

Student Code of Behavioral Conduct

Excerpted in its entirety from the Community College of Allegheny County
Student Handbook 2013-2014

To view the full *Student Handbook 2013-2014*, visit www.ccac.edu, search keywords
“*student handbook.*”

Policies & Rules

Student Code of Behavioral Conduct

I. Introduction

At CCAC, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the Student Code of Behavioral Conduct. These standards are embodied within a set of values that include integrity, social justice, diversity, respect, community and responsibility. When members of the community fail to exemplify these values, campus conduct proceedings are used to assert and uphold the Student Code of Behavioral Conduct. The CCAC Student Code of Behavioral Conduct and its procedures are meant to be in keeping with the mission of the Community College of Allegheny County and are designed to educate the student members of our community and encourage them to uphold the standards of conduct that this community espouses while still affording all involved parties to have appropriate due process if a student is accused of violating the standard(s). It is meant to be developmental in nature and not punitive.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct proceedings are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Violations of federal, state and local laws are incorporated as offenses under the Student Code of Behavioral Conduct. When an offense occurs over which the college has jurisdiction, the college conduct process will usually go forward notwithstanding any criminal charges that may arise from the same incident. Should a student withdraw from the college when criminal charges are made, it is the typical practice of the college to pursue investigation and resolution of campus conduct matters, regardless of the fact that the student has withdrawn.

When a student is accused, arrested, charged or indicted for a violent or drug-related off-campus crime, the college may elect to take action against that student for violation of the code of conduct, which incorporates violation of local, state and federal laws as code infractions.

When it has reasonable cause to separate a student from the community, the college may suspend a student for a reasonable time pending the scheduling of a campus hearing for violation of the code of conduct. The college reserves the right to exercise its authority of suspension upon notification that a student is facing criminal investigation and/or charges. The college will permit a student who receives a suspension to request a meeting with the campus president to show cause why a suspension is not merited. Regardless of the outcome of this meeting, the college may still proceed with the scheduling of a campus hearing.

When criminal charges are pending, the college may be delayed or prevented from conducting its own investigation and moving forward with a campus hearing. In such cases, the college will delay its hearing until such time as it can conduct an internal investigation, or obtain from law enforcement sufficient information upon which to proceed.

The Student Code of Behavioral Conduct applies to guests of community members, whose hosts may be held accountable for the misconduct of their guests. Visitors to and guests of the college are also protected by the Student Code of Behavioral Conduct and may initiate grievances for violations of the Student Code of Behavioral Conduct committed by members of the college community against them. Those who are aware of misconduct are encouraged to report it as quickly as possible to the campus dean of Student Development.

STANDARDS OF BEHAVIOR

Any student found to have committed the following misconduct is subject to the sanctions outlined below. Unacceptable conduct includes, but is not limited to, the following:

Integrity

CCAC students exemplify honesty, integrity and a respect for truth in all of their dealings. Behavior that demonstrates a lapse of integrity includes, but is not limited to:

- knowingly furnishing false, falsified or forged information to any member of the college community, such as falsification or misuse of documents, accounts, records, identification or financial instruments;
- acts of academic dishonesty as outlined in the Code of Academic Misconduct;
- unauthorized possession, duplication or use of means of access (keys, cards, etc.) to any college building;
- action or inaction by someone in collusion with a wrongdoer which fails to discourage a known and obvious violation of college policy or law;

- violations of positions of trust or authority within the college community; and/or
- tampering with the election of any college recognized student organization.

College Community

CCAC students honor and value their college community. Behavior that violates this value includes, but is not limited to:

- misuse of access privileges to college premises or unauthorized entry to or use of buildings, including trespass;
- misuse or unauthorized use of college or organizational names and images;
- knowingly taking possession of stolen property;
- intentional and unauthorized taking of the property of the college or personal property of a member of the college community which is on campus;
- intentional and unauthorized destruction or damage to college property or to the property of another;

