



Student Code of Conduct

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Office of Student Advocacy & Accountability

2020-2021

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COLLEGE VISION

Dutchess Community College aspires to be an innovative, transformative community of learners that promotes exemplary student success.

<https://www.sunydutchess.edu/aboutdcc/ourmission.html>

COLLEGE MISSION

Dutchess Community College offers educational opportunities that prepare individuals to realize their full potential and contribute to a diverse and global society.

<https://www.sunydutchess.edu/aboutdcc/ourmission.html>

Section I: Code of Conduct

A. General Principles

Dutchess Community College is an academic community composed of faculty, students, and administrative staff, established and continued for the express purpose of providing “an educational program featuring quality, opportunity, diversity, and social responsibility.” It affirms as its major objective “high quality in all aspects of its instructional program and in student achievement both in and out of the classroom.”

These objectives can be achieved only in an environment that is characterized by rational dialogue, intellectual integrity, a mutual respect for varying opinions, the orderly advocacy of differing points of view, and the careful preservation of an atmosphere free of repression and at the same time free of disruption.

In order to assure the continuation of a truly free learning environment for all members of its campus community, Dutchess Community College hereby sets forth the following general principles, definitions, and specific policies.

The College affirms that:

1. All members of the campus community are assured of the right to express their ideas in writing, in speech, or in other media, within the guarantees of the law and the bounds of propriety and appropriate style.
2. The freedom to teach in accordance with the dictates of intellect and conscience, based on scholarly research and the greatest possible measure of objectivity, and free from any attempt to indoctrinate or create bias; and the freedom to learn by studying, examining, and questioning, are rights that are consonant with the purpose of the College.
3. Bigotry and discrimination of any kind or degree, regardless of the basis, are inimical to the purposes of the College.
4. Examination of ideas, policies, and procedures is necessary for growth and leads to change and that orderly change is healthy for the College community.
5. There is a basic expectation of high standards of courtesy, integrity, and responsibility in all members of the College community.
6. All members of the College community are to be considered on their individual merits, and all opinions and judgments are to be formulated and carried out on the basis of individual performance and not on the basis of association.

7. All members of the College community are also members of society at large, and they are therefore subject to the laws of the nation, the state, and local community, as well as to the regulations of the College; and that the campus cannot be considered a sanctuary where conduct not legally or morally acceptable under the law may be practiced without fear of College sanctions.
8. The College will seek to implement these principles through defined channels and with the assistance and involvement of appropriately specified members of the College community.
9. Whenever possible and appropriate, informal resolution and mediation shall be used to resolve issues of individual behavior before resorting to formal disciplinary procedures.

B. Jurisdiction

College jurisdiction and discipline shall apply to conduct which occurs on College property, satellite campuses/locations during College related events and off campus which adversely affect the College community and/or the pursuit of its objectives.

The Code of Conduct applies to all students and their guests. As such, it is the student's responsibility to become familiar with this document. A copy of this document can be viewed and printed at <https://www.sunydutchess.edu/assets/StudentCodeofConduct.pdf> or you may request a hard copy from the Office of Student Advocacy and Accountability at (845) 431-8973 or at studentconduct@sunydutchess.edu. The Office of Student Advocacy and Accountability in conjunction with the Office of the College President and Office of Campus Safety and Security will determine when the College will take action for allegations of off-campus misconduct that also violates College policies and/or federal, state or local laws, statutes or ordinances.

In accordance with SUNY policy, it is the obligation of every student to notify the Office of Student Advocacy and Accountability of any felony or misdemeanor arrests occurring at any time after the student is accepted to the institution through graduation, completion of a program, or separation from the institution, regardless of geographic location of the arrest or specific crime alleged. Failure to do so may result in conduct charges by the College. The College may review the facts underlying the arrest to determine if there is a concomitant policy violation.

An alleged violation of the Student Code of Conduct will be addressed in accordance with the Student Code of Conduct, even if the accused student has stopped attending or withdrawn from the College prior to the completion of the student conduct process.

Students who attempt to engage in conduct that violates the Student Code of Conduct, who knowingly encourage, aid or assist another person in engaging in such conduct, or agree with another person, explicitly or otherwise, to engage in such conduct, may also be subject to disciplinary action.

No Code of Conduct can be so precisely written as to address all possible situations. When this Code does not address a specific behavior, individuals and groups of individuals are expected to conduct themselves and their activities in the spirit of this Code which is with respect for the dignity and well-being of others.

Conduct Which Impacts Community

1-1. Disruption.

- a. Disruption or obstruction of teaching, administration or other College activities, including public service functions on or off campus.
- b. Leading or inciting others to disrupt scheduled or normal activities associated with the operations of the College; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on

campus.

- c. Disrupting the rights or freedom of others in any manner whether by physical or verbal abuse whether directly or by third party. This includes communication by means of electronic devices or applications.
- d. Conduct in the classroom which substantially interferes with the instructor's ability to perform their academic duties.
- e. Interfering with academic freedom, including in the classroom and any speaker or performing artist invited to the campus by appropriately authorized personnel.
- f. Institutional Interference. Acts of any nature that interfere with the operation of the College and/or rights of other students/staff/faculty.
- g. Any other behavior, regardless of intent, which adversely affects the student's suitability as a member of the College community.

1-2. Disorderly Conduct. Conduct that is disruptive, lewd or indecent, regardless of intent, which breaches the peace of the community. When a person uses intent to cause public inconvenience, annoyance or alarm, or recklessly creates a risk thereof. This includes but is not limited to fighting, unreasonable noise, using abusive or obscene gestures or language, or disturbing any lawful assembly, or creating a hazardous or physically offensive condition which serves no legitimate purpose.

1-3. Dangerous Objects. Includes illegal or unauthorized possession of any firearms. Knowingly having possession, upon any premises to which these rules apply, of any rifle, shotgun, pistol, or other firearms, weapons, knives, explosives or dangerous materials, whether or not in proper working condition is prohibited. Also prohibited on campus is the use of props that resemble weapons. Exceptions may include those used in college-sponsored theatre productions.

1-4. Arson. The willful or malicious burning or attempt to burn with or without intent to damage College property or the personal property of another.

1-5. Safety Regulations. Including but not limited to:

- a. Falsely reporting a bomb, fire or any other emergency by means of activating a fire alarm or by any other means.
- b. Unauthorized possession, use or alteration of any College-owned emergency or safety equipment. This includes, but is not limited to, malicious discharge of fire extinguishers, dismantling alarms, covering smoke/heat detectors, opening security doors, emergency exits or tampering with safety equipment.
- c. Failure to evacuate a building or other structure during an emergency, emergency drills, or any time an alarm is activated.
- d. Actions that create a substantial risk such that safety of an individual(s) is compromised.
- e. Unauthorized possession or use of flammable materials or hazardous substances.
- f. Dutchess Community College is a completely tobacco-free environment. The ban includes cigarettes, e-cigarettes (or any devices that emit toxic smoke or vapors), cigars, chewing tobacco, pipes, snus, dip and all related products. Use of these products is prohibited on all college property. www.sunydutchess.edu/tobaccofree/

- g. Possession and/or use of hoverboards is prohibited, due to associated fires and injuries reported to the Consumer Product Safety Commission.
- h. Other behavior, regardless of intent, that poses a safety risk.

1-6. Keys. Unauthorized possession, duplication or use of College issued keys to any College premises. Students are not permitted to give or loan assigned keys to other students or guests.

1-7. Unauthorized Entry. Unauthorized entry to or use of a College room, building, structure, facility or vehicle.

1-8. Trespassing. A person's unlawful presence upon College property. Knowingly entering or remaining unlawfully in or on College premises or any portion thereof. Any person who has been given notice by a College official excluding them from all or a portion of College premises is not licensed, invited, or otherwise privileged to enter or remain on the identified portion of College premises, unless given prior explicit written permissions of a College official.

1-9. Vehicles. Failure to adhere to rules and regulations governing the use of vehicles on campus. <https://www.sunydutchess.edu/assets/TrafficAndParkingRegulationsRev.pdf>

1-10. Bicycles. For safety reasons, the riding of bicycles on pedestrian pathways and sidewalks is prohibited. <https://www.sunydutchess.edu/assets/TrafficAndParkingRegulationsRev.pdf>

1-11. Motorized and self-propelled personal transport devices. These devices include self-balancing scooters, battery-operated scooters, and Segways. College policy prohibits the use and/or possession of such forms of transportation on campus property including pedestrian pathways, sidewalks, parking lots and roadways.

1-12. Coasting Devices (e.g. Skateboarding/Longboarding/Rollerblading/Heelys). College policy prohibits the use of such forms of transportation or other forms of coasting devices on campus property including pedestrian pathways, sidewalks, parking lots and roadways.

1-13. Masks. The wearing of masks, or otherwise concealing one's identity, is prohibited on campus. Exceptions may include those used in college-sponsored theatre productions and class projects. ***This does not apply to facial coverings that are in line with COVID-19 protocols.***

1-14. Gambling. Gambling is not permitted on College property. Exception may be College-approved fundraising raffles/events.

1-15. Animals. No person shall bring into any building owned or controlled by the College, any animal, with the exception of those animals being used for College authorized research, approved service or comfort animals, which have been registered with the Office of Accommodative Services. Additionally, no person shall bring to the campus grounds a properly registered animal that is not restrained by a leash not to exceed 5 feet in length. Approved animals which are unleashed or leashed but unattended will be considered at large. Approvals are coordinated by the Office of Accommodative Services <https://www.sunydutchess.edu/academics/accommodative/index.html>.

1-16. Outside Camping and Temporary Structures.

- a. No person shall be permitted to sleep or spend the night on any property owned or controlled by the College without specific, written authorization from appropriate College officials.
- b. No person shall erect a tent, lean-to, or other temporary structure with the intent to

utilize such for overnight occupancy. Temporary structures may be erected as information centers, public displays, for social, cultural, and recreational activities, etc., which are sponsored by an officially recognized campus organization in compliance with all other applicable policies and regulations.

