.
  - **Interim Suspension.** An interim suspension may be implemented immediately and without prior notice, imposed by the President or designee: a) to ensure the safety and well-being of members of the College community or for the preservation of College property and/or b) if the student poses a significant threat of disruption of or interference with the normal operations of the College. This is a temporary suspension, during which the student shall be restricted from all or any portion of the College premises, including classes, access to the residence halls or other campus facilities, and/or all other College activities or privileges for which the student might otherwise be eligible, as determined to be appropriate by the President or designee. The student may request a review in writing to challenge the basis for such suspension. Absent such a request, these restrictions will remain in effect until the conclusion of i) an investigation and/or conduct board or administrative hearing or ii) the criminal proceeding against

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<sup>3</sup> The Title IX & college compliance officer will only be involved in Category II cases.

- the responding party, if applicable, at which time conditions for reinstatement to the College may be specified.
- b. **Official Warning.** This is an official acknowledgment that the student's behavior violated a rule(s), and indicates more severe disciplinary sanctions may result if the student is found responsible for further violations.
  - c. **Vicinity Letter.** When a student under the age of twenty-one (21) is found to be in the vicinity of alcohol, but not in possession of or consuming it, a Vicinity Letter may be issued. This sanction may only be given once as a warning, in response to this behavior, before additional consequences are taken.
  - d. **Revocation or Denial of Recognition.** Group or organization misconduct may include revocation or denial of recognition (including all privileges) from The College at Brockport.
  - e. **Conduct Probation.** Conduct probation may be issued for a period of one semester, two semesters, three semesters or four semesters and includes the probability of more severe disciplinary sanctions if the student is found responsible for violating the *Code of Student Conduct* or College Policies during the probationary period. Any violation committed during the probationary period may result in a review of the student's status at The College at Brockport.<sup>4</sup>
  - f. **Conduct Suspension.** This is the separation of the student from the College for a definite period of time. Conduct suspension may be issued for a period of one semester, two semesters, three semesters or four semesters. Students who have been suspended are restricted from access to campus premises except by written permission from the vice president for enrollment management and student affairs or designee. Conditions for readmission may be specified. "Suspension after a finding of responsibility for a code of conduct violation" with the period of suspension specified will appear on the student's transcript. See Section 9, Category I, (8) (h) and Category II, Part H (C)(2)(r) "Transcript Notation in Cases of Conduct Suspension or Conduct Dismissal," regarding the process to appeal removal of the suspension notation.
  - g. **Conduct Dismissal.** This is the permanent separation of the student from the College without opportunity to re-enroll in the future. Students who have been dismissed are restricted from access to campus premises except by written permission from the vice president for enrollment management and student affairs or designee. "Dismissal after a finding of responsibility for a code of conduct violation" will appear on the student's transcript.

**NOTE:** Recommendations for interim suspension, conduct suspension and conduct dismissal are forwarded to the vice president for enrollment management and student affairs or designee.

**2. Discretionary Disciplinary Action/Sanctions:** The student conduct system promotes an educational response in an effort to enhance student development. In cases involving student organizations, the student conduct officer may consult with campus offices or national groups that provide oversight to the student organization to determine sanctions that promote safety, education and student development. In addition to disciplinary action/sanctions, the following conditions may apply:

- a. **Developmental Experience.** The student may be required to attend and/or participate in a workshop, group, program and/or other related assignment. Students will be responsible for any associated costs.

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<sup>4</sup> If a student is found "responsible" for non-consensual sexual intercourse, the College must impose either Conduct Suspension or Conduct Dismissal as a sanction

- b. **Required Mental Health and/or Behavioral Health Assessment.** The student must complete a mental health and/or behavioral health assessment and follow through with all recommendations made as a result of the evaluation. By a specified date, the assessment may be done at the College's Hazen Center for Integrated Care Counseling Center or at an accredited, community-based mental health facility. The student will be asked to sign a consent form allowing the College to verify attendance and participation.
  - c. **Behavioral Agreement.** The student may be required to follow clearly defined behavioral expectations and standards established by the student conduct officer. The student may be subject to further disciplinary action if they fail to follow such behavioral standards.
  - d. **Restitution.** The student may be required to compensate for loss, damage, defacement, theft, injury or unauthorized use of property. This may take the form of monetary or material replacement and/or appropriate service.
  - e. **Community Service.** The student may be assigned College community service, working in a campus department, or at a specified site within the local community. Failure to complete the assignment may result in a more severe sanction.
  - f. **Residence Hall Reassignment.** The student is reassigned to another room and/or hall and may be restricted from their former residence.
  - g. **Removal from the Residence Halls.** The student may be required to move out of their residence hall and be restricted from living on campus for a specified period of time.
3. **Loss of Privileges.** The student may be denied specific privileges for a designated period of time. The student conduct officer may designate any of the following loss of privileges to students against whom no conduct charges have been brought, if there is concern for the well-being of either the student(s), or the community, or to prevent disruption to the College community. Loss of privilege may include, but is not limited to:
- a. **Facility Restriction.** The student may be denied use of or may otherwise be restricted from specified campus facilities.
  - b. **Social Restriction** The student may be restricted from participation in College-sponsored activities for a specified period of time.
  - c. **Guest Privilege Restriction.** The student may be restricted from being able to have guests on campus for a specific period of time.
  - d. **No Contact Order.** This may include a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, and may be for a designated period of time.

**NOTE:** More than one stated disciplinary action/sanction may be imposed for any single conduct violation.

## Section 9: Student Conduct Procedures

The College's Student Conduct System manages all charges brought against any student or student organization for alleged violation of the *Code of Student Conduct* and maintains the exclusive authority to impose disciplinary sanctions. It is the responsibility of the hearing body to determine whether the alleged behavior constitutes a violation of the *Code of Student Conduct*. The hearing bodies are not courts of law; therefore, **the formal rules of civil or criminal procedure and the rules of evidence do not apply**. For a better understanding of the difference between the student conduct and criminal process, see <http://system.suny.edu/sexual-violence-prevention-workgroup/College-and-Criminal-Resource/>

Student Conduct System procedures are divided into two distinct parts: Category I and Category II. Category I procedures provide guidance related to general student conduct cases. Category II provides guidance for Sexual/Gender Based Discrimination and Misconduct cases. Category II policies and procedures comply with Title IX federal regulations, Violence Against Women Act (VAWA) reauthorization, the Clery Act, Office for Civil Rights guidance, and New York State law, including New York Education Law, Article 129-B.

## CATEGORY I: GENERAL STUDENT CONDUCT CASE POLICIES & PROCEDURES

1. **Conduct Charges/Complaint:**
  - a. Any member of the College community may make a report against any student or student organization (collectively, “student”) for misconduct.
  - b. Allegations of misconduct may be submitted to any of the following offices, as applicable:
    - Student Conduct;
    - University Police or law enforcement agencies; and/or
    - Residential Life/Learning Communities.
  - c. The assistant director of student conduct may assign the matter to a student conduct officer.
  - d. The assistant director of student conduct or student conduct officer (collectively, “student conduct officer”) may utilize a co-investigation model with two student conduct officers investigating violations of the *Code of Student Conduct*.
2. **Investigation.** A preliminary investigation of the incident(s) may precede a full investigation. The student conduct officer assigned to the case may complete a further investigation of the incident. Following the preliminary or further investigation, the student conduct officer may bring charges against the responding party if reasonable information supports the charge(s).
  - Notice of Potential Conflict. Within 24 hours of notice of the identity of the student conduct officer assigned to the case, the responding party may request in writing that the student conduct officer be removed on the basis of bias or conflict of interest, and set forth the specific basis for the request. The vice president of enrollment management and student affairs or designee will determine whether the challenge has merit and may designate a different student conduct officer, if appropriate.
3. **Notice of Student Conduct Charges.**
  - a. The student conduct officer will contact the responding party in writing to notify them of the charges being brought by the College, and schedule time and place to meet. The responding party is sufficiently notified if informed in person, electronically at the student’s College at Brockport e-mail address, or if the notice is personally delivered to them or mailed to their local and/or home address that appears in official College records.
  - b. If the responding party fails to respond within three (3) business days from personal notification or the date of the notification letter, they will be deemed to have waived their right to choose between a conduct board hearing or an administrative hearing. The student conduct officer will then determine the type of hearing and the date and time it will be held. The student will be notified in writing of the charges against them for a second time, and the date, time and location of the hearing.
4. **Advisors.** Students must provide the name of their advisor to the student conduct officer twenty-four hours in advance of the hearing. The student conduct officer will make a College-trained advisor available to each student; in the alternative, students may select an advisor of their choice.
  - a. Students may choose an attorney for their advisor. Outside legal counsel, like other advisors, may privately consult with and advise the student throughout the conduct process, but may not examine witnesses or otherwise directly participate in any conduct procedures.
  - b. An advisor may not directly question the conduct board or witnesses at the hearing, but may suggest questions in writing to the student conduct officer/board chair and consult with the student they are assisting. The student conduct officer/board chair may request suggested questions in advance of the hearing.
  - c. Students may request a brief recess to consult with their advisor, which will be granted at the discretion of the student conduct officer/board chair.