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- misuse of college computing facilities, equipment, network, passwords, accounts or information. Students who connect their personal computers to the campus network will be held responsible for any violation of this policy that originates from that computer. Examples of misuse include:
 - a. use of computing facilities to send harassing or abusive messages;
 - b. use of computing facilities to interfere with the work of other community members;
 - c. unauthorized access to a file or personal or group account; and/or
 - d. use of computing facilities to interfere with normal operation of the college computer system;
- anonymous or forged network news articles or email messages;
- disk usage over the allotted limit without prior approval;
- unauthorized transfer of an electronic file;
- use of another individual's identification and password;
- gambling in any form, including the use of playing cards and dice (subject to local statutes, activities such as raffles or drawings that benefit recognized campus organizations are permitted with the approval of the dean of Student Development);
- possession of firearms, explosives, other weapons (including, but not limited to BB/pellet guns, slingshots and sharp edged instruments, such as hatchets when used as weapons), or dangerous chemicals while on campus, unless properly authorized; and/or
- violation of state, local, or campus fire policies, including:
 - a. failure to evacuate a college building during a fire alarm;
 - b. improper use of college fire safety equipment; and/or
 - c. tampering with or improperly engaging a fire alarm in a college building.

Social Justice, Diversity

CCAC students hold social justice, equality and respect for difference and diversity as values central to the community. Behavior that violates this value includes, but is not limited to:

- discrimination, intimidation, harassment and bullying;
- malicious, callous or reckless disregard for the welfare of another human being;
- disruption of college operations, including obstruction of teaching, research, administration, other college activities, or other authorized non-college activities which occur on campus;
- obstruction of freedom of movement by community members or visitors;
- the knowing failure of any organized group to exercise preventive measures relative to violations of this Student Code of Behavioral Conduct by members;
- abuse, interference or failing to comply in college processes including conduct hearings; and/or

- abuse of the campus conduct system, including:
 - a. failure to attend meetings scheduled for conduct code administration purposes;
 - b. falsification, distortion or misrepresentation of information;
 - c. failure to provide, destroying or hiding information during an investigation of an alleged policy violation;
 - d. attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
 - e. harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during and/or after a campus conduct proceeding;
 - f. failure to comply with the sanction(s) imposed by the campus conduct system; and/or
 - g. influencing or attempting to influence another person to commit an abuse of the campus conduct system.

Respect

College students show respect for each other, for property and for the community. Behavior that violates this value includes, but is not limited to:

- threatening or causing physical harm, verbal abuse or other conduct which threatens or endangers the health or safety of any person;
- hazing (as defined below);
- violence between those in an intimate relationship to each other;
- stalking, defined as repetitive, menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family members of the community;
- sexual misconduct, (defined below):
 - a. sexual harassment;
 - b. non-consensual sexual contact;
 - c. non-consensual sexual intercourse; and/or
 - d. sexual exploitation;
- inappropriate conduct which is disorderly, disruptive or indecent while on campus or at functions sponsored by, or participated in by, the college—this includes disruptive or unauthorized use of cameras and/or electronic devices that interfere with classroom activities or other college business;
- failure to comply with directions of college officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so; and/or
- use of all tobacco products, including cigarettes, pipes, cigars, smokeless or vapor cigarettes, chewing tobacco and snuff, except in designated outdoor locations.

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STANDARDS OF BEHAVIOR (continued)

Responsibility

CCAC students are given and accept a high level of responsibility as role models. Behavior that violates this value includes, but is not limited to:

- use, possession or distribution of alcoholic beverages except as expressly permitted by law and the college's Alcohol Policy. This includes possession/consumption by those under the age of 21, providing alcohol to those under the age of 21, possession of a common source container (empty or full), driving under the influence and public intoxication by persons of any age (see the full policy on alcohol on page 35);
- use, possession or distribution of narcotics, or other controlled substances, as well as drug paraphernalia, except as expressly permitted by law; (see the full policy on page 35);
- abuse or misuse of prescriptions or over-the-counter medications;
- assisting in the violation of college policies or public laws;
- violations of federal, state or local laws which affect the interests of the college community, whether on or off-campus;
- violation of other published college policies, rules, or policies; and/or
- intentionally or recklessly causing a fire which damages college or personal property, or which causes injury to any member of the community.

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Whenever a complaint is made against any student for misconduct, the dean of Student Development or such other person as may be designated by the college president will conduct an investigation of the allegations as soon as possible (generally, for offenses against the academic community the president will designate the dean of Academic Affairs). The dean of Student Development may make any necessary modification to these procedures that does not materially jeopardize the fairness owed to any party.