Conduct Associated with Personal Responsibility and Integrity

2-1. Acts of Dishonesty. Including but not limited to:

- a. Providing false information to any College official, faculty member or office. No person shall cause information regarding College business to be conveyed to any College community members or office knowing the information reported or circulated to be false or baseless.
- b. Forgery, alteration or misuse of any College document. Examples include ID cards, forms, academic records, transcripts, permits, official correspondence, etc.
- c. Tampering with the election/vote of any College-recognized student organization.
- d. Inappropriate or unauthorized use of the College name or a College related agency.
- e. Violation of College policies or regulations, building procedures and/or hours.
- f. Other dishonest behavior, regardless of intent.

2-2. Identification Cards. In an effort to provide adequate security for members of the College Community, every student must carry an identification card issued by the College.

- a. Failure to show College-issued student identification to requesting College officials acting in performance of their duties.
- b. Loaning or using a College-issued identification card of another student for the purpose of accessing services. This includes but is not limited to dining services, ticket sales, College sponsored events or building entry.
- c. Residence hall student ID cards. A residence hall student ID must be surrendered to the proper College authority (e.g. Office of Residence Life, Office of Student Advocacy and Accountability or Office of Campus Safety and Security) once a student is no longer a resident, including being subject to interim separation from the residence hall for disciplinary cause. If a student remains currently enrolled as a DCC student, a commuter student ID will be issued. It is the student's responsibility to replace any lost or stolen residence hall ID card immediately or the next College business day.

2-3. Failure to comply. Including but not limited to:

- a. Failure to comply with directions of College officials acting in performance of their duties.
- b. Failure to comply with verbal or written directions in food service areas operated by established vendors. Food services areas include, but are not limited to: Conklin Hall Atrium, Drumlin Hall, and Hudson Café (Hudson 210).
- c. Failure to comply with SUNY and/or College regulations or policies.
- d. Failure to complete College sanctions imposed by any Conduct Body or administrator by the assigned due date.

- e. Failure to comply with the conditions of your imposed non-academic status (e.g. probation, deferred suspension and restricted campus access).
- f. Failure to comply with federal, state and/or local laws, statutes, and ordinances.

2-4. Damage to Property. Any action that causes damage or which would tend to cause damage or substantial inconvenience to the property of the College or property of a member of the College Community or other personal or public property.

- a. No person shall put graffiti on any property of the College or property of an individual.
- b. Unintentional damage caused by student negligence or recklessness to any College or personal property.
- c. Intentional damage caused by student behavior to any College or personal property.
- d. Damage caused by premeditation may be subject to higher levels of sanctions.

2-5. Theft.

- a. Attempted or actual theft of College property or services or any personal property.
- b. The unauthorized possession of College property or property belonging to any person.
- c. The receiving of stolen property.
- d. Unauthorized use or abuse of computer time and/or computer systems, information, passwords or computerized data.

2-6. Alcohol. Dutchess Community College is a dry campus. The serving and/or possession of alcoholic beverages on the College campus or College-controlled properties is prohibited. **This policy extends to any College, student organization, or team sponsored event or travel.**

- a. Students may not be in the presence of alcohol.
- b. Students may not be in possession of alcohol.
- c. Students may not use or consume alcohol.
- d. Students may not have any intention to sell, distribute or exchange alcohol.
- e. Students may not be the host of a gathering where alcohol is present, distributed and/or consumed. Hosts may be subject to higher levels of sanctions.
- f. Students may not be in possession of alcohol paraphernalia. Paraphernalia may include equipment that can be used for the rapid consumption of alcoholic beverages (e.g. funnels). Also prohibited are evidence of drinking games (e.g. beer pong).
- g. Intoxication is prohibited regardless of age. Intoxicated students may be transported to one of the local hospitals for evaluation. Any student who refuses medical treatment for alcohol intoxication will be denied access to campus facilities. The College is not responsible for any cost incurred based upon the determination to transport an intoxicated student.

- h. Class attendance, participation in/attendance at any College-sponsored function, or accessing support services (e.g. academic advising) under the influence of alcohol is prohibited.

2-7. Drugs. Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), possessing, using, or distributing a controlled substance or a dangerous drug, or any drug unlawful to possess (e.g. marijuana) except as expressly permitted by law. Drug paraphernalia including, but not limited to: bong, water pipes, or hypodermic needles that are not specifically required for the administration of prescribed medications are not allowed on campus. Use of legal medication outside the parameters of the medical authorization is prohibited and prescription drugs on campus must have an authentic medical prescription.

- a. Students may not be in the presence of drugs, narcotics or other controlled substances except as expressly permitted by law.
- b. Students may not be in possession of drugs, narcotics or other controlled substances except as expressly permitted by law.
- c. Students may not use or consume drugs, narcotics or other controlled substances except as expressly permitted by law.
- d. Students may not have any intention to sell, distribute or exchange drugs, narcotics or other controlled substances except as expressly permitted by law.
- e. Students may not be the host of a gathering where drugs, narcotics or other controlled substances are present, distributed and/or consumed. Hosts may be subject to higher levels of sanctions.
- f. Students may not be in possession of drug paraphernalia which includes but is not limited to: bong, pipes, scales, baggies, pipes, hookahs, water pipes, grinders, or any other items modified or adapted so they can be used to consume or store drugs.
- g. Where the odor of marijuana is present, a student may be charged.
- h. Class attendance, participation in/attendance at any College-sponsored function, or accessing support services (e.g. academic advising) under the influence of drugs, narcotics or other controlled substances is prohibited.

Good Samaritan and Medical Amnesty Policies for Alcohol and/or Drug Use

Purpose

The purpose of these policies is to increase the likelihood that medical attention is provided to students who need it due to alcohol intoxication or use of drugs by removing impediments to seeking such assistance. This policy is intended for use in isolated situations; therefore, it does not excuse or protect those who flagrantly or repeatedly violate College policy.

Good Samaritan Policy

The spirit of the Good Samaritan Policy is that we all have an ethical responsibility to help people in need. Dutchess Community College expects that students will take an active role in protecting the safety and well-being of their peers and the College community. In order to promote this, when a student assists an individual who is intoxicated or under the influence of drugs in procuring medical assistance, that student may be granted amnesty from formal disciplinary action by the College for violating the alcohol or drug policies. The assisting person may be required to meet with a member of the Office of Student Advocacy and Accountability or a designee to discuss the incident and complete assigned educational interventions/sanctions.

Medical Amnesty Policy

When a student is intoxicated or under the influence of drugs and seeks medical assistance, they may be granted amnesty from disciplinary action by the College for violating the alcohol or drug policies. Upon receiving a report that a student needs medical assistance, College staff will respond through College Safety and Security to obtain EMS services, and responding officials will use standard procedures for documenting information and collecting identification of all persons involved. Student conduct charges will be deferred, and will be dismissed upon successful completion of any recommended alcohol and/or drug intervention(s). Failure to successfully complete the recommended alcohol and/or drug program or assessment may result in student conduct action.

Amnesty will not extend to other conduct violations associated with the incident included but not limited to distribution of drugs, hazing, vandalism/property damage, or sexual misconduct. Amnesty can only extend to the College student conduct process and does not protect students from criminal or civil penalties.

Upon receipt of an incident report or Campus Safety and Security report, documenting an alcohol or drug transport, the following may occur:

1. The student may be required to obtain an alcohol or drug assessment from the Office of Counseling Services. If an assessment is required, a copy of the assessment report will be sent to the College Behavioral Assessment Team and the Office of Student Advocacy and Accountability.
2. If the student is under the age of 21, the College notifies the known parents/guardians (on file with the College) when consumption of alcohol or drugs results in the student being transported. When possible, the student will meet with a member of the Office of Student Advocacy and Accountability before notification is sent.
3. A second transport may not invoke the above Good Samaritan or Medical Amnesty Policy.

2-8. Abuse of the Conduct System

- a. Failure to obey the summons of a Student Conduct Body or College official.
- b. Falsification, distortion or misrepresentations of information before a Student Conduct Body or College official. This may result in additional conduct charges being filed.
- c. Disruption or interference with the orderly conduct of a disciplinary proceeding.
- d. Attempting to discourage an individual's proper participation in, or use of, the conduct process through intimidation or any other means.
- e. Attempting to influence the impartiality of a member of a Conduct Body prior to, and/or during the course of, the student conduct proceeding.
- f. Harassment (verbal or physical) and/or intimidation of a member of a Conduct Body prior to, during, and/or after a student conduct proceeding.
- g. Failure to comply with College sanctions imposed by any Conduct Body or administrator.
- h. Influencing or coercing another person to commit an abuse of the student conduct process.

- i. Retaliation against or interference with individuals who report or file complaints of violations of College policy, including the Student Code of Conduct, those who cooperate in College investigations of such reports or complaints, or those who serve on the Hearing Bodies to hear and decide complaints is a violation of College policy, will not be tolerated and, if perpetrated by a student, will itself be treated as an offense under the Student Code of Conduct. Any individual from the College who engages in such retaliation or interference should be referred to the Office of Campus Safety and Security or the Title IX Coordinator, as appropriate, for further investigation and referral for disciplinary action as warranted to the Office of Student Advocacy and Accountability.

2-9. Computer/Internet/Electronic Device Misuse. The College's information resources may only be used for purposes that are consistent with the educational mission of the College.