- d. The student conduct officer/board chair will not allow an advisor's presence or behavior to inhibit the student conduct hearing.
5. **Preliminary Review/Process.** The student conduct officer will meet with the student to review the complaint, charges against the student, and the student conduct process, including the rights of the student, and will offer the student three (3) business days within which to select an administrative or conduct board hearing. Students may choose to have their hearing immediately following their preliminary meeting in cases where possible sanctions do not include suspension or dismissal.
6. **Notice of Hearing.**
  - a. The student's hearing will be held within ten (10) business days from the date of the preliminary review, unless the student conduct officer/board chair determines that legitimate grounds exist for delay.
  - b. No fewer than three (3) business days before the date of the hearing, the student will be sent the following, in electronic form, at their official College at Brockport e-mail address: i) written notice of charges; ii) the date, time and place of hearing; iii) the names of the board members selected, if applicable; iv) possible consequences of being found responsible for the charge(s); and v) a copy of the *Code of Student Conduct*. The Notice of Hearing will be considered received on the same date as The College e-mails it.
  - c. After Notice of Hearing is sent, the parties are expected to cooperate in scheduling a hearing promptly. If a student fails to appear at the scheduled hearing, the student conduct officer/board chair may either postpone the proceedings, or proceed with the hearing.
7. **Pre-Hearing Procedures**
  - a. **Pre-Hearing Meeting and Determination of Charges and Witnesses.** The student conduct officer/board chair will schedule a pre-hearing meeting with the student(s) to review hearing procedures. The student conduct officer/board chair will also review the charges and the proposed witness list to eliminate redundant testimony and/or testimony deemed not relevant. The College reserves the right, through the student conduct officer/board chair to: (i) add to or modify at the pre-hearing meeting, the charges specified by the student conduct officer/board chair with notice; (ii) add witnesses to the witness lists at the pre-hearing meeting and/or at the hearing with notice; and (iii) make changes to the board composition at any time, with notice.
  - b. **Notice of Potential Conflict.** A student wishing to challenge the participation of any board member (if a board hearing is chosen) must notify the board chair in writing within 24 hours of receipt of the Notice of Hearing, stating the specific reason(s) for the concern. The board chair will determine whether the challenge has merit. If the challenge relates to the participation of the student conduct officer or board chair, the vice president of enrollment management and student affairs or designee will determine whether the challenge has merit.
  - c. **Informal Resolution.** When a case involves conflict among students, groups or organizations, the student conduct officer will assess whether mediation or restorative justice practices would be an appropriate means for resolution. The director or assistant director of student conduct must approve the request.
  - d. **Submissions.** The student conduct officer/board chair will provide the student(s) with a copy of the list of witnesses, and identification of or copies of documents or other information submitted by the College. In the absence of good cause, as determined by the student conduct officer/board chair, the student(s) may not introduce witnesses, documents, or other evidence at the hearing that were not provided to the student conduct officer/board chair by the designated deadline.
  - e. **Witnesses.** The student(s) are responsible for the attendance of their witnesses at the hearing.
  - f. **Board Members' Responsibilities.** Once a board member has been appointed to the case, they may not discuss the case with anyone not involved in the proceedings, with the student(s) themselves, or with anyone acting on the behalf of the student(s). The chair will provide the board members with a copy of the Notice of Hearing, the list of witnesses, and materials submitted for the hearing with an instruction to avoid private discussion of the case. The board

will review, in advance of the hearing, all of the written materials provided to them by the board chair.

- g. **SUNY Counsel.** The student conduct officer/board chair may seek advice from the State University of New York, Office of the General Counsel throughout the hearing process.
- h. **Admission of responsibility.** If, at any time prior to the hearing, the responding party elects to acknowledge their actions and take responsibility for the alleged misconduct, they may request that the student conduct officer/board chair propose a resolution to the charges, and, resolve the violation without a hearing.

**8. Hearing Process.** The hearing will not follow a courtroom model, and formal rules of evidence will not be observed.

- a. **Privacy of the Hearing Process.** In order to comply with FERPA and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. FERPA is not applicable to cases in which student organizations are charged as a group.
- b. **Procedure for Hearing.** The student conduct officer/board chair will determine the order of the student(s) and witnesses and will resolve any questions of procedure that arise during the hearing.
  - i. Each party will be given the opportunity to provide a statement at the beginning of the hearing.
  - ii. Only the student conduct officer/board chair and board members may directly question the student(s) and any witnesses. The student(s) or their advisors may ask the student conduct officer/board chair to pose questions or inquire further into specific matters, by submitting these requests in writing. (If necessary, a brief recess may be granted to allow the student an opportunity to prepare and submit such requests.) The student conduct officer/board chair is empowered to disallow any questions that are deemed irrelevant or redundant.
  - iii. After the student and all witnesses have been questioned, the student may make a closing statement and request a short recess to prepare it.
  - iv. If the student conduct officer/board chair/board determines that unresolved issues exist that would be clarified by the presentation of additional evidence, the student conduct officer/board chair may recess the hearing and reconvene it in a timely manner to receive such information. (A recess may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents or other evidence that should have been presented at the pre-hearing meeting).
- c. **Statement/Participation.** The student has the option of not providing a statement; however, the exercise of that option will not preclude the board from proceeding and determining the case on the basis of the information presented.
  - i. If the student fails to appear at the hearing, after being duly notified of its place and time, the board chair may postpone the proceedings or direct that the board proceed.
- d. **Recording.** The board chair will arrange for the hearing to be recorded and may arrange for the preparation of any transcript of the recording that they deem appropriate, or which the student(s) requests. Such recording will be arranged through the office of the vice president for enrollment management and student affairs or designee. Individuals requesting a copy of the hearing transcript may be charged a reasonable fee.
- e. **Decision.** The student conduct officer/board will make their decision by using the preponderance of evidence standard. If a board hearing, the board must make its decision by majority vote. If an administrative hearing, the student conduct officer alone will make the determination. The student conduct officer/board chair will provide their decision in writing to the student and to the vice president for enrollment management and student affairs within ten (10) business days after the conclusion of the hearing.
- f. **Sanction.** If an administrative hearing was held, the student conduct officer will determine sanctions. If a board, the board will determine the appropriate sanction(s) by majority vote. In determining an appropriate sanction for a student who is found responsible, the student conduct officer/board may

consider any record of past violations of the *Code of Student Conduct* as well as the nature and severity of such past violation(s). The student conduct officer/board will also consider as part of its deliberations whether the student poses a continuing risk to the College community.

- g. **Effective Date of Sanction.** Sanctions are effective once the student conduct officer issues notice of the outcome and sanctions to the student. The vice president of enrollment management and student affairs or designee may suspend the student conduct officer's/board's determination while the appeal is pending, or allow the responding party to attend classes or participate in other activities on a supervised or monitored basis, or make such other interim modifications to the determination as may be advisable. The vice president of enrollment management and student affairs or designee's interim decision may not be appealed.
- h. **Transcript Notation in Cases of Conduct Suspension or Conduct Dismissal.** If the student conduct officer/board imposes a sanction of conduct suspension or conduct dismissal, then, following exhaustion of an appeal, the student conduct officer/board chair will notify the College Registrar to place a notation on the student's transcript, which will read "Suspended after a finding of responsibility for a code of conduct violation" or "Dismissal after a finding of responsibility for a code of conduct violation," as applicable. Students may appeal to the vice president of enrollment management and student affairs, in writing, for removal of a notation that they were suspended, no earlier than one year after the suspension is completed. Notations indicating a student was dismissed from the College shall not be subject to removal, and therefore, cannot be appealed.
- i. **Appeals Process.** Any student/student organization found responsible for a violation of the *Code of Student Conduct* shall have the right to appeal by submitting a letter, not more than five pages, in opposition to the hearing outcome and/or sanction(s).
  - i. Appeals are made to the vice president for enrollment management and student affairs or designee. The student/student organization must make an appeal in writing within five (5) business days after notice of the written decision.
  - ii. An appeal may be heard on the following grounds only:
    - Due Process. The conduct board or student conduct officer failed to observe the procedural or substantive requirements established by the *Code of Student Conduct*;
    - Severity of Sanction. The sanction is "too severe" or "not severe enough" based on the proven violation; and
    - New Evidence. New evidence has appeared that: a) was not known at the time of the original hearing; b) could not have reasonably been discovered at the time of the original hearing; and c) is material, so may have had an impact on the outcome of the original conduct decision.
  - iii. Students and members of student organizations do not have the opportunity to meet with the appeal officer, unless, in the appeal officer's discretion, a meeting would serve to clarify an issue on appeal.
  - iv. The appeal officer may take any of the following actions:
    - Affirm the findings and sanctions of the original conduct official or conduct board;
    - Modify the findings and/or sanctions;
    - Determine the student/student organization is not responsible for the charge(s); or
    - Remand for a new hearing.