Notice & Pre-hearing Procedures

Once a determination is made that reasonable cause exists for the dean of Student Development or designee to refer a complaint for a hearing, notice will be given to the accused student. Notice will be in writing, and may be delivered in person during a meeting with the dean of Student Development or designee. Notice will also be mailed to the local or permanent address of the accused student. Once mailed, such notice will be presumptively delivered. If a student is under the age of 18, a copy of the notice will be sent to the parents or guardian of the student.

The letter of notice will state briefly a description of the incident alleged, as well as stating all policies the accused student is alleged to have violated and the possible consequences if the accused student is found in violation. Relevant procedures for resolution of the complaint will be included in the notice. The letter of notice will direct the accused student to contact the dean of Student Development or designee within three calendar days of receipt to respond to the complaint.

A meeting with the dean of Student Development or designee will be arranged to explain the nature of the complaint and the conduct process. Within the three calendar day period, the accused student must schedule this meeting and at that time or before, indicate in writing to the dean of Student Development or designee whether s/he admits or denies the allegations of the complaint. If the accused student admits the violation(s), the dean of Student Development will impose appropriate sanctions. Such a disposition will be final and there will be no subsequent proceedings, unless the sanctions include suspension or expulsion. In that case, the accused may request a hearing by the conduct hearing board on the issue of sanctions, only. If the student does not admit to the violation(s), the complaint will be referred for a hearing. Minor complaints will be referred for an administrative hearing and more serious complaints will be referred to the conduct hearing board (see below for details on the proceedings of this committee). The dean of Student Development has discretion to determine the severity of the alleged violation(s) and whether informal or formal hearing procedures will apply. Generally, any misconduct that will result in less than separation is considered minor, and any misconduct that is likely to result in suspension or expulsion is eligible for referral to the conduct hearing board.

Each campus will identify a pool of representatives made up of an equal number of students, faculty and administrators chosen by the leadership of each constituency to be trained to serve as needed on conduct hearing boards. This pool of representatives will be expected to be available for conduct hearings and participate in training as identified below. When a conduct hearing board is convened one of the trained representatives from each constituency group will be selected by the dean of Student Development based upon availability in consideration of the established time frames in the Student Code of Behavioral Conduct, Conduct Procedures. (Note: Conduct Hearings addressing Title IX action will be made up of three individuals: one from the staff, one from administration and one from the faculty. See page 32, Sexual Misconduct Offenses.)

Training for the Conduct Hearing Board

Training for the conduct hearing board pool will take place as early in the fall semester as is reasonable for a minimum of five students, five faculty, three staff and five administrators from each campus to be chosen by the leadership of each constituency.

Decisions made by the conduct hearing board or the dean of Student Development or designee will be final, and sanctions implemented, pending the normal appeal process. The dean of Student Development has the authority to not impose the implementation of sanctions pending the appeal, at his/her discretion.

Administrative Hearings Procedures (Informal)

- a. Administrative hearings will be heard by the dean of Student Development or designee, and will be informal in nature.
- b. Written notice of the time, date and location of the hearing will be sent to the accused student at least five calendar days prior to the hearing date. The accused student may additionally be notified in person, by telephone, or by email. Students may waive the five day notice requirement if they prefer an expedited hearing.

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Administrative Hearings Procedures (Informal) (continued)

- c. If a student fails to respond to notice from the dean of Student Development or designee, the dean of Student Development or designee will initiate a complaint against the student for failure to comply with the directives of a college official and give notice of this offense. Unless the student responds to this notice within two calendar days by answering the initial notice, the student will be automatically suspended until such time as s/he responds to the initial complaint.
- d. Where a student denies violation of the Student Code of Behavioral Conduct, the dean of Student Development or designee will, upon receipt of a written denial from the accused student, schedule a hearing.
- e. Once a student denies a violation, they will be given a minimum of seven calendar days to prepare for a hearing.
- f. At least 48 hours before any scheduled hearing, the following will occur:
 - the accused student will deliver to the dean of Student Development or designee a written response to the complaint; and
 - the accused student will deliver to the dean of Student Development or designee a written list of all witnesses the accused student wants the college to call on his/her behalf at the hearing, giving the full contact information of any such witness, if known.
- g. At the hearing, witnesses and admissibility of information will be determined at the discretion of the dean of Student Development or designee. The hearing will consist mainly of informal questioning and discussion of the alleged incident.
- h. After the hearing, the dean of Student Development or designee will deliberate and determine whether it is more likely than not that the student has violated the Student Code of Behavioral Conduct. Once a finding is determined, if that finding is that of a policy violation, the dean of Student Development or designee will determine an appropriate sanction. The dean of Student Development or designee will prepare a written finding, which will be shared with the accused student no later than two business days following the hearing.
- i. Procedures for appeal are detailed below.