- a. Illegally copying, distributing, downloading and/or uploading copyrighted materials on any personal or College computer system. These materials include but are not limited to: texts, emails, web information, graphic art, photographs, music, film, file sharing and software.
- b. Use of computers and/or campus networks to harass, intimidate, or threaten other individuals, or to store, print or publicly display offensive or obscene messages or content.
- c. Unauthorized or improper use or abuse of your computer account or the College network.
- d. Repeatedly sending messages with no appropriate intent.
- e. Accessing a student or staff account without authorization.
- f. Using a College office account to send messages without authorization.
- g. Failure to comply with College policies on computers, networks, voice mail and telephone services.
- h. Solicitation.
- i. Using a personal router.
- j. Cyberbullying. Participation in any online communities, social media networks or use of any electronic applications where students are violating or encouraging or inciting others to violate the Student Code of Conduct, including but not limited to sending verbal threats which harm or cause reasonable apprehension of harm, sending messages that are malicious or that a reasonable person would find to be malicious; sending photos or videos of staff members or students without their expressed permission, distribution of inappropriate information and/or confidential correspondence, posting offensive/incriminating photos, blogs, websites or videos.
- k. Knowingly gain access to or use DCC computing or internal or external communications facilities to which legitimate authorization has not been granted.
- l. Electronic devices such as cell phones and other electronic devices used in a manner that causes disruption within any College-owned or College-operated facilities. This includes photographic capability. Utilizing any device for the purpose of photographing or transmitting test questions or other forms of academic misconduct or illegal activity is prohibited.

Conduct Which Violates the Dignity and/or Safety of an Individual

3-1. Harassment. Includes acts such as, but is not limited to:

- a. Attempting or threatening to subject another person to unwanted physical contact or harm.
- b. Pursuing, stalking or following another person in or about a public place or places. Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer emotional distress. Such behavior may include any initiation of communication or contact with a victim by means of following, telephoning, or by social and electronic media after the actor was previously clearly informed to cease such conduct.
- c. Cause another person or persons to fear for their safety by another person or cause another person to be hindered from actively participating in College activities, programs or services.
- d. Non-consensual communication, including but not limited to: initiating or attempting contact by any means with no purpose of legitimate conversation; written letters; electronic communication; telephonic communication; unwanted gifts; surveillance or other types of photographing or observation; trespassing; vandalism; and non-consensual touching.
- e. Directing obscene language or gestures at another person or group of people.
- f. Directing verbal abuse at another person because the individual is carrying out duties and responsibilities associated with their role as faculty, staff or student staff at the College.
- g. Distributing information of a harassing nature about another individual without their consent using paper, electronic or telecommunication devices.
- h. Making any unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy including but not limited to showers/locker rooms, residence hall rooms and restrooms is prohibited. Also prohibited is the storing, sharing and/or other distribution of such unauthorized images by any means.
- i. Bias-related harassment is unwelcome verbal or physical conduct, based upon race, national origin, color, religion, cultural identity, sex, sexual orientation, gender, gender identity, gender expression, age, disability, status as a military veteran or protected activity that unreasonably interferes with the person's work or educational performance or creates an intimidating or hostile work or educational environment. Violations of this policy are very serious and will subject the offender(s) to more serious levels of sanctioning.

3-2. Hazing. In accordance with the State of New York Hazing Laws and the Board of Trustees' commitment to maintaining the highest possible standard of conduct for themselves, faculty, staff, and students, the following Anti-Hazing Policy shall be in effect at Dutchess Community College.

- a. Any action taken, or situation created, by a person or an organization, or with the knowledge or consent of an organization, that recklessly or intentionally endangers the mental or physical health of a student or other person is prohibited in or on any and all property owned, rented, leased, or used rent-free by Dutchess Community College.

- b. Any organization that authorizes or condones such endangering actions, situations, or hazing, shall have its permission to operate on Dutchess Community College property revoked.

3-3. Physical Assault. Physical Assault is defined as any intentional act that causes another person to fear that he/she is about to suffer physical harm. This definition recognizes that placing another person in fear of imminent bodily harm is itself an act deserving of disciplinary action, even if the victim of the assault is not physically harmed.

- a. Inflicting bodily harm upon any person.
- b. Taking any action for the purpose of inflicting harm upon any person.
- c. Subjecting another person to unwanted physical contact.
- d. No person shall attempt to cause injury to any College personnel, police officer, fire fighter, paramedic, or emergency medical technician while performing their lawful duties.

3-4. Reckless Endangerment. Taking any action that creates a substantial risk such that bodily harm could result to any person. These include but are not limited to:

- a. Threat or use of weapons or any dangerous object of any kind for any purpose.
- b. Jeopardizing the physical or emotional safety of oneself or another.
- c. Objects or people on or in inappropriate places where they endanger themselves or others.
- d. Throwing objects in the direction of a person or objects that could cause injury to another person or damage property.
- e. Compelling or inducing a person(s) to engage in conduct against their will, or in mischievous conduct.
- f. Restraining another person.
- g. Menacing. Placing another person in fear of death, imminent serious physical injury or physical injury.

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intentionally left blank.

3-5. Sexual Misconduct Offenses and Sexual and Interpersonal Violence Offenses include, but are not limited to, sexual assault, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse and sexual exploitation.

Definition of Affirmative Consent

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

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether a person initiating is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot give consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

- a. **Sexual Misconduct** is such behavior that includes unwelcomed sexual advances, requests for favors, and other direct verbal or physical conduct of a sexual nature. Sexual misconduct includes pervasive or severe behaviors such as “sexting”, sexually laced humor, displays of sexually offensive materials, and other inappropriate sexually based actions.
- b. **Sexual Harassment** includes unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when it meets any of the following:
 - i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status.
 - ii. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual.
 - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for working, learning, or living on campus. Sexual harassment can occur between any individuals associated with the College, i.e. an employee and a supervisor; coworkers; faculty members; a faculty, staff member, or student and a customer, vendor, or contractor; students; or a student and a faculty member.

- c. **Sexual Exploitation** is sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for their own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are not limited to, videotaping or photographing of any type (webcam, camera, Internet exposure, etc.) without knowledge and consent of all persons; prostituting another person; knowingly transmitting HIV or a sexually transmitted disease to an unknowing person or to a person who has not consented to the risk; or inducing incapacitation with the intent to commit sexual assault, without regard to whether sexual activity actually takes place.
- d. **Sexual Assault** is a severe form of sexual misconduct. No person or group of individuals shall engage in sexual behavior toward any person against their will and without their **affirmative consent** (as defined herein). Such behavior includes, but is not limited to, forcible penetration with a part of one's body or object, touching, pinching, patting, or pressing up against someone, exposing the genitalia, sexual based stalking or bullying, peeping, or the invasion of one's sexual privacy. Sexual assault is also defined as non-forcible sexual activity with a person who is physically or mentally incapacitated. **Incapacity** is defined as one in a state where they are unable to grant affirmative consent (as defined herein) to sexual activity. Incapacity may occur in a person who is: under the influence of alcohol, drugs, or other intoxicants, or suffering from a physical or mental illness, and or experiencing emotional trauma.
- e. **Sexual Violence**, as that term is used in this Code of Conduct, DCC and SUNY Policy and in prior U.S. Office for Civil Rights Guidance, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving an affirmative consent (as defined herein). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by other students, College employees, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

Every member of the College community is entitled to a work and learning environment free from the devastating effects of sexual harassment. No person or group of individuals shall engage in sexual behavior toward any individual against one's will and without one's verbal consent. Dutchess Community College expressly prohibits the sexually aggressive conduct noted above and employees and students found engaging in it will be subject to severe disciplinary action on campus, including termination, suspension, or dismissal, or expulsion. In addition, any violators may also be subject to criminal charges and prosecution under local and state laws.

www.sunydutchess.edu/studentlife/sexualharassmentpolicy.html

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

The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. Dutchess Community 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. DCC strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College officials or law enforcement will not be subject to the College's Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

C. Violations of Housing Policies and Procedures

Refer to the most recent Resident Handbook and Student Housing License Agreement. Documents are accessible through the student's MyDCC page.

D. Campus Policies on Information Resources, Internet Use, Web Pages, Information Security and Information Protection

Purpose

All users of DCC Information resources are subject to Federal and State law. No College computer or any other communications device may be used in violation of the laws of New York State or the federal laws of the United States of America, including but not limited to the Family Education Rights and Privacy Act (FERPA) and the American Health Insurance Portability and Accountability Act (HIPPA). (Board of Trustees Resolution #2018-11, dated September 19, 2017).

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Section II: Non-Academic Student Conduct Jurisdiction, Definitions, Conduct Officers and Hearing Bodies

No person shall knowingly or maliciously bring false charges against any member of the DCC community under this Code.

The College's Student Conduct Process manages all charges brought against any student or student organization for alleged violation of the Student Code of 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 Student Code of Conduct.

The following procedures have been established to provide a process for determining if students have violated College policies and to provide appropriate response. All Dutchess Community College students are responsible for reading the Student Code of Conduct and complying with the standards of accountability set forth in the Code.

The student conduct process is educational and administrative in nature. As such, the standard of accountability used is Preponderance of the Evidence. The student conduct process is not a legal process; therefore, the formal rules of procedure and process and/or technical rules of evidence that are used in the courts do not apply to the student conduct process.

A. Definitions

The following is a list of terms applied throughout the Student Code of Conduct and is provided in an effort to facilitate a more thorough understanding of the Code. This list is not intended to be a complete list of all terms referenced in the Student Code of Conduct that might require interpretation or clarification.

Accused: Any student or student organization who is alleged to have violated the Student Code of Conduct.

Advisor/Support Person: Any person identified by a student to support or assist them through the student conduct process. An advisor may not directly address the Hearing Body, question witnesses, or otherwise actively participate in the hearing process or other proceedings pertaining to a report of an alleged violation of the Student Code of Conduct. In line with guidance from the U.S. Department of Education (<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>), special conditions may apply in certain Title IX hearings.

Adjudication: The process of reviewing a complaint; listening to the respondent, complainant, and relevant witnesses; determining if a policy violation occurred; and making a recommendation for a sanction or issuing a sanction.

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

- Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act.

- Consent is required regardless of whether a person initiating is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot give consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Appeal: A request from the student to review the outcome(s) of a hearing or any interim actions imposed by the College. For more detailed information regarding appeals, please see Section 4.9 of this document.