**NOTE:** Appeals may either be submitted electronically or delivered in hard copy to: Appeals Officer, Vice President for Enrollment Management and Student Affairs, 7th Floor, Allen Administration Building or designee.

## **CATEGORY II: SEXUAL/GENDER BASED DISCRIMINATION AND MISCONDUCT: PROHIBITED BEHAVIOR AND POLICIES & PROCEDURES**

### **Sexual/Gender Based Discrimination and Misconduct Policies**

#### **PART A: SEXUAL/GENDER BASED MISCONDUCT**

Sexual/Gender Based Misconduct is a broad range of prohibited behaviors, and for the purposes of this Code, is defined as seven distinct prohibited behaviors: 1) dating violence; 2) domestic violence; 3) stalking; 4) sexual harassment; 5) non-consensual sexual contact; 6) non-consensual sexual intercourse; and 7) sexual exploitation.

1. **DATING VIOLENCE** is 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 reporting individual. It is controlling, abusive, and aggressive behavior in a romantic or intimate relationship. The abuse can include verbal, emotional, physical, or sexual abuse, or a combination. The existence of such a relationship shall be determined based on the reporting individual'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.
2. **DOMESTIC VIOLENCE** is a violent act committed by a current or former spouse or intimate partner; a person sharing a child with the reporting individual/victim; or a person living with or who has lived with the reporting individual/victim as spouse or intimate partner.
3. **STALKING** is when a person engages in a course of conduct (two or more acts by which the stalker directly, indirectly, or through third parties, follows, monitors, observes, surveils, threatens, or communicates about a person, or interferes with his or her property); directed at a specific person; and causes a reasonable person to fear for his or her safety or the safety of others, or causes that person to suffer substantial emotional damage. Examples include, but are not limited to: repeatedly following such person(s); repeatedly committing acts toward such person(s) that serve no legitimate purpose; and repeatedly communicating by any means, including electronic means, with such persons; in a manner likely to intimidate, cause fear, or alarm him or her.
4. **SEXUAL HARASSMENT (TWO TYPES):**
  - a. **HOSTILE ENVIRONMENT SEXUAL HARASSMENT** is conduct, including physical contact, advances, and comments in person and/or via phone, text message, email, or other electronic medium, that is (a) unwelcome; (b) based on sex or gender, gender identity, or gender expression, is based on gender stereotyping, or is sexual in nature; and (c) is so severe or pervasive that a reasonable person (and the alleged victim) would find that the conduct unreasonably interferes with a student's ability to participate in or receive benefits, services, or opportunities in the College's programs.

In analyzing whether a hostile environment was created, the following may be considered:

- the frequency of the conduct (pattern or practice of harassment);
- the nature and severity of the conduct (single or isolated incident if sufficiently severe);
- the identity of and relationship between the alleged harasser and alleged victim;
- whether the conduct was physically threatening;
- whether the conduct was humiliating;
- the effect of the conduct on the alleged victim's mental or emotional state;

- whether the conduct was directed at more than one person;
- whether the conduct arose in the context of other discriminatory conduct;
- whether the conduct unreasonably interfered with the alleged victim's educational or work performance; and
- whether the speech or conduct deserves the protections of academic freedom.

b. QUID PRO QUO SEXUAL HARASSMENT exists when a person having power or authority over the alleged victim makes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating the alleged victim's educational (or employment) progress, development or performance; and when submission to or rejection of such conduct would or does result in adverse educational or employment action.

5. NON-CONSENSUAL SEXUAL CONTACT:

Non-Consensual Sexual Contact is

- any sexual touching,
- however slight,
- with any object,
- by a man or a woman upon a man or a woman,
- without affirmative consent.\*

Sexual contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

6. NON-CONSENSUAL SEXUAL INTERCOURSE:

Non-Consensual Sexual Intercourse is

- any sexual intercourse (anal, oral, or vaginal),
- however slight,
- with any object,
- by a man or woman upon a man or a woman,
- without affirmative consent.\*

Intercourse however slight, meaning vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

**\*AFFIRMATIVE CONSENT DEFINITION:**

- Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity.
- Consent may be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity.
- Consent is active, not passive.
- Silence or lack of resistance, in and of itself, does not demonstrate consent.
- Consent is required and is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent to any sexual act or prior consensual sexual activity between the parties or with any party does not constitute consent to any other sexual act.
- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated.

- Incapacitation occurs when an individual lacks the ability to 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.
- It is not an excuse that the student responding party of sexual misconduct was intoxicated and/or under the influence of other drugs, and therefore, did not realize the incapacity of the other.
- Consent cannot be given if any of the parties are under the age of 17, or if an individual otherwise cannot consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

#### 7. SEXUAL EXPLOITATION

Sexual exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to: taking pictures or video or audio recording of another in a sexual act, or in any other private activity without their consent or engaging in sexual activity with another person while knowingly infected with a sexually transmitted infection (STI) or sexually transmitted disease (STD) and without informing the other person of the infection.

#### **PART B: SEX/GENDER BASED DISCRIMINATION**

The College prohibits Sex and Gender Based Discrimination.

SEX and/or GENDER BASED DISCRIMINATION is defined as:

1. Occurring when actions deprive members of the community of educational or employment access, benefits, or opportunities on the basis of sex or gender.
2. Includes discrimination on the basis of sex, gender expression, identity, or sexual orientation.

#### **PART C. RETALIATION**

Retaliation is any adverse action taken against a person because they i) participated in a report of Sex Discrimination or Sexual/Gender Based Misconduct investigation or proceeding; ii) publicly opposed sex discrimination (including sexual and gender based misconduct as defined in this Code); or iii) were friends or acquaintances of the person who made the report; and the adverse action interferes with the person's educational or employment rights or privileges. Retaliation is prohibited; participants who experience retaliation should report it to the Title IX & college compliance officer or the student conduct officer.

#### **PART D: SEXUAL /GENDER BASED DISCRIMINATION AND MISCONDUCT DISCIPLINARY ACTION**

Sexual/Gender Based Discrimination and Misconduct Prohibited Behaviors are serious violations of the *Code of Student Conduct*. A student found responsible for violating this policy may be assigned disciplinary action/sanctions that include, but are not limited to: Official Warning; Conduct Probation for one semester, two semesters, three semesters or four semesters; Conduct Suspension for one semester, two semesters, three semesters or four semesters; or Conduct Dismissal. Section 8 of the *Code of Student Conduct* Interim Measures/Disciplinary Actions/Sanctions /Loss of Privileges will be used to guide sanctioning in Sexual/Gender Based Discrimination and Misconduct cases.

Please note that the College recognizes that not all forms of violations of these Sexual/Gender Based Discrimination and Misconduct Policies are the same, and the College reserves the right to impose differing sanctions. The College will consider the concerns and rights of both the reporting individual and the responding

party. For students found responsible for non-consensual sexual intercourse, available sanctions are limited to conduct suspension with additional requirements, or conduct dismissal.

#### **PART E: STUDENTS' BILL OF RIGHTS**

The College at Brockport is committed to providing options, support, and assistance to reporting individuals/victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All reporting individuals/victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, 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:

The right to:

- Make a report to local law enforcement (University Police and/or Brockport Police) and/or New York 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 conduct or criminal justice process free from outside pressures from the College.
- 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 College courteous, fair, and respectful health care and counseling services.
- Be free from any suggestion that the reporting individual/victim/survivor is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations.
- Be free from retaliation by the College, the responding party, and/or the friends, family and acquaintances of the responding party, within the jurisdiction of the College.
- Describe the incident to as few College representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the College.
- Be accompanied by an advisor of choice who may assist and advise a reporting individual or responding party throughout the conduct process, including during all meetings and hearings.
- Access to an appeal following a determination.