Conduct Hearing Board Formal Hearing Procedures

1. **Notice**
Written notice of the time, date and location of the hearing will be sent to all parties to the complaint, who may additionally be notified in person, by telephone or by email.
2. **Record of Proceeding**
Proceedings before the conduct hearing board will be recorded. It is not necessary that a certified court reporter be used in the proceedings. An audio recording or minutes of the proceedings will be sufficient. In the event a transcript of the proceedings is requested, the person so requiring will pay the cost of reproduction. Recordings and communications related to the disciplinary procedure and resulting actions (before the dean of Student Development or such other

designee of the president) will not be considered a public record as that term is defined by the Pennsylvania Open Records Act.

3. Committee Procedures

Once a student denies a violation, they will be given a minimum of seven calendar days to prepare for a hearing. At least 48 hours before any scheduled hearing, the following will occur:

- the accused student will deliver to the dean of Student Development or designee a written response to the complaint;
- the accused student will deliver to the dean of Student Development or designee a written list of all witnesses the accused student wants the college to call on his/her behalf at the hearing, giving the full contact information of any such witness, if known;
- the accused student will deliver to the dean of Student Development or designee a written list of all items of physical information the accused student intends to use or needs to have present at the hearing, and will indicate who has possession or custody of such information, if known;
- the complainant will deliver to the dean of Student Development or designee a written list of all witnesses the complainant wants the college to call and all physical information that will be used by the complainant at the hearing and will indicate who has possession or custody of such information, if known;
- the parties will notify the dean of Student Development or designee, at least 48 hours prior to the hearing, of the names of any person who will serve in an advisory role and may be accompanying the parties at the hearing; Those in an advisory role are to be selected from members of the college community unless special permission for an outside person is granted by the dean of Student Development. Attorneys are permitted to attend conduct hearing board hearings, but must serve in an advisory role only, and may not address the committee. A student who intends to bring an attorney to the hearing must notify the dean of Student Development at least 48 business hours prior to the hearing. The college reserves the right to request that its attorney also attend in such circumstances and the hearing may be postponed if the college's attorney is not available at the time and date of the hearing until s/he is available to appear. Hearings shall be held within a reasonable amount of time;
- the dean of Student Development or designee will ensure that this information and any other available written documentation is shared between the complainant and accused student at least 24 hours before any scheduled hearing. In addition, the parties will be given a list of the names of all the hearing officers for the complaint. Should either party object to any members of the board or panel, they must raise all objections in writing to the dean of Student Development or designee immediately. Hearing officers will only be unseated if the dean of Student Development or designee concludes that their bias precludes an impartial hearing of the complaint. Additionally, any conduct hearing board

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Conduct Hearing Board Formal Hearing Procedures (continued)

- member or hearing officer who feels he/she cannot make an objective determination must recuse himself or herself from the proceedings.
- the conduct hearing board shall be convened by the campus Dean of Student Development who will assist the conduct hearing board in selecting a chairperson.

If there is an alleged victim of the conduct in question, the alleged victim may serve as the complainant, or may elect to have the administration serve as complainant. Where there is no victim, the administration will serve as complainant. In any joint hearing, separate determinations will be made as to the responsibility of each student accused. The conduct hearing board may elect to separate hearings that have been referred jointly, in its discretion and in consultation with the dean of Student Development.