Appeal Officer: Any person or panel authorized by the College President or the Assistant Dean of Student Advocacy and Accountability to consider an appeal from a determination by a Hearing Body that a student has violated the Student Code of Conduct.

Bystander: A person who observes a crime, impending crime, incident, event, conflict, potentially violent or violent behavior, or conduct that is in violation of the Student Code of Conduct or other rules and policies of the College.

Charge or Violation: An accusation that alleged behavior violates the Student Code of Conduct.

Code: Student Code of Conduct.

College: Dutchess Community College (DCC)

College Days: Weekdays (Monday through Friday) when the College administrative offices are open.

College Official: Includes faculty and staff of the College, student employees who are carrying out assigned duties, contractual employees, and Campus Safety and Security Personnel, including Security Guards and administrative staff.

College Premises: Includes all land, buildings, facilities, and other property in the possession of, owned, used or controlled by the College including adjacent streets and sidewalks.

Complaint: A report indicating that there has been an alleged violation of the Student Code of Conduct. Also, referred to as an allegation.

Complainant or Reporting Person: Any student, faculty, or staff member who initiates a complaint against a student by alleging that a student or student organization violated the Student Code of Conduct. They may discuss the nature of the problem and possible courses of action with the Office of Student Advocacy and Accountability, Office of Campus Safety and Security or Title IX Coordinator.

The individual is expected to provide information about the incident. Details of the incident should be stated concisely and accurately. Known witnesses to the incident should be identified. Although reports will be accepted at any time, an incident or complaint should be reported within forty-eight (48) hours, as the passage of time will impede efforts to investigate and appropriately resolve alleged violations of the Student Code of Conduct.

In the instance of the College being the Complainant, a member of the Office of Campus Safety and Security or the Office of Student Advocacy and Accountability may act as the Complainant on the College's behalf.

Conduct Officer/Student Conduct Administrator: A College official/administrator who is authorized to determine the appropriate resolution of an alleged violation of the Student Code of Conduct, and/or to impose sanctions or affect other remedies as appropriate. Subject to the provisions of this Code, a conduct officer is vested with the authority to, among other duties: investigate a complaint of an alleged violation of the Code, decline to pursue a complaint, refer accused/respondent to appropriate avenues of resolution, determine charges to be brought against a student, enter into an Administrative Agreement developed with an accused/responding student, advise a Hearing Body, and present the case before a Hearing Body.

Course of Conduct: A pattern of actions composed of two or more acts over a period of time.

Dating Violence: Any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature;

Domestic Violence: Any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim or a person cohabitating with the victim as a spouse or intimate partner.

Distribute: To sell, exchange, give, make available or dispose of to another person or to offer or agree to do the same.

Finding of Responsibility: The decision that the Hearing Body makes of whether the student is responsible or not responsible for violating a policy.

Hearing: The specified date, time, and location that a student has the opportunity to respond to the complaint of alleged misconduct.

Hearing Body: Any person or persons authorized by the College through the College President or the Assistant Dean of Student Advocacy and Accountability to determine whether a student or student organization violated the Student Code of Conduct and to impose sanctions.

Institution: Dutchess Community College.

Interim Measure: Any measure taken by the College as a temporary or immediate response to a report or complaint. Interim measures include, but are not limited to: Notice of Interim Suspension, Interim Removal from Campus Housing, Interim Campus Restriction(s), Interim Removal from College-Sponsored Program, and No Contact Directive(s).

May: is used in the permissive sense.

Member of the DCC Community: Any person who is a student, faculty, staff or any other person who works for the College, either directly or indirectly.

Notification of Charges: The process of informing a student that charges have been brought forward against them and what standards or policies may be in question.

Policy: Written regulations of the College as found in College published documents such as, but not limited to, the Board of Trustees policies, the College Catalog, the Student Code of Conduct, the College Housing license and contract, Resident Handbook, and student organization recognition and governance policies.

Proceedings: Activities related to the receipt of a report/complaint of an alleged violation of the Student Code of Conduct by a student or student organization, including but not limited to, fact-finding investigations, formal or informal meetings, hearings and appeals.

Prohibited Conduct: Conduct prohibited by College published documents.

Quorum: The hearing body must achieve a quorum before the case may be adjudicated. However, the accused student shall have the right to waive the quorum required. If there is not a quorum and the requirement is not waived, then the hearing must be rescheduled. A quorum will consist of three (3) voting members.

Rape: Defined as sexual intercourse with a person that is forced, manipulated or coerced through use of verbal coercion, intimidation (emotional and/or physical), threats, physical restraint and/ or physical violence; and/or where affirmative consent was not given.

“Reasonable Person”: Refers to the hypothetical person who exercises average care, skill and judgement in conduct and who serves as a comparative standard.

Respondent: Any student or student organization who has been charged with one or more violations the Student Code of Conduct.

Sanction: A response of the College to a finding of responsibility.

Sexual Harassment: Gender-based, verbal, non-verbal or physical conduct that is sexual in nature and sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone’s ability to participate in, or benefit from, the College’s educational program and/or activities, and is based on power differentials, the creation of a hostile environment or retaliation.

Sexual Assault: Defined as a physical sexual act or acts committed against another person without affirmative consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as “rape” (including what is commonly called “date rape” and “acquaintance rape”), fondling, statutory rape and incest. For statutory rape, the age of consent in New York State is 17 years old.

Sexual Act: Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; contact between the mouth and the penis, the mouth and the vulva or the mouth and the anus; the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any

object, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

Sexual Violence: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving affirmative consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion.

“**Shall**” and “**Will**” are used in the imperative sense.

Stalking: Intentionally and for no legitimate purpose engaging 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 which one knows or should reasonably know is likely to cause a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional damage.

Standard of Proof: The level of information needed to determine that the student is responsible for a violation. The standard of proof at DCC is Preponderance of the Evidence, also referred to as “more likely than not”.

Student: An individual who has been accepted to or is taking any course through the College on a full or part-time basis. This includes those taking online courses, non-credit courses, or those participating in a College-sponsored program. Persons who are not officially enrolled for a particular term but who have previously enrolled and have a continuing relationship with the College. Students who have withdrawn after an alleged violation of the Student Code of Conduct has been filed are not immune from a response by the College, including being charged.

Student Conduct Hearing Board: Hearing Body authorized to hear cases referred for alleged violations of the Student Code of Conduct by a student or a student organization.

Respondent: Any student/student organization charged with violating the Student Code of Conduct.

Response: Any action taken by the College to address concerns arising from any complaint or report.

Student Organization: Any number of persons who have complied with the formal requirements for College recognition.

Title IX Coordinator: Title IX Coordinator or their designee.

Weapon: Any instrument, device or object capable of inflicting physical harm, incapacitation or death and designed or specifically adapted for use as a weapon, or possessed, carried or used as a weapon.

Witness: A person who has direct involvement in an incident and/or who was provided with information regarding the incident directly from the respondent, alleged victim, or both. This also includes individuals who in their professional capacity have contributed information which led to a student(s)/student organization being charged for violating the Student Code of Conduct.

B. Administrative Hearing Officers/Hearing Bodies

There is a core group of College staff members who are trained to hear cases alleging violations of the Student Code of Conduct, determine responsibility, and assign sanctions. These include:

- Assistant Dean of Student Advocacy and Accountability
- Assistant Director of Student Conduct and Community Standards
- Members of Student Conduct Hearing Board
- Director of Residence Life
- Residence Hall Coordinators

The Assistant Dean of Student Advocacy and Accountability reserves the right to designate other individuals as needed.

C. Hearing Bodies

The **Office of Student Advocacy and Accountability** oversees student conduct policies and processes and may investigate or adjudicate any student conduct matter. The Office of Student Advocacy and Accountability receives complaints/reports from the Office of Campus Safety and Security, Title IX Coordinator, Office of Residence Life, Behavioral Assessment Team, and Office of Academic Affairs, and determines which hearing body will hear the case (if any) and sends appropriate notifications.

Residence Life Professional Staff: Depending on the severity of the alleged violation, the conduct history of the student and the impact on the College, and in particular the residence hall community, professional staff may be assigned by the Office of Student Advocacy and Accountability to assist with investigations and adjudicate alleged violations of the Student Code of Conduct, Resident Handbook and Student Housing License Agreement.

Student Conduct Hearing Board: This hearing body comprised of faculty and staff members, adjudicates alleged violations of the Student Code of Conduct.

Appeal Bodies: The Director of Residence Life may serve as the Appellate Body for cases adjudicated by Residence Hall Coordinators.

The Assistant Dean of Student Advocacy and Accountability and Assistant Director of Student Conduct and Community Standards may serve as Appellate Bodies for cases that they have not served as primary investigator or Hearing Officer.

The College President has been designated by the College President to serve as the primary Appellate Body for cases heard by individual Hearing Officers or the Student Conduct Hearing Board where the sanctions imposed include Suspension, Dismissal, or Expulsion from the College. The Office in Charge's determination represents the final College outcome.

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Section III: Process and Procedures for Resolution of Alleged Non-Academic Violations of the Code of Conduct by Student

1. Reporting Alleged Violations of the Student Code of Conduct

Any member of the College community (students, faculty, and staff) may file a report alleging a violation of the Student Code of Conduct by a student or student organization. If the information in the report is sufficient to merit an investigation one may be initiated by Office of Campus Safety and Security, Office of Student Advocacy and Accountability and/or the Title IX Coordinator. As appropriate, a referral may be made to local, state or federal law enforcement.