Options in Brief:

- Reporting individuals have many options that may be pursued simultaneously, including one or more of the following:
  - Receiving assistance from confidential resources, such as counseling and medical attention;
  - Confidentially or anonymously disclosing a crime or violation online at [https://publicdocs.maxient.com/reportingform.php?SUNYBrockport&layout\\_id=4](https://publicdocs.maxient.com/reportingform.php?SUNYBrockport&layout_id=4)
  - Reporting to :
    - A College official who will not maintain your confidentiality, but will limit who they share information with, including: The Title IX & college compliance officer, a Student Conduct employee, or a Human Resources employee and/or University Police;
    - Local law enforcement and/or State police; and/or
    - Family Court (in some cases of intimate partner violence);
  - Filing civil complaint.

[Refer to Part F, below, Reporting Options and Procedures.

- International students who are survivors of sexual or interpersonal violence may find information about how their visa status may be impacted at <https://www.suny.edu/violence-response/Visa-and-Immigration-Resource/>

Copies of this Bill of Rights are distributed annually to students, made available on the College's website ([https://www.brockport.edu/about/title\\_ix/](https://www.brockport.edu/about/title_ix/)), include links or information to access the *Code of Student Conduct* and the Options for Confidentially Disclosing Sexual Violence, and are posted in each campus residence hall, dining hall, and student union.

The difference in the College's student conduct process and criminal proceedings are explained in <http://system.suny.edu/sexual-violence-prevention-workgroup/College-and-Criminal-Resource/>.

## **PART F: REPORTING OPTIONS AND PROCEDURES**

Reporting individuals 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 following reporting options. A reporting individual has the right to *confidentially* disclose the incident to certain college officials, who by law, may maintain confidentiality, and can assist in obtaining services. The reporting individual may also choose to make an anonymous report (see below).

### **1. Confidential Disclosing Options for Sexual/Gender Based Discrimination and Misconduct**

The College at Brockport wants to provide information and support to students who may have been subjected to Sexual/Gender Based Discrimination and Misconduct, regardless of their desire to move forward with a report of sexual violence to campus officials or law enforcement. If students want to talk with someone about something they observed or experienced, even if they're unsure whether the behavior constitutes sexual violence, they have options. Not all of the College's resources are confidential, and this section is aimed at helping students understand who is confidential.

#### **In this Section:**

- Confidential Resources.
- Privacy versus Confidentiality.
- Requesting Confidentiality: After Disclosure to Non-Confidential College officials, the College Will Weigh the Request and Respond.
- Public Awareness/Advocacy Events.
- Anonymous Disclosure.
- Institutional Crime Reporting.
- Filing Criminal Charges.

#### **A. Confidential Resources:**

Individuals who are *confidential* resources will not report crimes to law enforcement or College officials without your permission, except in extreme circumstances, such as 1) when a person is a threat to themselves or others, and 2) the mandatory reporting of child abuse. Otherwise, New York State Public Health Law §18 regulations prohibit medical and mental health professionals from releasing any information about you, unless you give your written permission.

Confidential resources (people who by law may not share your disclosure with others) are:

- Counseling Center, Hazen Center for Integrated Care, Hazen Hall, (585) 395-2414, [https://www.brockport.edu/life/counseling\\_center/](https://www.brockport.edu/life/counseling_center/)
- Student Health Center, Hazen Center for Integrated Care, Hazen Hall, (585) 395-2414
  - ✓ **Students are not charged an additional fee for services they receive from Hazen Center for Integrated Care.**
- RESTORE (Rape Crisis Services), Women's Center, B1124 Seymour Union, (585) 754-9394 or 24-

- hour hotline at (800) 527-2777, [www.plannedparenthood.org/ppcwny/](http://www.plannedparenthood.org/ppcwny/)
- [Willow Domestic Violence Center, 24-hour hotline: \(585\) 222-7233, https://willowcenter.org](http://www.willowcenter.org)
- Hospitals:
  - Strong West Emergency, 156 West Avenue, Brockport, (585) 758-1010.
  - Strong Memorial Hospital, 601 Elmwood Ave, Rochester, (585) 275-2100.
  - Unity Hospital, 1555 Long Pond Road, Rochester, NY 14626, (585) 723-7100.
- ✓ Getting medical care as soon as possible enables student to be evaluated for injuries and tested for STD's and pregnancy; having a medical exam is also a way to preserve physical evidence of a physical assault.
- ✓ To best preserve evidence, avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.
- ✓ You can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital within 72 hours of an assault.
- ✓ 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 these services. **You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to off-campus medical and/or counseling services.**
- ✓ **Students who want to see a health care provider, but don't want their medical insurance to cover it for fear that their parents/guardians may find out about the visit, should contact New York State Office of Victim Services, who will assist by compensating victims for health care and counseling services, including emergency compensation.** Information may be found at: [www.ovs.ny.gov/helpforcrimevictims.html](http://www.ovs.ny.gov/helpforcrimevictims.html).
- ✓ More information may be found here: [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf), or by calling 1-800-247-8035.

To disclose an incident *confidentially* and obtain services from New York State, New City or county hotlines, see: <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 call 1-800-942-6906). Assistance may also be obtained through:

- <https://www.suny.edu/violence-response/> - provides resources in the geographic area of each SUNY school and translates students' rights in more than 100 languages;
- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYCASA: <http://nycasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>;
- RAINN: <https://www.rainn.org/get-help>.
- Safe Horizons: <http://www.safehorizon.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 also contact a campus resource so that the campus may take appropriate action.)

#### B. **Privacy versus Confidentiality:**

Even employees who cannot guarantee *confidentiality* will maintain the reporting individual's *privacy* to the greatest extent possible, and may provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide information

contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the College from retaliation, and to receive assistance and resources from the College. These college officials will disclose that they are private, and not confidential resources, and 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 & college compliance officer or designee. Information the reporting individual provides to a non-confidential resource will be relayed only as necessary to 1) investigate and/or seek a resolution; and 2) to notify the Title IX & college compliance officer or designee, who is responsible under the law for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as possible, even if the Title IX & college compliance officer determines that the request for confidentiality cannot be honored. College officials to whom incidents are reported will notify the reporting individuals that the criminal justice process uses different standards of proof and evidence than the College's student conduct process, and that questions about penal law or the criminal process should be directed to law enforcement or the district attorney. The College will ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a college representative, the following information is presented to the reporting individual:

"You have the right to make a report to University Police, local law enforcement, and/or State Police; to choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College."

**C. Requesting Confidentiality: After Disclosure to Non-Confidential College Officials, the College Will Weigh the Request and Respond:**

Reporting individuals have the right to withdraw a complaint/report or their involvement from the College conduct process at any time. However, if a reporting individual discloses an incident to a College employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wishes to maintain confidentiality or does not consent to the College's request to initiate an investigation, then the Title IX & college compliance officer or designee will weigh the reporting individual's request against the College's obligation to provide a safe, non-discriminatory environment for all members of the College community, including the reporting individual.

When a reporting individual discloses an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wishes to maintain confidentiality, the College will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the responding party has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation, such as a situation that previously involved sustained stalking;
- The increased risk that the responding party will commit additional acts of violence;
- Whether the responding party used a weapon or force;
- Whether the reporting individual is a minor;
- Whether the College possesses other means to obtain evidence; and
- Whether the report reveals a pattern of perpetration at a given location or by a particular group.

Honoring your request may limit the College's ability to meaningfully investigate and pursue conduct action against a responding party. If the College determines that an investigation is required, we will notify the reporting individual and take immediate action as necessary to protect and assist the reporting individual.

The College will assist reporting individuals with academic, housing, transportation, employment, and other reasonable and available accommodations, regardless of their reporting choices. While reporting individuals may request accommodations through several College offices, the following

serve as a primary point of contact to assist with these measures: Title IX & college compliance officer, student conduct officer, and/or University Police. The College may also take proactive steps, such as training or awareness efforts, to combat sexual violence in a way that does not identify you or the situation you disclosed.

**D. Public Awareness/Advocacy Events:**

If students disclose a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, or other public event, the College is not obligated to begin an investigation. The College may use the information provided to inform the need for additional education and prevention efforts.

**E. Anonymous Disclosure:**

Anonymous reports may be made the following ways:

1) By completing an anonymous report at the following webpage:

[https://publicdocs.maxient.com/reportingform.php?SUNYBrockport&layout\\_id=4](https://publicdocs.maxient.com/reportingform.php?SUNYBrockport&layout_id=4);

2) By contacting RESTORE (Rape Crisis Services) 24-hour hotline at 1-800-527-2777.

3) By contacting Willow Domestic Violence at 585-222-SAFE (7233) (see its website:

<https://willowcenterny.org>);

4) By contacting New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906.

**NOTE:** Willow and the New York State Hotline are for crisis intervention, resources and referrals, and are not reporting mechanisms.