After a conduct hearing board hearing, the committee will deliberate and determine by majority vote whether it is more likely than not that the student has violated the Student Code of Behavioral Conduct. The dean of Student Development or designee will be present and available as a resource during all deliberations. Once a finding is determined, if that finding is that of a policy violation, the conduct hearing board will determine an appropriate sanction. The dean of Student Development or designee is responsible for informing the conduct hearing board of applicable precedent and any previous conduct violations by the accused student. The chair will prepare a written deliberation report to the dean of Student Development or designee detailing the finding, how each body member voted, the information cited by the body in support of its finding, and any information that the body excluded from its consideration, and why. This report should conclude with any recommended sanctions. This report should not exceed two pages in length, and must be submitted to the dean of Student Development or designee within 48 hours after the end of deliberations. The dean may make appropriate modifications and then will implement the final determination and inform the parties within seven calendar days after the hearing.

4. Admissible Information

The committee will consider all information that is relevant and credible. The committee may in its discretion limit or bar character witnesses. Any questions of the admissibility of information will be determined by the chair or the dean of Student Development.

The past sexual history or sexual character of a party will not be admissible by the other party in hearings unless such information is determined to be highly relevant by the chair or the dean of Student Development. All such information sought to be admitted at the hearing will be presumed irrelevant and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request and must be reviewed in advance of the hearing by the dean of Student Development or designee.

Previous conduct violations by the accused student are generally not to be considered as information about whether or not a student committed a subsequent violation of the Code of

Behavioral Conduct (particularly if the student was found not responsible for the previous allegation). However, the dean of Student Development or designee may supply previous complaint information to the committee, or may consider it him/herself if he/she is hearing the complaint, and:

- 1) the accused student was previously found to be responsible for violating the Code of Behavioral Conduct in the previous case; and/or
- 2) the previous allegation would indicate a possible pattern of behavior and substantial conformity with that pattern by the accused student in the current case.

5. Sanctions

The following sanctions may be imposed upon any student found to have violated the Student Code of Behavioral Conduct:

A. Written Warning

A notice in writing to the student that the student is violating or has violated institutional policies. The letter informs the student that continued misconduct will result in further conduct action. The letter will be sent to the student's permanent residence and by email using the student's CCAC email account.

B. Probation

Probation for behavioral misconduct or academic misconduct reasons is a written reprimand for violation of specified college policies. Probation is for a designated period of time and includes the probability of more severe sanctions if the student is found to be violating any institutional regulation(s) during the probationary period.

Conduct Probation is defined as: A student whose behavior on- or off-campus is in violation of established college policies and/or rules. Sanction imposed for not less than one semester nor more than three semesters. The conduct body determines the beginning and ending dates. Students on conduct probation may incur additional sanctions for any subsequent violation of college policies and/or rules, whether or not this violation is related to the original violation for which conduct probation was imposed.

Probation Restrictions

Students on probation may be subject to the following restrictions:

- (1) They may not hold any office or leadership role in any student or college organization or activity.
- (2) They may not represent the college in any on- or off-campus event.
- (3) Other restrictions may be established for individual situations.

C. Restricted Access

Offender may be restricted from entering specified buildings or areas on campus, from attendance at specified campus events or from use of specified equipment or facilities for definite periods of time.

D. Fines

Previously established and published fines may be imposed. In addition, the conduct body may recommend that the college refuse: (1) to grant academic credits or degrees; or (2) to issue grades or transcripts to the student offender(s) or

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Conduct Hearing Board Formal Hearing Procedures (continued)

student member(s) of an offending organization, until such fine is paid. The method of payment will be specified by the conduct body imposing the fine.

E. Restitution

Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement. The conduct body may recommend that the college refuse: (1) to grant academic credits or degrees; or (2) to issue grades or transcripts to the student offender(s) or student member(s) of an offending organization, until restitution is complete.

F. Educational Projects

Completion of an educational or developmental project such as, but not limited to, the following: attending a specific workshop or program, writing an article or research paper on a specified topic, making an oral presentation to a campus group, participating in specified counseling/evaluation, work assignments and/or service to the college.

G. Suspension

Separation of the student from campus, classes and all privileges for a definite period of time, after which the student is eligible to return. The offender may not be on campus at any time except to come to the Safety and Security office for matters directly related to the suspension. In cases where suspension prevents coursework, the student will receive a grade of "W". There will be no refund of tuition or fees. Any conditions for readmission will be stated in the order of suspension.

H. Expulsion

Permanent separation of the student from the college and a barring of the student from being present on-campus and at college-sponsored events. The student will receive a grade of "W". There will be no refund of tuition or fees.