- a. Allegations must be submitted in one of the following ways:
 - i. In person reporting to the Office of Campus Safety and Security.
 - ii. In written form to the Office of Student Advocacy and Accountability.
 - iii. In person to a member of the Residence Life Staff or in written form to the Office of Residence Life and Housing.
 - iv. Via the on-line alert form available on the College's website at <http://www.sunydutchess.edu/campusdocuments/professionalstaffformsanddocuments/studentbehaviorassessmentform.html>
 - v. For reports of alleged sexual harassment, there is an anonymous on-line reporting option at <https://www2.sunydutchess.edu/cgi-bin/share-at-dcc/index.php>

2. Reporting (Complainant) Person's Rights

As a reporting person of an alleged violation of the Student Code of Conduct, the conduct process insures your right to pursue disciplinary action towards a DCC student or a student organization, including:

- a. To file a report through the Office of Campus Safety and Security, Office of Student Advocacy and Accountability, Office of Residence Life and Housing and/or the Title IX Coordinator.
- b. To pursue criminal or civil charges if the alleged violation is also a violation of the law (With or without College assistance).
- c. To receive an explanation of what applicable violations of the Student Code of Conduct may be supported by the reported behavior.
- d. To receive an explanation of the procedural options available within the Student Conduct process.
- e. To have all reports where sufficient information is provided investigated by the Office of Campus Safety and Security, Office of Student Advocacy and Accountability, Office of Residence Life and Housing, and/or the Title IX Coordinator.
- f. To be free from harassment and intimidation from respondents (accused students) and others as you engage in the reporting of alleged violations of the Student Code of

Conduct and the subsequent Student Conduct process.

- g. To participate in the Student Conduct process, and to know the outcome of the process to the extent allowed under federal laws and College policies.
- h. In cases of alleged sexual misconduct, to have a support person at the hearing as an observer, to have the same access to the proceedings as the respondent, including the ability to question witnesses, to be free of irrelevant questions about sexual history, to make an impact statement prior to imposition of sanctions if the respondent is found responsible, and to appeal a decision. For additional information regarding a sexual misconduct hearing process you may refer to the Sexual Misconduct section located in this document.

3. Student Conduct Process

The Student Conduct process addresses reports alleging violation of the Student Code of Conduct by students and student organizations. The ultimate goals of the Student Conduct process are student growth and development and the preservation of the educational environment.

The Student Conduct process utilizes a “preponderance of evidence” standard of proof. A preponderance of evidence standard evaluates whether it is more likely than not that a violation occurred.

Dutchess Community College e-mail is the official means of communication between the Office of Student Advocacy and Accountability and students on all matters pertaining to the Student Conduct process.

- a. The conduct officer will review the report/complaint to determine if:
 - i. There is a violation of the Student Code of Conduct.
 - ii. There is reasonable information to indicate that the accused student (respondent) may have violated the Student Code of Conduct.
- b. The accused student (respondent) will receive via their DCC email account a Notice of Charges and Formal Administrative Hearing or Notice of Charges and Student Conduct Hearing. Included in this notice are the date, time, and location of the hearing.
- c. It is the accused student’s (respondent’s) responsibility to attend their hearing. If the accused student (respondent) has a conflict with the date and/or time of the hearing they have (3) three College days from the delivery of notice to their DCC student e-mail account to **request** that the hearing be rescheduled. Under extenuating circumstances (e.g. student is incarcerated or otherwise institutionalized) the College may deliver such notice in person, US. Postal Service, or other trackable delivery service. **A request must be made in writing either in person at the Office of Student Advocacy and Accountability or via the student’s DCC email to studentconduct@sunydutchess.edu.** A request does not guarantee that the hearing will be rescheduled. The request must be accompanied by a detailed explanation as to why the delay is necessary. A student has the right to request a one-time delay of no more than 10 College days, that if reasonable, will be granted.
- d. The accused student’s (respondent’s) hearing will be scheduled as soon as practicable following the conclusion of the investigation into the alleged violations of the Student Code of Conduct unless the College determines that legitimate grounds exist for an extended delay.

e. At the conclusion of the hearing, the respondent will receive the decision from the Conduct Officer or Student Conduct Hearing Board via their DCC email account.

Please note that all Student Conduct Hearings are private and closed to everyone except the involved persons (i.e., the Reporting Person/Complainant, the Respondent, and those witnesses invited by the hearing body). A student may be accompanied by one support person of their choosing. This person may attend, but not participate in the hearing and is present for the sole purpose of supporting the student during the hearing. All Student Conduct Board Hearings are recorded by the College and serve as the sole recording of the hearing. These recordings are the property of the College. Students may request a transcript of their hearing at their expense.

4. Interim Measures

- a. **Interim Suspension:** When in the judgment of the Assistant Dean of Student Advocacy and Accountability or their designee, in consultation with appropriate College personnel, the continued presence of an accused person at the College would present an immediate danger to the fulfillment of the educational mission of the College or to the life, health, welfare, or property of any member(s) of the College community, an immediate temporary suspension from the College pending the final outcome of the Student Conduct process may be imposed. In doing this, Notice of Interim Suspension from the College will be provided in person and/or delivered via their DCC student email account. Such notice will contain a brief description of the behavior of concern and the initial alleged violations of the Student Code of Conduct being reviewed. Also included in the Notice are the terms and conditions of any and all interim measures. In the case of Interim Suspension from the College, the student is not allowed on College property and may be subject to criminal charges including immediate arrest for criminal trespass in addition to further conduct charges.
- b. **Interim Removal from Campus Housing:** When in the judgment of the Assistant Dean of Student Advocacy and Accountability or their designee, in consultation with appropriate College personnel, the continued presence of an accused person in campus housing would present an immediate danger to the fulfillment of the educational mission of the residence hall or to the life, health, welfare, or property of any member(s) of the Residence Hall community, an interim removal from Campus Housing pending the final outcome of the Student Conduct process may be imposed. In doing this, Notice of Interim Removal from Campus Housing will be provided in person and/or delivered via their DCC student email account. Such notice will contain a brief description of the behavior of concern and the initial alleged violations of the Student Code of Conduct being reviewed. Also included in the Notice are the terms and conditions of any and all interim measures. In the case of Interim Removal from Campus Housing, the student must surrender their residence hall ID card and key. The student is not allowed in the residence hall, adjacent sidewalks or Parking Lot D and may be subject to criminal charges including immediate arrest for criminal trespass in addition to further conduct charges.
- c. **Interim Campus Restrictions:** When in the judgement of the Assistant Dean of Student Advocacy and Accountability or their designee, in consultation with appropriate College personnel, the continued presence of an accused person in a specific area of campus would present a substantial disruption or impediment to the fulfillment of the educational mission of the College or to the life, health, welfare, or property of any member(s) of the College community, an interim campus restriction pending the final outcome of the Student Conduct process may be imposed. In doing this, Notice of Interim Campus Restrictions will be provided in person and/or delivered via their DCC student email account. Such notice will contain a brief description of the behavior of concern and the initial alleged violations of the Student Code of Conduct being reviewed. Also included in the Notice are the terms and conditions of any and all interim measures. In the case of Interim Campus Restrictions, if the student fails to abide by all directives in the Notice, he/she/they may be subject to higher levels of

interim actions and as appropriate, additional conduct charges and criminal charges including immediate arrest for criminal trespass.

- d. **Interim Removal from College-Sponsored Program:** When in the judgment of the Assistant Dean of Student Advocacy and Accountability or their designee, in consultation with appropriate College personnel, the continued program participation of an accused person would present an immediate danger to the fulfillment of the educational mission of the College or to the life, health, welfare, or property of any member(s) of the College community, an immediate temporary removal from the College-sponsored program pending the final outcome of the Student Conduct process may be imposed. In doing this, Notice of Interim Removal from College-Sponsored Program will be provided in person, delivered via their DCC student email account and/or United States Postal Service to the address on file with the program. Such notice will contain a brief description of the behavior of concern and the initial alleged violations of the Student Code of Conduct being reviewed. Also included in the Notice are the terms and conditions of any and all interim measures. In the case of Interim Removal from College-sponsored Program, the student is not allowed on College property and may be subject to criminal charges including immediate arrest for criminal trespass in addition to further conduct charges.
- e. **College Issued No Contact Directives:** A response by the College to a request by a student, College Official, or other community member. The student is directed to cease communication with another member of the College community. The prohibitive behavior includes all contact made which can be considered verbal, nonverbal, physical, written, or via telecommunications devices, including electronic mail, and social media. In addition, this directive extends to all action, which may occur as a result of third parties acting on the student's behalf. Students are advised that failure to comply with an Official Directive is a violation of the Student Code of Conduct and will result in disciplinary action which may include suspension.

Review of an Interim Measure Policy

Interim measures include, but are not limited to: Notice of Interim Suspension, Interim Removal from Campus Housing, Interim Campus Restriction(s), Interim Removal from College-Sponsored Program and No Contact Directive(s). Any party named in an interim measure may, upon request and consistent with the College's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim measure, including potential modifications, and shall be allowed to submit evidence in support of their request.

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5. Rights of Persons Associated with Disciplinary Procedures for Non-Sexual and Interpersonal Violence Cases

Students whose conduct is under review based on the Student Code of Conduct have the following rights:

- a. Written notice of the charges as described in the Student Conduct process.
- b. Reasonable access to the respondent's case file which includes all information, to the extent permitted by law.
- c. Explanation of the procedural alternatives available within the College disciplinary process.
- d. To respond to the evidence and information presented through a hearing board or Conduct Officer. Respondents in conduct proceedings are encouraged to answer questions concerning their conduct. Conduct proceedings are educational in nature and the person or body reviewing the case needs to engage the respondent in discussion and dialogue in order to reach a finding. If the respondent chooses not to answer questions or fails to show at their hearing, a finding may be rendered based upon the evidence and information available.
- e. To deny responsibility without being charged for providing false information in relation to that denial if found responsible. However, a student may be charged, or be subjected to increased sanctions, for providing false information about the facts of the case, as opposed to just denying responsibility.
- f. To appeal a finding or sanction as described in the appeals section of the Student Conduct process.
- g. Students retain the right to waive their right to a hearing. A hearing is not required if a student is willing to accept responsibility for the charges brought against them and accept the imposed sanctions. To put into effect this option, the student must sign a Waiver of the Right to a Formal Hearing. Upon signing the Waiver, the student accepts the outcome, including finding and sanctions.