**F. Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in the College’s Clery Act Annual Security Report (Campus Safety Report) in an anonymous manner that neither identifies the specifics of the crime or the identity of the reporting individual/victim/survivor. The College is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual.) A reporting individual will never be identified in a timely warning.

**2. Non-Confidential Disclosing Options for Sexual/Gender Based Discrimination and Misconduct**

**a) File Report with the Student Conduct System or Title IX and College Compliance Officer:**

Students may make a report of sexual/gender based discrimination and/or misconduct directly with the student conduct coordinator or the Title IX & college compliance officer. Reports will be investigated in accordance with College policy. Reporting individuals who decide to report the incident to student conduct or the Title IX & college compliance officer have a right to: 1) a prompt response to any report; and 2) have their reports investigated and/or adjudicated in an impartial, timely and thorough manner by College officials who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the responding party, including the right to a presumption that the responding party is “not responsible” unless the preponderance of evidence standard is met, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

Students may withdraw their report (subject to exceptions above) or involvement from the College process at any time.

If the responding party is an employee, a reporting individual may also report the incident to the College’s Affirmative Action Officer or may request that a College employee assist in reporting to the Affirmative Action Officer. Disciplinary proceedings, if applicable, will be conducted in accordance with the applicable collective bargaining agreement. When the responding party is an employee of an affiliated entity or vendor of the College, College officials will, at the reporting individual’s request, assist in reporting to the appropriate office

of the vendor or affiliated entity and, if the response is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and College policy.

**Title IX and College Compliance Officer Contact Information:**

**Denine K. Carr, JD**

Division of Enrollment Management and Student Affairs

Location: 624 Allen Administration Building

Phone Number: (585) 395-5066

Email: [titleix@brockport.edu](mailto:titleix@brockport.edu)

Webpage: [https://www.brockport.edu/about/title\\_ix/](https://www.brockport.edu/about/title_ix/)

The Title IX & college compliance officer is responsible for monitoring and oversight of implementation of Title IX, Violence Against Women Act, Campus SaVE Act, and New York State Education Law Article 129-B compliance at the College, including coordination of training, education, communications, and administration of reporting procedures for faculty, staff, students, visitors and other members of the College community.

**Student Conduct Contact Information:**

Location: Residential Life/Learning Communities and Student Conduct, Thompson Hall, West Wing

Phone Number: 585-395-2122 or 585-395-2108

Email: [studentconduct@brockport.edu](mailto:studentconduct@brockport.edu)

Webpage: [www.brockport.edu/life/student\\_conduct/](http://www.brockport.edu/life/student_conduct/) to file a complaint on the confidential online reporting form.

**Affirmative Action Officer Contact Information:**

Ryan Reynolds

Human Resources Department

Location: 4<sup>th</sup> Floor, Allen Administration Building

Phone Number: (585) 395-2126

Email: [rreynol@brockport.edu](mailto:rreynol@brockport.edu)

Webpage: [https://www.brockport.edu/about/affirmative\\_action/](https://www.brockport.edu/about/affirmative_action/)

- b) **File Criminal Charges.** Reporting individuals who are interested in filing criminal charges will be referred to University Police, located in Lathrop Hall, phone no. (585) 395-2226. This department will assist reporting individuals with filing criminal charges and will refer them to the appropriate law enforcement agency, if necessary. If the incident occurred off-campus, the reporting individual should call 9-1-1 to report the crime. In the alternative, reporting individuals may call the New York State police 24-hour hotline to report sexual assault at 1-844-845-7269. The College will also work closely with the appropriate law enforcement agency to avoid compromising the criminal investigation. The College will provide immediate interim measures to protect the reporting individual in the educational setting, when necessary.
- The reporting individual has the right to have a conduct process run concurrently with a criminal justice investigation, except for temporary delays as requested by the external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten business days, except when law enforcement specifically requests and justifies a longer delay. In consultation with the Title IX and college compliance officer or designee, the College will provide rationale to explain the reason(s) for waiting until the completion of the criminal investigation and will communicate this rationale to both the reporting individual and the responding party.

- The College will assist reporting individuals in initiating legal proceedings in family court or civil court, including, but not limited to, obtaining an Order of Protection against the responding party or individual, or, if outside New York State, an equivalent protective or restraining order.
- The College will provide the opportunity to meet with or speak to the reporting individual and the responding party to explain: i) the Order of Protection and answer questions, including that it is the responsibility of the responding party to stay away from the protected person(s) and that the burden does not rest with the protected person; and ii) the consequences of violating an order, including, but not limited to arrest, additional conduct charges, and interim suspension. University Police will assist the protected person by effecting an arrest if the responding party violates an Order of Protection, or, if outside New York State or the University Police jurisdiction, will call on and assist local law enforcement in effecting an arrest for violation of an order.
- University Police has a confidential Crime Tip online reporting form which can be accessed at: [https://www.brockport.edu/support/university\\_police/](https://www.brockport.edu/support/university_police/)

**Note:** The Family Educational Rights and Privacy Act (FERPA) allows institutions to share information with parents when: (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, the College will not share information about a report of sexual violence with parents without the permission of the reporting individual/victim/survivor.

#### **PART G: RESPONDING PARTIES' RIGHTS**

**SE SECTION 5, ABOVE, STUDENTS' RIGHTS WHEN CHARGED WITH A VIOLATION.**

#### **PART H. PROCEDURES FOR SEXUAL/GENDER BASED DISCRIMINATION AND MISCONDUCT CODE OF STUDENT CONDUCT VIOLATIONS**

##### **A. Meeting with the Parties/Interim Measures/Conduct Proceeding**

**1. The Complaint/Report.** A complaint or report ("report") of Sexual/Gender Based Discrimination and/or Misconduct may be filed with the Title IX & college compliance officer, the Student Conduct Office, University Police, or appropriate law enforcement agency. The College official may request the reporting individual provide the report in writing. A student may make a report against another student, an employee, a student organization, or a third party. In some circumstances, the College may proceed without a reporting individual. The procedure the College uses to address these reports may vary, depending on who the report is against.

**2. Initial Meeting with Reporting individual.** The College official will schedule a meeting with the reporting individual and their advisor to:

a) Identify immediate support services and interim measures, support and resources.

- i. Immediate services/resources may include, but are not limited to, medical and counseling services by referral to the Student Health Center and the Counseling Center at Hazen Center for Integrated Care, local hospitals (referenced above); RESTORE (sexual assault crisis services); Willow Domestic Violence Center (support for victims of intimate partner violence and stalking); no-contact order with the responding party; academic support; referral to University Police; and offering of safe rides. (Students can call (585) 395-SAFE (7233) or pick up any blue-light phone and a University Police Officer or members of the student patrol will respond quickly to escort students to their cars or residence halls, any time.)

- ii. Other support that may be offered include academic support, change in housing and/or employment, and measures to ensure the reporting individual's overall health and safety.
- b) Inform the reporting individual of their rights and the College's process for addressing their report of Sexual/Gender Based Discrimination and /or Misconduct;
- c) Inform the reporting individual of the Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases;
- d) Encourage the reporting individual to report any and all forms of retaliation by the responding party(s) and/or their associates to the Title IX & college compliance officer or designee;
- e) complete the Reporting Individual Acknowledgement form with the reporting individual; and
- f) Discuss the Sexual/Gender Based Discrimination and Misconduct resolution procedures with the reporting individual, which include: i) Informal resolution (mediation or restorative justice) through the student conduct system; and ii) Formal resolution which may include an administrative or board hearing through the student conduct system. *[Note: Informal resolution will not be used to resolve reports of sexual violence, and administrative hearings will not be used to resolve reports of non-consensual sexual intercourse.]* The student conduct officer will seek input from the reporting individual on resolution of the report.

**3. Initial Meeting with Responding party.** The student conduct officer will schedule a meeting with the responding party and their advisor to: a) review the student conduct procedures; b) review the responding party's rights; and c) identify immediate interim measures or support that may be needed, including a) medical and counseling services by referral to the Student Health Center and the Counseling Center at Hazen Center for Integrated Care; b) medical and services at local hospitals (referenced above); c) no-contact order with the reporting individual; d) academic support. This meeting may also involve a discussion of any interim measures that may be appropriate concerning the responding party's overall health and safety, housing, and/or employment. The responding party will also be informed that any threat of retaliation by the responding party or third parties, including, friends, witnesses, family members, or associates toward the reporting individual or third parties associated with reporting individual, including, friends, witnesses, family members, or associates, will not be tolerated, and may subject the responding party and their associates to being charged with retaliation.