The following sanctions may be imposed upon groups or organizations:

- Those sanctions listed above.
- Deactivation: Loss of all privileges, including college recognition, for a specified period of time.

More than one of the sanctions listed above may be imposed for any single violation.

6. Appeal

There is no appeal from an administrative hearing.

To appeal from a conduct hearing board hearing:

- Accused students or complainants may petition within three calendar days of receiving the written decision of the conduct hearing board for the review of its decision or the sanction imposed. Such petitions will be in writing and will be delivered to the dean of Student Development or designee.
- If the dean of Student Development or designee determines that one of the five bases for appeal below has been met, the dean may either re-open the hearing to allow reconsideration of the original determination and/or sanction(s) or will refer the matter back to the conduct

hearing board for reconsideration. The dean, Student Development or designee serves as the final level of review in the conduct matter.

- Except as required to explain the basis of new information, a review will be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes:
 - to consider new information, unavailable during the original hearing, that could be outcome determinative;
 - to assess whether a material deviation from written procedures impacted the fairness of the hearing;
 - to decide if a sanction(s) is grossly disproportionate to the severity of the offense;
 - to determine that the finding is not in accordance with the information;
 - to assess whether bias on the part of a conduct board member deprived the process of impartiality.

Every opportunity should be taken to return the complaint to the conduct hearing board for reconsideration, where possible. On appeal by any party to the complaint, the dean of Student Development or designee may support or change a decision, increase, decrease or modify a sanction. An appeal is not a rehearing, though witnesses may be called or parties questioned as necessary. The reviewing body will be deferential to the original decision maker, making changes to the finding only where there is clear error and to the sanction only if a compelling justification to do so exists.

SUPPLEMENTAL COLLEGE POLICIES & PROCEDURES

Gambling Policy

Students are expected to abide by the federal laws and the laws of the Commonwealth of Pennsylvania prohibiting illegal gambling, including online gaming. Gambling for money or other things of value on campus or at college-sponsored activities is prohibited except as permitted by law.

Such prohibited activity includes, but is not limited to, betting on, wagering on or selling pools on any college athletic event; possessing on one's person or premises (*e.g.*, room, car) any card, book or other device for registering bets; knowingly permitting the use of one's premises or one's telephone or other electronic communications device for illegal gambling; knowingly receiving or delivering a letter, package or parcel related to illegal gambling; offering, soliciting or accepting a bribe to influence the outcome of an athletic event; and involvement in bookmaking or wagering pools with respect to sporting events.

Hazing

All acts of hazing by any individual student and college registered student club or organization and any of its members or alumni are prohibited. Students are entitled to be treated with consideration and respect, and no individual may perform an act that is likely to cause physical or psychological harm or social ostracism to any other person within the college community. Accordingly, the following behavior is expressly forbidden as hazing when related to the admission, initiation, pledging, joining or any other group-affiliation activity:

- physical abuse (on- or off-campus), including but not limited to, paddling, slapping, kicking, choking, scratching and exposure to extreme (*i.e.* cold or hot) water

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Hazing (continued)

- temperatures, the consumption of disgusting and/or dangerous concoctions;
- b. causing excessive mental stress, including but not limited to, placing prospective members of an organization or group in ambiguous situations which lead to confusion and emotional stress, sleep deprivation;
- c. verbal abuse, including but not limited to, shouting, screaming or use of derogatory, profane, or obscene language; or
- d. subservience, including but not limited to, any activity which promotes a class system within organizations or activities which facilitate inappropriate levels of authority over students.

This list is not exhaustive and any student or organization found to be involved in any hazing activity will face conduct action and will likely be subjected to expulsion from the college. Violation of this policy exists irrespective of the voluntary or consensual participation in the hazing activity by the person being hazed.

SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:

1. Sexual Harassment
2. Non-consensual Sexual Intercourse (or attempts to commit same)
3. Non-consensual Sexual Contact (or attempts to commit same)
4. Sexual Exploitation

1. SEXUAL HARASSMENT

Unwelcome, gender-based verbal or physical conduct is sufficiently severe, pervasive and objectively offensive that unreasonably interferes with or deprives someone of educational access, benefits or opportunities.

Three Types of Sexual Harassment

- A. Hostile Environment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it alters the conditions of education or employment, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.
- B. Quid pro quo sexual harassment exists when there are:
 - 1) unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
 - 2) submission to or rejection of such conduct results in adverse educational or employment action.
- C. Retaliatory harassment is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct.