6. Rights of Persons Associated with Disciplinary Procedures for Sexual and Interpersonal Violence Cases

The reporting individual may request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth by the College as well as Federal and New York State law and SUNY Policy, including the due process provisions of the United States and New York State Constitutions.

Throughout conduct proceedings, the respondent and the reporting individual will have:

- a. The same opportunity to be accompanied by a support person of their choice who may assist and advise the parties throughout the conduct process. Participation of the support person in any proceeding is governed by Federal law, U.S. Department of Education, New York State law, New York State Department of Education, SUNY Policy and the Student Code of Conduct.
- b. The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects

of trauma, impartiality, the rights of the respondent including the right to a presumption that the respondent is “not responsible” until a finding of responsible, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

- c. The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
- d. To receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told of the factual allegations concerning the violation, a reference to the specific Student Code of Conduct provisions alleged to have been violated and possible sanctions.
- e. The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- f. The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by the College).
- g. The right to present evidence and testimony at a hearing, where appropriate.
- h. The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or participating with a room partition.
- i. The right to exclude prior sexual history with persons other than the party in the conduct process or their own mental health diagnosis or treatment history from admittance in College disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- j. The right to ask questions of the decision maker and via the decision maker. In line with guidance from the U.S Department of Education (<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>), special conditions may apply in certain Title IX hearings.
- k. Indirectly request responses from other parties and other witnesses present. In line with guidance from the U.S. Department of Education (<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>), special conditions may apply in certain Title IX hearings.
- l. The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- m. The right to simultaneous (among the parties) written evidence or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions and the rationale for the decision and any sanctions.
- n. The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional

requirements, dismissal and expulsion.

- o. Access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest.
- p. The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least seven years in the Office of Student Advocacy and Accountability, Student Services Building, Room 203, 845-431-8973.
- q. The right to choose whether to disclose or discuss the outcome of a conduct hearing.

7. Student Conduct Hearing Board

- a. Membership: The Student Conduct Hearing Board will be appointed by the Assistant Dean of Student Advocacy and Accountability, in consultation with the College President, as follows:
 - i. The Student Conduct Hearing Board will consist of a cohort of faculty and staff.
 - ii. A minimum of three (3) decision-making board members must be present to constitute a quorum.
 - iii. The Hearing Chair shall have the authority to:
 - 1. Direct the hearing;
 - 2. Call recesses;
 - 3. Postpone hearings;
 - 4. Take appropriate steps to maintain order;
 - 5. Decide questions on the relevance of evidence or testimony;
 - 6. Recall witnesses or call such further witnesses as would seem able to aid in the resolution of matters germane to the hearing;
 - 7. Monitor the presentation of questions to witnesses by all hearing participants; and
 - 8. Ensure that established procedures are followed.
- b. Jurisdiction: The Student Conduct Hearing Board shall have jurisdiction over cases involving alleged violations of the Student Code of Conduct and Resident Handbook.
- c. Sanctions: After hearing a case, the Student Conduct Hearing Board shall deliberate and determine whether the student(s) is/are either responsible or not responsible for each charge. If the student is found responsible for a violation of the Student Code of Conduct and/or the Resident Handbook, the Student Conduct Hearing Board may impose sanctions consistent with the nature of the violation(s) and the respondent's conduct history. The respondent will receive the decision from the board via their DCC email account.

8. Parental Notification

As permitted by the Family Educational Rights and Privacy Act (FERPA), the parents/guardians of students (under the age of 21) found responsible for alcohol and/or drug violations of the Student Code of Conduct will be notified. Federal regulations permit this notification without the student's consent for those students who are dependents, under the age of 21.

9. Appeals

In cases of sexual misconduct, both the respondent(s) and reporting person(s) have the right to appeal the outcome.

Any student/student organization found responsible for a violation of the Student Code of Conduct shall have the right to appeal by filing a written request for appeal. **In cases of Sexual Misconduct, the respondent(s) and reporting person(s) shall have the same right to appeal.**

- a. A decision reached by the Student Conduct Hearing Board or conduct hearing officer may be appealed by the accused (responding) student(s)/student organization, or in the cases of sexual misconduct, the reporting person(s), to the College President or their designee. All appeals must be in writing and submitted within five (5) College days after receipt of the written decision. If the appeal is submitted on the fifth day, it must be submitted by 5:00pm. **All appeals must be signed and be accompanied by the Appeal Request Form.**
- b. An appeal may be heard on the following grounds only:
 - i. The Student Conduct Hearing Board or student conduct officer failed to observe the procedural requirements established by the Student Code of Conduct, and as a result, the outcome of the case was significantly impacted. A procedural error and its impact on the case outcome must be clearly described in the appeal.
 - ii. There is new evidence or information that was not known at the time of the original hearing and could not have reasonably been discovered at the time of the original hearing that could have had a **substantive** impact on the outcome of the original conduct decision. A summary of the new evidence and its impact must be included. This does not include information available, but not disclosed at the Student Conduct Hearing by choice (i.e., opting not to disclose the information for any reason).
 - iii. The severity of the sanction is disproportionate to the violation(s). The student must demonstrate that the sanction(s) is/are inappropriate based on the violation(s).
- c. An appeal body will be concerned primarily with the points raised in the written appeal. Students or members of student organizations will not be present during an appeal review, unless determined otherwise by the appeal officer.
- d. A student/student organization found responsible for a violation may not be charged with a more severe sanction as a result of appealing their case.

- e. The appeal body may take any of the following actions:
 - i. Affirm the findings and sanctions of the original hearing body;
 - ii. Modify of the findings and/or sanctions; or
 - iii. Determine that the student/student organization is not responsible for any or all of the charges.

Appeals must be delivered to: the Office of Student Advocacy and Accountability, Orcutt Student Services Building, Room 203; Dutchess Community College; 53 Pendell Road; Poughkeepsie, NY 12601 or at studentconduct@sunydutchess.edu. The request will be forwarded to the appropriate appeal officer or hearing body.

The Office of Student Advocacy and Accountability will present to the College President or their designee a written record of the charges, related documentation, a summary transcript of the proceedings, and the decision rendered at the student's hearing.

The College President or their designee shall render a decision within fifteen College (15) days after receipt of the appeal and shall transmit their decision in writing to the student via their DCC student email account.

The decision of the College President shall be final in all cases of appeal.

10. Accountability Sanctions

Sanctions are intended to prevent further inappropriate behavior and deter any subsequent violations. They engage and educate students to be better members of the College community by guiding them toward ethical decision making and accountability. To restore community, sanctions will be appropriately tied to the offense and tailored to repair actual harm done. Sanctions may include revocation of campus privileges, restitution, educational projects and/or other appropriate assignments.

Disciplinary sanctions must be commensurate with the seriousness of the offense and the total conduct record of the student. Therefore, each case is determined on its own merits. Student conduct procedures and subsequent disciplinary outcomes are designed to find a balance between the interests of the individual student and the College community.

Disciplinary sanctions imposed may be one or more of the following:

- a. Conduct Hold: The Office of Student Advocacy and Accountability will place an administrative hold on a student's College records, including registration and transcript, until the student satisfies all educational sanctions, restitution payments, and fines.
- b. Verbal Warning: A verbal notice that a behavior is inconsistent with the expectations set forth in the Student Code of Conduct. Future instances of similar behavior may result in disciplinary action.
- c. Written Warning: A written notice that a behavior is inconsistent with the expectations set forth in the Student Code of Conduct. Any future violation(s) will be dealt with more severely.

- d. Restitution: Any student found responsible for violation of the Student Code of Conduct that has caused an expense to the College or their fellow student(s) may be required to rectify this action by making financial restitution to the College and/or the parties involved. Failure to do so within a specified time period may result in further disciplinary action.
- e. Fine: A sum imposed as an accountability measure in accordance with published DCC documents, including, but not limited to, the College Catalog and Resident Handbook.
- f. Non-Academic Probation: This sanction serves to inform the student that their behavior is not consistent with the expectations set forth in the Student Code of Conduct. This is an opportunity for the student to modify their behavior as to avoid subsequent violations of the Student Code of Conduct. Any future violations of the Student Code of Conduct will result in higher levels of sanctioning. Immediate Interim Suspension pending hearing may be imposed.
- g. Housing Probation: For students living on campus, Housing Probation is for a specific period of time as deemed appropriate by the conduct officer or hearing body. A person who has been placed on Housing Probation will be permitted to reside in campus housing provided that there are no further violations of College policy. Subsequent violations of the Student Code of Conduct and/or Resident Handbook may result in conduct charges and higher levels of sanctioning. Immediate Interim Removal of Campus Housing pending hearing may be imposed.
- h. Restrictive Campus Access: A student receiving a sanction of Restrictive Campus Access may access campus premises solely for the purpose of attending classes and any approved co-curricular activities. Students receive written notice specifying when, where and how they are permitted to access campus. Restrictions may include denial of access to a specific building or area, or participation in extracurricular activities (i.e. clubs, social events, athletic events, etc.). Any violation of this sanction may result in Immediate Interim Suspension.
- i. Deferred Non-Academic Suspension: This sanction is the highest level of probation and serves to inform the student that their behavior is not consistent with the expectations set forth in the Student Code of Conduct. This is an opportunity for the student to modify their behavior as to avoid subsequent violations of the Student Code of Conduct. Any future violations of the Student Code of Conduct, will result in higher levels of sanctioning. Immediate Interim Suspension pending hearing will be imposed.
- j. Deferred Denial of Campus Housing: For students living on campus, Deferred Denial of Campus Housing may be for a specific period of time as deemed appropriate by the hearing body. A person who has been placed on Deferred Denial of Campus Housing, may be permitted to reside on campus provided that there are no further violations of College policy. Subsequent violations of the Student Code of Conduct and Resident Handbook will result in higher levels of sanctioning. Immediate Interim Removal from Campus Housing pending hearing will be imposed.
- k. Denial of Campus Housing: For students living on campus, Denial of Campus Housing may be for a specific time period deemed appropriate by the hearing body. A person who has been denied campus housing must vacate their room immediately and make arrangements to complete the check-out process. Persons denied campus housing are prohibited from entering the Residence Hall, adjacent sidewalks, and Parking Lot D. Any person violating this sanction will be subject to charges under the Student Code of Conduct and possible arrest for trespassing.
- l. Suspension: A suspended student is separated for a specific time from the College. This includes in-seat classes (on campus), hybrid classes, online classes, College-sponsored program participation, access to campus, and the use of college facilities.