**4. Interim Measures.** In all cases of reported Sexual/Gender Based Discrimination and Misconduct, the College will undertake an appropriate inquiry and take prompt and effective action, where necessary, to support and protect the reporting individual, including taking appropriate interim steps before the final outcome of the investigation and hearing. The College will also take action to support the responding party.

- a. The student conduct official may impose a "no-contact" order, consistent with College policy, which generally includes a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, pending the investigation and outcome of the case. It is the responsibility of the person against whom the no contact order is issued to stay away from the other party, if observed in a public place, without direct contact. If a mutual no contact order is issued, it is the responsibility of both the responding party and reporting individual, if they observe each other in a public place, to stay away from one another without directly contacting the other. If the College finds it appropriate, it may make a schedule for both the reporting individual and the responding party to use the same facilities, while maintaining the terms of the no contact order.
- b. The Title IX & college compliance officer or designee may take further protective action, if deemed appropriate, to separate the reporting individual and the responding party.

- c. Students have a right to challenge the terms of the interim measure(s) or request a modification, by submitting a letter, as well as other supporting documents, to the director of student conduct or designee, within three business days of notice of the interim measure(s). A decision will be made within five business days of the request.
- d. Violation(s) of the College official's directives and/or protective actions may lead to disciplinary action.
- e. When the responding party is not a member of the College community and presents a continuing threat to the health and safety of the community, the College may subject the responding party to interim measures in accordance with the applicable collective bargaining agreements, employee handbooks, and College policies and rules. University Police or other College officials may provide assistance to the reporting individual in obtaining a persona non grata letter, subject to legal requirements and College policy. If the responding party is a non-student, the College may issue a letter, restricting them from campus.

## B. Investigation.

1. **Investigation Process.** A preliminary investigation of the report may precede a full investigation. The Title IX & college compliance officer or designee will review the information gathered in the preliminary investigation to determine if a full investigation of the report should be pursued.
  - a. If a determination is made to pursue a full investigation, it will be conducted in a manner that recognizes the legal and policy requirements of due process, including fairness, impartiality, and a meaningful opportunity to be heard. The Title IX and college compliance officer or designee may elect to have a two-member investigation team (investigators) complete the investigation.
  - b. Within 24 hours of receiving notice of the assigned investigators, the reporting individual or the responding party may, in writing, raise bias or conflict of interest, stating the specific reasons(s) for their concern. The Title IX & compliance officer or designee will determine whether the challenge has merit, and may assign a different investigator, if appropriate. If the Title IX & compliance officer is the subject of a student's concern, then the vice president for enrollment management and student affairs will make the determination.
  - c. The investigators will meet with both the reporting individual and the responding party separately to obtain their statements, other evidence, including text messages, videos, etc., and request a list of witnesses from each. The College strives to complete investigations within sixty (60) days.
2. **Notice to Parties of Investigative Report Recommendation.** The investigators will prepare and distribute to the Title IX & college compliance officer or designee a written report, which will include the information gathered during the investigation related to the allegations, and will set forth recommended charges, if any, as well as whether a hearing is recommended. The Title IX & college compliance officer or designee, in consultation with the investigators, will determine whether a hearing will be granted, after reviewing the information gathered in the investigative report. The Title IX & college compliance officer or designee will provide written notice to both parties simultaneously regarding whether a conduct hearing will be Granted or Denied, along with a copy of the investigative report.
  - a. Hearing Granted: If a hearing is Granted, no fewer than three (3) business days before the hearing, the Title IX & college compliance officer or designee will also notify both parties in writing of 1) The identity of the student conduct officer assigned to hear the case; 2) The specific charge(s) of Sexual/Gender Based Discrimination and/or Misconduct being brought against the responding party; 3) The potential disciplinary action or sanctions the responding party may face if found "responsible"; and 4) a copy of the Code of Student Conduct.

- b. **Hearing Denied:** A reporting individual whose request for a hearing is denied may appeal that decision to the vice president for enrollment management and student affairs or designee, whose decision will be final. An appeal may be brought on the following bases: 1) the investigation was incomplete, and the failure to interview or consider specific witness(es) or other information had a material impact on the investigators' recommendation; or 2) new evidence has appeared that: a) was not known at the time of the investigation; b) could not have reasonably been discovered during the investigation; and c) is material, so may have had an impact on the outcome of the original conduct decision.
- c. **Appeal of Hearing Denied.** An appeal must be submitted to the vice president for enrollment management and student affairs or designee in writing within five (5) business days of receipt of notice that a hearing was denied. The appeal letter in opposition to the decision to deny a hearing must be no more than five pages. If an appeal is submitted, notice of the appeal will be provided to the other party.

NOTE: Appeals may be submitted electronically or delivered to: Appeals Officer, Vice President for Enrollment Management and Student Affairs, 7th Floor, Allen Administration Building or designee.

### C. **Sexual/Gender Based Discrimination and/or Misconduct Resolution**

1. **Informal Resolution. The College recognizes that in some limited situations, a voluntary informal resolution option may be appropriate.** Informal Resolution will not be an option for reports involving sexual violence. The student conduct officer may seek input from the reporting individual to determine whether they are interested in engaging in an informal resolution of the report. The "Informal resolution," although less formal than formal resolution, may include restorative justice or mediation. (See Section 7, Informal Resolution.) The Title IX & college compliance officer or designee must approve a request for Informal Resolution, and if approved, a student conduct officer will facilitate this structured interaction, and may intervene or terminate the process at any time.

- a. **Purpose of Restorative Justice.** Restorative Justice provides an opportunity for the reporting individual to confront the responding party, in the presence of, and facilitated by, a student conduct officer, and the ability to communicate their feelings and perceptions regarding the incident, the impact of the incident, and their wishes and expectations for the future. The responding party will have an opportunity to respond.
- b. **Purpose of Mediation.** Mediation provides the opportunity for both the reporting individual and the responding party to resolve their conflict in writing in the presence of, and facilitated by a student conduct officer, informally. If both parties do not agree to a resolution, then the reporting individual may pursue formal resolution.
- c. **Advisors for Reporting Individual and Responding Party.** Both the reporting individual and the responding party may have advisors of their choice present to support and assist them during the informal resolution process. The student conduct officer will offer each student an advisor who has been formally trained by the College, or the reporting individual and responding party may select an advisor of their choice. Advisors will have a limited role (see 2(g) below).
- d. **Outcome of Informal Resolution.** Informal resolution will not result in a formal disciplinary sanction, but may result in the student conduct officer's imposition of protective/interim actions agreed upon by the parties, or (with or without such agreement), based upon information derived from the proceeding, along with any other relevant information known to the College at the time of the Informal Resolution.

- e. **Election of to End Informal Resolution.** The College or the reporting individual may, at any time prior to the conclusion of the Informal Resolution, elect to end such proceeding and initiate a formal resolution instead.

2. **Formal Process.** Based upon careful review of the investigative report and all information brought forward in the conduct case, the student conduct officer/board determines whether a violation of the *Code of Student Conduct* occurred, using a preponderance of the evidence standard. If a student conduct officer/board determines that the responding party is responsible for violating any of the charges, then the student conduct officer/board determines what disciplinary action may be imposed. Written or electronic notice of the outcome is provided to the responding party and reporting individual simultaneously and will state whether the responding party is responsible for having violated the charge(s), and if so, what discipline will be imposed, as well as the rationale for the decision and any sanctions.

- a. **Notice of Hearing.** When a hearing is granted, the student conduct officer/board chair will commence the formal conduct process by providing advance written or electronic notice simultaneously to the reporting individual and the responding party (the Notice of Hearing), which specifies: (1) the alleged violation(s) and a specific reference to the applicable provision in *The Code of Student Conduct*; (2) possible sanctions; (3) the date, time, and place of the hearing, subject to change; and (4) the names of the board members selected, if applicable. This notice may be provided at the Pre-Hearing Meeting.
- b. **Administrative Hearing:** This will consist of a trained student conduct officer or designee, who will adjudicate the student conduct case alone (as opposed to a board). A responding party may choose to proceed with an administrative hearing only in cases that do *not* include a charge of Non-Consensual Sexual Intercourse. Where the responding party has this option, they will have three (3) days from receipt of the written notice of hearing to determine whether to proceed with an Administrative or Board Hearing
- c. **Board Hearing:** The board is a formal group composed of faculty and staff appointed by the vice president for enrollment management and student affairs or designee, who also appoints the board chair. For Category II violations, Sexual/Gender Based Discrimination and/or Misconduct cases, students will only serve on the conduct board if deemed appropriate by the board chair. The board chair will i) confirm that all board members have received the required annual training; ii) select the board members; iii) serve as the presiding chair or appoint the presiding chair; and iv) send notice of the identity of the board members to the parties.