2. 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 a woman upon a man or a woman,
- without consent*.

3. NON-CONSENSUAL SEXUAL CONTACT

Non-consensual Sexual Contact is:

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

***Consent Defined**

Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity. Consent to one form of sexual activity cannot imply consent to other forms of sexual activity. Previous relationships or consent cannot imply consent to future sexual acts. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior or coercion. If you have sexual activity with someone you know to be—or should know to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), you are in violation of this policy. Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

4. SEXUAL EXPLOITATION

Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her 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:

- prostituting another student;
- non-consensual video or audio-recording of sexual activity;
- going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- engaging in peeping tommery;
- knowingly transmitting an STI or HIV to another student.

Sanction Statement

- Any student found responsible for violating the policy on Non-consensual Sexual Contact (where no intercourse has occurred) will receive a sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.*
- Any student found responsible for violating the policy on Non-consensual Sexual Intercourse will face a recommended sanction of suspension or expulsion.*
- Any student found responsible for violating the policy on sexual exploitation or sexual harassment will receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.*

* The conduct hearing board reserves the right to broaden or lessen any range of recommended sanctions in the complaint of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

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Student Code of Behavioral Conduct

Special Provisions

- a. Attempted Violations
In most circumstances, the college will treat attempts to commit any of the violations listed in the Student Code of Behavioral Conduct as if those attempts had been completed.
- b. College as Complainant
As necessary, the college reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim of misconduct.
- c. False Reports
The college will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Behavioral Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.
- d. Misconduct Online
Students are cautioned that behavior conducted online can subject them to college conduct action, such as harassment delivered electronically. Students must also be aware that blogs, webpages and postings on social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations, if evidence of policy violations is posted online. The college does not actively monitor this information, but will take action if and when such information is brought to the attention of college officials.
- e. Defenses
Students attempting to defend their actions with excuses, such as prescription drug interaction, self-defense, disabilities, etc. are admitting to a policy violation. For example, taking someone's property while under the influence of an anti-depressant is still taking someone else's property. While the defense does not excuse the action, the college will take the legitimacy of the defense into consideration in addressing the proper sanction. In the event of a fight the student who is not the aggressor in a fight will be sanctioned but the sanction may be lesser than the sanction of the person who started the fight.
- f. Group Violations
When members of groups, individuals acting collusively or members of an organization act in concert in violation of any policy, they may be held accountable as a group and a hearing may proceed against the group as joint accused students. In any such action, however, determinations will be made with respect to the involvement of each accused individual.
- g. Immunity for Victims
The college encourages the reporting of conduct code violations, especially sexual misconduct. Sometimes, victims are hesitant to report to college officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that as many victims as possible choose to report to college officials. To encourage reporting, the college pursues a policy of offering victims of sexual misconduct limited immunity from being charged for policy violations related to the sexual misconduct incident. While violations cannot be completely overlooked, the college will provide educational options rather than punishment, in such cases.
- h. Good Samaritan
The welfare of students in our community is of paramount importance. At times, students on- and off-campus may need assistance. The college encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the campus office of Safety and Security). The college pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the college will provide educational options, rather than punishment, to those who offer their assistance to others in need.
- i. Parental Notification
The college reserves the right to notify parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The college may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is not-dependent, the college will contact parents/guardians to inform them of situations in which there is a health and/ or safety risk. The college also reserves the right to designate which college officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act.
- j. Notification of Outcomes
The outcome of a campus hearing is part of the educational record of the accused student and is protected from release under a federal law, FERPA. However, the college observes the legal exceptions as follows:
 - 1) Complainants in sexual misconduct and sexual harassment incidents have an absolute right to be informed of the outcome and sanctions of the hearing, in writing, without condition or limitation.
 - 2) The college may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a college policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/ vandalism of property and kidnapping/abduction. The college will release this information to the complainant in any of these offenses regardless of the outcome.

This code of conduct has been reviewed by Brett Sokolow from the National Center for Higher Education Risk Management (www.ncherm.org). Some of the language may be proprietary and copyrighted. It is licensed to the college for its use and publication, but all other uses and copying are prohibited without express permission from NCHERM.