The student's matriculation will not be broken, and it is understood that at the end of the suspension the student may return to the College pending successful completion of the re-entry process. Suspension is notated on the student's transcript.

- m. Dismissal: A dismissed student is separated from the College, loses all rights and matriculation status. This includes in-seat classes (on-campus), hybrid classes, online classes, College-sponsored program participation, access to campus, and the use of college facilities. Dismissed students must apply for readmission. As part of the readmission process, students must account for themselves during the time of dismissal, submit two letters of recommendation, and schedule a re-entry meeting with Office of Student Advocacy and Accountability. Readmission is not guaranteed. Dismissal is notated on the student's transcript.
- n. Expulsion: Permanent separation from the College. Expulsion is permanently notated on the student's transcript.

11. Educational Sanctions

The student conduct process promotes an educational response in an effort to enhance student development. In addition to the accountability sanction(s), one or more educational sanctions may be assigned.

- a. Developmental Experience: Such experiences may include attendance at and/or participate in a workshop, group, program and/or other related assignment. The student must complete the assignment by the specified due date.
- b. Online Educational Training: The student must complete assigned online educational training by the specified date.
- c. Educational Essay: Student must reflect upon how their behavior may impact their personal and academic success, as well as how it may impact other members of the community. The student must complete the assignment by the specified date.
- d. Administrative Assessment: The student must attend an administrative assessment and/or session with a member of the Office of Counseling Services staff by a specified date. The student is required to follow all recommendations made by the Office of Counseling Services as a result of the assessment.
- e. Alcohol and Substance Abuse Educational Consultation: The student must attend an Alcohol and Substance Abuse Educational Consultation with a member of the Office of Counseling Services staff by a specified date. This consultation will include a discussion of how alcohol and other substances may affect personal behavior and academic success, as well as how it may impact other members of the community. The student is required to follow all recommendations made by the Office of Counseling Services as a result of the assessment.
- f. Anger Management/Emotional Regulation Issues Educational Consultation: The student must attend an Anger Management/Emotional Regulation Issues Educational Consultation with a member of the Office of Counseling Services staff by a specified date. This consultation will include a discussion of how emotional regulation issues may affect personal behavior and academic success, as well as how it may impact other members of the community. The student is required to follow all recommendations made by the Office of Counseling Services as a result of the assessment.
- g. College Issued No Contact Directives: A response by the College to a request by a student, College Official, or other College community member. The student is directed

to cease communication with another member of the College community. The prohibitive behavior includes all contact made which can be considered verbal, nonverbal, physical, written, or via telecommunications devices, including electronic mail, and social media. In addition, this directive extends to all action, which may occur as a result of third parties acting on the student's behalf. Students are advised that failure to comply with an Official Directive is a violation of the Student Code of Conduct and will result in disciplinary action which may include suspension.

- h. Cease and Desist Letter: A response by the College to a report of an alleged violation of the Student Code of Conduct when the information/evidence does not meet the preponderance of evidence standard. It also may be issued to students demonstrating complicity to a behavior that they knew or should have known to be a violation of the Student Code of Conduct.

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Section IV: Academic Integrity Policy

In accordance with the College's Academic Integrity Policy and Student Code of Conduct, a student may be referred to the Office of Student Advocacy and Accountability in addition to any academic remedies/penalties.

- a. Academic dishonesty includes, but is not limited to, the following:
 - i. Cheating on examinations.
 - ii. Plagiarism: the representation of another's ideas or writing as one's own.
Examples include:
 - presenting all or part of another person's published work as something one has written;
 - paraphrasing or summarizing another's writing without proper acknowledgement;
 - representing another's artistic or technical work or creation as one's own.
 - iii. Willingly collaborating with others in any of the above actions, which result(s) in work being submitted which is not the student's own.
 - iv. Stealing examinations, falsifying academic records, and other such offenses.
 - v. Submitting work previously presented in another course without permission of instructor.
 - vi. Unauthorized duplication of computer software.
 - vii. Unauthorized use of copyrighted or published material.
- b. If, based on substantial evidence, an instructor deems that a student is guilty of academic dishonesty, the instructor may initiate disciplinary action.
 - i. The instructor may require that the student repeat the assignment or the examination, or
 - ii. The instructor may give the student a failing grade for the assignment or examination, or
 - iii. The instructor may give the student a failing grade for the course.

For the full Academic Integrity Policy, refer to Board of Trustees Resolution #2020-31, dated February 25, 2020, (Source: Dutchess Community College Board of Trustees Manual, updated July 2020)

Section V: Records and Retention

Student conduct records are maintained in the Office of Student Advocacy and Accountability for a period of seven years from the date of the final decision or resolution and are then destroyed in accordance with College policy. Records are permanently retained for cases where the sanction is expulsion or when a student is separated from the College with conditions to re-enroll and the conditions have not been fulfilled. These records include but are not limited to notices, reports, communications, decisions, evidence, recordings, and/or transcripts (some fees may apply) that are related to the conduct process, maintained by the College, or department and as otherwise defined by the Family Educational Rights and Privacy Act (FERPA) and the SUNY Community Colleges Records Retention and Disposition Schedule CO-2 (http://www.archives.nysed.gov/common/archives/files/mr_pub_co2.pdf) Student disciplinary records will not be disclosed to any third party except as permitted by law. All disciplinary records are confidential and may not be disclosed in whole or in part except as provided by law or by the written authorization of the student, under legal compulsion or where the safety of other persons may be involved. Disciplinary records are maintained separate from the student's academic record but are part of the student's educational record.

Section VI: Interpretation and Revision

Any question of interpretation or application of the Student Code of Conduct shall be referred to the Assistant Dean of Student Advocacy and Accountability for final determination.

Section VII: Survival Clause

If any part, or portion, or provision of the Student Code of Conduct is determined to be unconstitutional or illegal, the remaining provisions of the Student Code of Conduct shall remain in full force and effect.

Section VIII: Review and Revision Policy

In accordance with DCC Board of Trustees Resolution #2018-30, dated December 12, 2017, this document shall be reviewed annually and updated as needed.

Reviewed and updated August 28, 2018.

Reviewed and updated August 23, 2019.

Reviewed and updated August 1, 2020.

Reviewed and updated October 1, 2020.

Dutchess Community College Addendum Regarding COVID-19 Protocols

The COVID-19 global pandemic has impacted our lives in many ways. A general principle of the College states, "there is a basic expectation of high standards of courtesy, integrity, and responsibility in all members of the College community." As such it is the responsibility of each member of the DCC community to practice healthy behaviors such as face covering and social (physical) distancing, in accordance with Executive Order #202.16, Executive Order #202.17, Executive Order #202.18, New York State Department of Health Guidance and Dutchess County Department of Health Guidance.

To ensure the safety of faculty, staff, and students the College has made several important changes to campus life until further written notice. All students are expected to do the following:

- Wear a face covering* (face covering should cover the nose and mouth without covering the eyes) while in any public place on campus. This includes, but is not limited to: campus buildings, classrooms, laboratories, sidewalks, and parking lots. If you are in need of a face covering, you may obtain one at the Office of Campus Safety and Security. (check for additional locations)
- Obtain and wear their DCC student ID whenever on campus. Lanyards will be available for ID cards at the entrance to each building for those with an on-campus class.
- Follow all posted and directional signs.
- Observe social (physical) distancing requirements.
- Decrease population density when possible and if specifically directed to do so.

By adhering to these directives, we can all be active members in keeping our college community safe and healthy.

Violations of the directives listed above by students, will be addressed by the Office of Student Advocacy and Accountability in accordance with the Student Code of Conduct.

For further information and detailed protocol, refer to https://www.sunydutchess.edu/assets/COVID-19Protocols_Students.pdf.

*As a reminder, Dutchess Community College is an "ID upon request" campus. As such, along with wearing their DCC ID card, individuals may be asked to briefly lower their face covering for identification purposes.

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Addendum Regarding SUNY Directive on Uniform Sanctioning in Response to COVID-19 Student Violations

To: All Presidents

From: Chancellor Jim Malatras

Date: September 25, 2020

Re: Uniform Sanctioning in Response to COVID-19 Student Violations

In accordance with the authority vested in me as Chancellor of The State University of New York ("SUNY" or "University") and the COVID-19 public health directives issued by the Governor and the New York State Department of Health relating to the re-opening of SUNY campuses, and after consultation with your campuses, I am instituting this comprehensive emergency directive to address violations of COVID-19 safety protocols occurring at SUNY's State-operated campuses and community colleges.

This emergency directive, which implements a COVID-19 sanctioning policy, is intentionally narrowly tailored to the current public health emergency, and seeks to create uniformity of sanction to help SUNY balance the need to protect public health of students, faculty, staff, and community members, with students' rights to remain within the educational environment. This directive does not supersede the definitions of violations of COVID-19 requirements, where defined by a campus within their Code of Conduct or other policy, but assigns standardized sanctions for such violations, dependent upon gravity and intentionality. All students maintain the due process rights guaranteed to them by the federal and New York State Constitutions, New York State law, SUNY regulations, and University-wide and campus policies. Students are strongly encouraged to follow the reasonable requirements of wearing masks/coverings, socially distancing, avoiding crowds, presenting for COVID-19 testing, filling out daily digital health forms before arrival on campus, reporting positive test results, and following all directives of campus, local, and State health officials.