**Note:** Faculty, staff, etc. who serve as advisors, may at times, also serve as board members for other cases. A board member who acts as an advisor will not also preside on the board at the hearing.

- d. **Notice of Potential Conflict.** Within 24 hours of receiving notice of the identity of the student conduct officer, and/or board hearing members assigned to the case, either the reporting individual or the responding party may raise, in writing, bias or conflict of interest, stating the specific reasons(s) for their concern regarding the assigned person(s). The Title IX & compliance officer, designee or board chair will determine whether the challenge has merit, and a different student conduct officer, board chair or board member(s) may be assigned, if appropriate.
- e. **Preliminary Review and Pre-Hearing Meeting:** The student conduct officer/board chair will meet with both parties separately to review the charges against the responding party and to review the student conduct process, including the rights of both students. If the responding party disputes the charge(s), then a hearing will be scheduled. The College reserves the right, through the student conduct officer/board chair, to i) add to or modify the charges specified by the Title IX & college compliance officer or designee, with notice to the parties; If a board hearing, the right to change the composition of the board at any time, with notice to the parties. If the responding party accepts responsibility, the student conduct officer/board

chair may determine an appropriate sanction at that time, if no further information is required.

- f. **Time of Hearing:** The responding party's hearing will be held within ten (10) business days from the date of the preliminary review/pre-hearing meeting, unless the student conduct officer/board chair determines that legitimate grounds exist for delay. The parties, if participating, are expected to cooperate in the scheduling of the hearing. If either the reporting individual or the responding party fails to appear at the scheduled hearing, the student conduct officer/board chair may postpone the proceedings or proceed.
- g. **Advisors.** Both the reporting individual and the responding party may be accompanied by advisors of their choice, who may assist and advise them throughout the student conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal and state law, and the *Code of Student Conduct*.
  - i. The student conduct officer/board chair will offer each student an advisor who has been formally trained on the College's Sexual/Gender Discrimination and Misconduct Policies; in the alternative, the student may select one of their choosing.
  - ii. Outside legal counsel may privately consult with and advise the student through the conduct process, but may not otherwise directly participate in the student conduct process on behalf of the student.
  - iii. An advisor may not directly question the student conduct officer/conduct board, the parties or witnesses at the hearing, but may suggest questions, in writing, to the student conduct officer/board chair and consult with the student that they are assisting.
  - iv. Students may request a brief recess to consult with their advisor, which will be granted at the discretion of the student conduct officer/board chair.
  - v. The student conduct officer/board chair will not allow an advisor's presence to inhibit the conduct hearing.
- h. **Submissions.** The student conduct officer/board chair will provide each party with a copy of the list of witnesses, and identification of or copies of documents or other information submitted by the other party. In the absence of good cause, as determined by the student conduct officer/board chair, the parties may not introduce witnesses, documents, or other evidence at the hearing that were not identified and/or provided to the student conduct officer/board chair by the designated deadline.
- i. **Board Pre-Hearing Procedures.** The board chair will schedule a pre-hearing meeting with the board panel prior to the hearing date. Once a board member has been assigned to the case, they may not discuss the merits of the report or charges with 1) anyone not involved in the proceedings; 2) the reporting individual or the responding party; 3) witnesses; or 4) anyone acting on the behalf of the parties. The board chair will provide board members with 1) a copy of the Notice of Hearing; 2) the investigation report, including appendices, if applicable; 3) the list of witnesses submitted by the parties; and 4) party submissions.
- j. **Witnesses.** The student conduct officer/board chair will review each party's proposed witness list to assist in eliminating redundant testimony, and may, at their discretion, add witnesses to the witness lists at the pre-hearing meeting and/or at the hearing, upon written notice to both parties. The board chair will also provide each party written notice of the other party's witness list. The student conduct officer/board chair has the discretion to determine relevancy of the witnesses and determine the need for attendance of witnesses at the hearing. The parties are responsible for the attendance of their witnesses at the hearing.
- k. **Resolution before Hearing:** If, at any time prior to the hearing, after reviewing the investigation report and the reporting individual's list of witnesses and other evidence, the responding party elects to acknowledge their actions and take responsibility for the alleged Sexual/Gender Based Discrimination and Misconduct charge(s), then the responding party

may request that the student conduct officer/board chair resolve the matter without a hearing.

- I. **SUNY Counsel** The student conduct officer/board chair may seek advice from the State University of New York, Office of the General Counsel throughout the hearing process.
- m. **Privacy of the Conduct Process.** In order to comply with FERPA and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public.
- n. **Hearing Process.** The hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The student conduct officer/board chair will determine the order of the witnesses and resolve any questions of procedure arising during the hearing.
  - i. **Review of submissions.** The student conduct officer/board and chair will review, in advance of the hearing, all the written materials provided to them, including the investigative report and appendices, if applicable, and submissions by the parties, as well as witnesses.
  - ii. **Recording.**
    - a. If a board hearing, the board chair will arrange for the hearing to be recorded and may arrange for the preparation of any transcript of the recording, either deemed appropriate, or requested by a party. Such recording will be arranged through the office of the vice president for enrollment management and student affairs or designated office. Individuals requesting a copy of the hearing transcript may be charged a reasonable fee.
    - b. If an administrative hearing, the student conduct officer may at their discretion, arrange for the hearing to be recorded, and if recorded, will follow the same procedure for recording as is used in board hearings.
  - iii. **Statement/Participation.** Neither the responding party nor the reporting individual is required to provide a statement; the exercise of that option will not preclude the board from proceeding and determining the charges against the responding party on the basis of the information presented.
    - a. If either the responding party or reporting individual fails to appear at the hearing after being duly notified of its place and time, the student conduct officer/board chair may postpone the proceedings or make the determination to proceed.
    - b. If the reporting individual and/or the responding party decides not to participate, the hearing may proceed, with the student conduct officer/board relying upon the information presented during the hearing, the investigative report, including any appendices and party submissions, to make a determination.
    - c. The student conduct officer/board may not draw an inference of any kind if either the reporting individual or responding party chooses not to participate.
      - If a board hearing, the board chair will direct that the board make a determination of responsible or not responsible on the basis of the evidence presented, provided the absent individual was duly notified of the scheduled hearing date, as outlined above.
      - If an administrative hearing, the student conduct officer may make a determination on the basis of the evidence presented, provided the absent individual was duly notified of the scheduled hearing date, as outlined above.
  - iv. **Options for Alternate Location.** The College will provide the reporting individual and the responding party the option to appear and participate outside the physical presence of the other party during the hearing, in appropriate circumstances, by

- the use of a room partition or technology, such as Skype or telephone/videoconferencing, at the sole discretion of the student conduct officer/board chair.
- v. **Excluded Information.** The student conduct officer/board will exclude the reporting individual's and the responding party's prior sexual histories with persons other than one another and the mental health diagnosis or treatment of each of the parties will also be excluded. Accordingly, when determining responsibility, the student conduct officer/board will not consider 1) either of the parties' sexual histories other than with one another; or 2) the parties' mental health diagnosis or treatment.
  - vi. **Right to reconvene.** If the student conduct officer/board determines that unresolved issues exist that would be clarified by the presentation of additional evidence, the student conduct officer/board chair may recess the hearing and reconvene it in a timely manner to receive such information. (A recess may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents or other evidence that were not timely submitted in advance of the hearing).
  - vii. **Evidentiary Standard.** The standard by which the College will evaluate evidence of reported Sexual/Gender Based Discrimination and/or Misconduct is "*preponderance of the evidence.*" Preponderance of the evidence means that the conduct in question "*more likely than not*" occurred. Accordingly, a responding party will be found responsible for the reported misconduct only if the student conduct officer/board concludes that such misconduct more likely than not occurred, based upon careful review of all information presented.
- o. **Decision/Opinion.** If a board hearing, the board must make its decision by majority vote. If an administrative hearing, the student conduct officer alone will make the determination. Following the hearing, the student conduct officer/board will issue two documents to the responding party and the reporting individual: i) the Decision Letter; and ii) a Memorandum Opinion. The student conduct officer/board chair will ensure that sensitive information is properly redacted prior to issuance. The student conduct officer/board chair will provide the written decision of the student conduct officer/board in person or electronically, to i) both the reporting individual and responding party simultaneously; ii) the vice president for enrollment management and student affairs; iii) the Title IX & college compliance officer or designee; and iv) the investigators; within ten (10) business days from the conclusion of the hearing.
- i. The decision letter will contain the following information: the name of the responding party; whether the responding party has been found responsible or not responsible for charge(s) of Sexual/Gender Based Discrimination and/or Misconduct; and the sanction imposed, if any. By law, both the responding party and the reporting individual have a right to this information. College policy neither encourages nor discourages further disclosure of the decision letter by either student.
  - ii. The memorandum opinion will contain an explanation of the student conduct officer's/board's reasoning for the decision.
- p. **Sanction(s).** If a finding of responsibility is made, then the student conduct officer/board must determine sanctions. In determining an appropriate sanction for the responding party, the student conduct officer/board may consider any record of past violations of the *Code of Student Conduct*, as well as the nature and severity of such past violation(s). The student conduct officer/board will consider as part of their deliberations, whether the responding party poses a continuing risk to the reporting individual and/or the College community. The student conduct officer/board may consult with the Title IX & college compliance officer or

designee concerning the measure of discipline it determines to impose. The board will make its sanction determination by majority vote.

- i. Sanction for Non-Consensual Sexual Intercourse Finding of Responsibility. **For students found responsible for Non-Consensual Sexual Intercourse, the only disciplinary action available is: 1) conduct suspension for one semester, two semesters, three semesters or four semesters with additional requirements; or 2) conduct dismissal.**
- ii. Effective Date of Sanction. Sanctions are effective once the student conduct officer issues notice of the outcome and sanctions to the responding party. However, the vice president of enrollment management and student affairs or designee may suspend the student conduct officer's/board's determination while the appeal is pending, or allow the responding party to attend classes or other activities on a supervised or monitored basis, or make such other interim modifications to the determination as may be advisable. The decision of the vice president's or other Appeal Panel Chair may not be appealed.

q. **Appeal Process.**

- i. Right to Appeal. Both the responding party, who is found responsible, and the reporting individual have the right to appeal the decision and/or sanctions to the vice president for enrollment management and student affairs or designee in writing by submitting a letter, no more than five pages, in opposition to the hearing outcome and/or sanction(s), within five (5) business days of notice having been issued.
- ii. Basis for Appeal. An appeal may be heard on the following grounds only:
  - Due Process. The student conduct officer or board failed to observe the procedural or substantive requirements established by the *Code of Student Conduct*;
  - Severity of Sanction. The sanction is "too severe" or "not severe enough" based on the proven violation.
  - New Evidence. New evidence has appeared that: a) was not known at the time of the original hearing; b) could not have reasonably been discovered at the time of the original hearing; and c) is material, so may have had an impact on the outcome of the original conduct decision.

**NOTE:** Appeals may be submitted electronically or delivered to: Appeals Officer, Vice President for Enrollment Management and Student Affairs, 7th Floor, Allen Administration Building or designee. Notice that an appeal has been made will be provided to the other student after the deadline to appeal has passed.

- iii. Appeal Record. The appealing student whose hearing was recorded will have access to a full and fair record of the board hearing, which will be preserved and maintained for at least five years. The appealing student may access the record by contacting Dr. Kathryn Wilson, Vice President of Enrollment Management and Student Affairs at: (585) 395-2137, 7<sup>th</sup> floor Allen Administration Building, The College at Brockport, 350 New Campus Drive, Brockport, NY 14420. Appeal Panel. The appeal panel, which will consist of a minimum of two College officials, will rely upon the audio recording and/or written record of the student conduct officer/board, and may consult with the student conduct officer/board chair/board members. Neither the students found responsible nor reporting individuals have the opportunity to meet with the appeal panel, unless, in the panel's discretion, a meeting would serve to clarify an issue on appeal. The appeal panel will generally **not** conduct a new factual investigation.

The appeal panel may take any of the following actions:

- Affirm the findings and sanctions of the original conduct official or conduct board;
- Modify the findings and/or sanctions;
- Overturn the findings of “responsible” or “not responsible”; or
- Remand for a new hearing.

IV. Notice of Appeal Outcome. Both the reporting individual and the responding party will be notified simultaneously in writing of the outcome of the appeal. Members of the board, the title IX & college compliance officer, and the investigators will also be notified in writing of the appeal outcome.

- I. **Transcript Notation in Cases of Conduct Suspension or Conduct Dismissal.** If the student conduct officer/board imposes a sanction of conduct suspension or conduct dismissal, then, following exhaustion of any appeals as set forth above, the student conduct officer/board chair will notify the College Registrar to place a notation on the transcript of the student found responsible that states, “Suspended after a finding of responsibility for a code of conduct violation,” with the period of suspension specified, or “Dismissed after a finding of responsibility for a code of conduct violation.” Students may appeal to the vice president of enrollment management and student affairs, in writing, for removal of a notation that they were suspended, no earlier than one year after the suspension is completed. Notations indicating a student was dismissed from the College shall not be subject to removal, and therefore, cannot be appealed.

#### **PART I: CAMPUS RESOURCES**

The College at Brockport provides trauma-informed services through a multidisciplinary approach. A small team of professionals work collaboratively to offer sexual assault response services which include: a) The Student Health Center at Hazen Center for Integrated Care assists victims of sexual assault and rape by providing immediate medical attention to the victim, referral to a local emergency room for a Sexual Assault Nurse Examiner (SANE) exam, and manages the necessary follow up care. For after-hours care, students are referred to a local emergency room and to RESTORE (Rape Crisis Services) for immediate medical care and support; b) The Counseling Center at Hazen Center for Integrated Care assists students who may be victims, through crisis intervention, individual and group counseling services; and c) University Police, which assists students with filing a criminal report and/or d) The College’s student conduct system or Title IX & college compliance officer, who will discuss reporting options, student conduct options and interim measures.

For campus and community resources, refer to the SUNY Violence Response Resources webpage at <http://www.suny.edu/violence-response/>

#### **Important contact information:**

- Student Health Center, Hazen Hall, (585) 395-2414, [https://www.brockport.edu/life/health\\_center/](https://www.brockport.edu/life/health_center/)
- Counseling Center, Hazen Hall, (585) 395-2414, [https://www.brockport.edu/life/counseling\\_center/](https://www.brockport.edu/life/counseling_center/)
- Office of Student Conduct, Thompson Hall, (585) 395-2122 or 2108, [www.brockport.edu/life/student\\_conduct](http://www.brockport.edu/life/student_conduct)
- Title IX & College Compliance Officer, 62 Allen Administration Building, (585) 395-5066, [https://www.brockport.edu/about/title\\_ix/](https://www.brockport.edu/about/title_ix/)
- University Police, Lathrop Hall, (585) 395-2226, [https://www.brockport.edu/support/university\\_police/](https://www.brockport.edu/support/university_police/)
- RESTORE (Rape Crisis) 24-hour hotline at (800) 527-1757, [www.plannedparenthood.org/ppcwny/](http://www.plannedparenthood.org/ppcwny/)
- Women’s Center, Seymour Union, lower level, B124, (585) 395-5584, [www.brockport.edu/life/womens\\_center](http://www.brockport.edu/life/womens_center)
- For further information on resources refer to the College’s Title IX Webpage at [www.brockport.edu/titleix](http://www.brockport.edu/titleix) and the College’s Campus Safety Report at: [www.brockport.edu/policies/docs/campus\\_safety\\_report\\_clery\\_act\\_and\\_campus\\_crime\\_statistics.pdf](http://www.brockport.edu/policies/docs/campus_safety_report_clery_act_and_campus_crime_statistics.pdf)

**PART J: COMPLIANCE AND TRAINING.** Section 9, Category II: Sexual/Gender Based Discrimination and Misconduct Policies of the *Code of Student Conduct* complies with the New York State Education Law Article 129-B, Title IX regulations and the Office for Civil Rights guidelines, the Violence Against Women Reauthorization Act of 2013, Section 304, the Clery Act, and the Campus Sexual Violence Act (SaVE Act) regulations. The College at Brockport conducts biennial campus climate surveys that analyze the prevalence of and attitudes regarding sex discrimination, including sexual harassment, sexual violence, dating violence, and other related crimes.

The College employs a collaborative approach to prevention and education on sex and gender discrimination, including sexual violence, intimate partner violence and stalking. The College's education on these topics includes programs implemented by The Center for Select Respect and Prevention and Outreach Services such as Green Dot and EagleCHECK (bystander intervention training); a mandatory online program for new undergraduate students called *Think About It*; a summer orientation program for students; and Welcome Week educational programs, in addition to ongoing efforts throughout the year.

### Section 10: Code Interpretation and Revision

1. Any question of interpretation regarding the *Code of Student Conduct* will be referred to the vice president for enrollment management and student affairs or designee for final determination.
2. The *Code of Student Conduct* will be reviewed every three years under the direction of the vice president for enrollment management and student affairs.
3. The *Code of Student Conduct*, including substantive revisions, must be approved by The College at Brockport's College Council, and is governed by federal, state and local laws, rules, regulations and the College policies.