The Secretary of the U.S. Department of Health and Human Services (HHS) declared a public health emergency on January 31, 2020 in response to the novel coronavirus, COVID-19. New York State Governor Andrew M. Cuomo declared a state of emergency on March 7, 2020, and shortly thereafter SUNY colleges and universities began to shift to remote learning for the remainder of the Spring 2020 semester. For the Fall 2020 semester, pursuant to New York State Department of Health Guidance issued on June 28, 2020, SUNY colleges and universities have reopened on-campus class instruction and activities in a limited fashion with mandatory COVID-19 specific protocols to maintain the health and safety of faculty, staff, and students.

Unlike most policy violations that impact just the accused or a small group of people, a violation of mandatory COVID-19 safety protocols can have a wide application and the impact upon direct, secondary, tertiary, and other infected parties can result in their illness, injury, and/or death. Further, violations of mandatory COVID-19 protocols can aid in the spread of the virus, which can result in the partial or complete closure of a campus, loss of academic opportunity, and significant economic damage on and off campus. This is an unprecedented time in the history of The State University of New York.

To effectuate a fair and consistent approach to policy violations by students at its State-operated and community colleges, SUNY establishes this COVID-19 sanctioning policy for all State-operated and community college campuses.

Due Process Prior to Conduct and Interim Actions:

By virtue of attending a public higher education institution, SUNY students receive due process before imposition of a sanction or reduction of access to the University, with the process concomitant to the gravity of the potential deprivation. This policy does not modify or reduce access to Constitutional due process, but simply sets standard sanctions for violations, consistent

with due process. Sanctions shall be applied following a process dictated by the institution's Code of Conduct, including, but not limited to, any appeals process it incorporates. Consistent with SUNY policy, the standard of evidence shall be preponderance of the evidence. Students are presumed not responsible until the institution makes a finding based upon the evidence. Furthermore, a campus has the authority to consider a student's financial and other exigent circumstances in resolving a violation.

Institutions may use interim suspension or other interim action for students who commit a COVID-19-related violation during the pendency of the investigation and adjudication process as may be provided by its Code of Conduct. Each institution shall determine whether students can participate in their coursework remotely during the investigative and adjudicative process. Due to the continuing health threat presented by a student under investigation enrolling in another institution without such institution's knowledge, during the pendency of such an investigation and adjudication, if allowed under the institution's Code of Conduct, a hold shall be placed on a student's transcript and release thereof.

Amnesty and Good Samaritan policies and principles that are already in campus policy to encourage disclosure of violations of federal, State, or local law or campus policy or participation in an investigation or adjudication of such a violation may be expanded to apply those principles to potential violations of the provisions of this policy.

This policy shall apply only during the emergency response to the COVID-19 pandemic, and shall end upon order of the Chancellor. This policy shall not be precedential for any time outside of this emergency.

Generally, and as it relates to this policy, students shall retain all rights to expression as protected under the First Amendment. This policy shall apply equally to all students, regardless of membership in a protected class.

This policy shall take effect at 8:00 a.m. on October 1, 2020, unless implemented earlier by a campus President. Presidents or their designees shall send students no less than two electronic mail messages using the address on file to notify students of this policy and link to the policy language. Institutions are encouraged to also use traditional and social media to inform students and community members of the policy.

Multiple findings of responsibility may result in graduated levels of sanction, up to and including permanent dismissal. Additionally, findings of violations during periods when a campus is partially or completely closed (or on pause), under the standards established by the New York State Department of Health and SUNY Chancellor, may result in elevated levels of sanction. All sanctions established in this policy serve as the minimum, and campuses have discretion to enact higher sanctions where merited.

A finding of responsibility and applied sanction of dismissal or suspension shall, consistent with SUNY policy, leave the respondent ineligible for refund of tuition, room, board, or fees, and the student will be responsible for all amounts owed.

(A)- COVID-Positive Intentional Violations: For students who know that they have tested positive for COVID-19, from one or more positive tests, or students who know they have had close contact to someone who has tested positive for COVID-19 or been treated or is symptomatic for COVID-19, and then intentionally expose other students by any means— including, but not limited to, visiting with the COVID-19 positive tested person in an enclosed area or inviting that person to the student's room, apartment or other enclosed space, sharing food or other personal items, or hosting a gathering of any size—the available sanctions shall be permanent dismissal or suspension from academic access (including distance learning) and housing for no less than one calendar year. For SUNY campuses that maintain a hospital or public-facing health care facility, suspended or dismissed students shall, consistent with campus policy, remain eligible to enter the campus for health care purposes. A student dismissed or suspended from a SUNY campus for a positive intentional violation shall be ineligible for admission to any other SUNY State-operated or community college during the pendency of their sanction.

I(B)- Failure to Self-Isolate: For students who have been directed by the institution or the State or local Department of Health to self-isolate (because they have tested positive for COVID-19) on or off campus, and then engage in any conduct that would violate such isolation order—including, but not limited to, intentionally leaving isolation, exposing other individuals, including students (whether in isolation or not) by visiting with them in an enclosed area, by inviting them to the student's room, apartment or other enclosed space, by sharing food or other personal items, or by hosting a gathering of any size—the available sanctions shall be permanent dismissal or suspension from academic access and housing for no less than one calendar year. A student dismissed or suspended from a SUNY campus for a failure to self-isolate violation shall be ineligible for admission to any other SUNY institution during the pendency of their sanction. Failure to follow the directions of State or local health departments or the provisions of Executive Orders (including but not limited to New York State on Pause) may also result in fines, criminal prosecution, or referral to relevant government agencies.

I(C)- Failure to Quarantine: For students who have been directed by the institution or the State or local Department of Health to complete a quarantine period (mandatory or precautionary), on or off campus, and then engage in any conduct that would violate such quarantine order, the available sanctions shall include a suspension from housing with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and housing suspension, or permanent dismissal from the institution. For non-residential students who fail to quarantine, the available sanctions shall include a suspension from academic access to campus of at least one year with continued access to their academic program via remote learning only (if available and as subject to campus policy and process) and other sanctions detailed above. Failure to follow the directions of State or local health departments may also result in fines, criminal prosecution, and referral to relevant government agencies.

II(A)- Prohibited On Campus Gathering (Hosts): For students who host an on campus gathering of any size, whether indoor or outdoor, that violates or exceeds campus housing policy and/or the current limitation published by the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a suspension from housing of at least one year with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and housing suspension of at least one year, or permanent dismissal from the institution. For covered gatherings, all individuals who are on the housing contract/lease (or a member of their family is on the lease), pay rent, or live at the location or otherwise assisted in organizing the event shall be considered a host unless it can be shown that they were not present and played no part in organizing, hosting, promoting, or advertising the event.

II(B)- Prohibited On Campus Gathering (Attendee): For students who attend a gathering of any size (but not as host), whether indoor or outdoor, that violates or exceeds campus housing policy and/or the current limitation published by the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a suspension from housing with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and housing suspension, or permanent dismissal from the institution. For non-residential students, the available sanctions shall include a suspension from academic access to campus of at least one year with continued access to their academic program via remote learning only (if available and as subject to campus policy and process) and other sanctions detailed above.

III(A)- Prohibited Off Campus Gathering (Hosts): Acts that occur off campus in violation of social distancing requirements under law, regulation, order, or campus policy present significant health and safety threats on campus and have a nexus to continued functioning of each campus. For students who host an off campus gathering of any size, indoor or outdoor, that exceeds the current limitation published by the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a suspension from live attendance at the institution of at least one year with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), a suspension of at least one year, or permanent dismissal from the institution. For non-residential students, the available sanctions shall include a

suspension from academic access to campus of at least one year with continued access to their academic program via remote learning only (if available and as subject to campus policy and process) and other sanctions detailed above. For covered gatherings, all individuals who are on the lease (or a member of their family is on the lease), pay rent, or live at the location shall be considered a host unless it can be shown that they were not present and played no part in organizing, hosting, promoting or advertising the event.

III(B)- Prohibited Off Campus Gathering (Attendee): Acts that occur off campus in violation of social distancing requirements under law, regulation, order, or campus policy present significant health and safety threats on campus and have a nexus to the continued functioning of each campus. For students who attend a gathering of any size (but not as host), whether indoor or outdoor, that exceeds the current limitation published by the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a suspension from housing (for students who live on campus) with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), for residential or non-residential students a suspension from live attendance with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and housing suspension, or permanent dismissal from the institution.

IV- Face Mask and Social Distancing Requirements: For students found to have committed repeated and/or intentional violations of face mask/covering or social distancing requirements of the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a suspension from academic and/or housing access with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and/or housing suspension, or permanent dismissal from the institution.

V- Contact Tracing: For students who repeatedly fail to comply, whether intentionally or unintentionally (unless it can be shown that the student was genuinely not reached by contact tracers through no failure on their part), with COVID-19 contact tracing efforts conducted by the institution or the State or local Department of Health, the available sanctions shall include a suspension from academic and/or housing access with continued access to their academic program via remote learning only (if available and as subject to campus policy and process), an academic and/or housing suspension, or permanent dismissal from the institution.

VI- Failure to Comply with Campus Health Protocols: For students who fail to attend at least two scheduled appointments, without sufficient excuse, to obtain diagnostic or surveillance COVID-19 testing under the institution's published protocol, the institution shall undertake disciplinary action to enforce compliance, which may include interim suspension, or take administrative measures to electronically deactivate card access (or equivalent) and restrict access to any buildings with the exception of access required to obtain health care services pursuant to campus policy. For students whose access has been restricted, they shall be ineligible to attend live classes (though they may continue in remote coursework only, if available and as subject to campus policy and process), and their parking privileges on campus may be temporarily revoked such that their car may be ticketed or towed if parked on campus. Restricting access to the campus and revoking parking privileges are administrative actions that are not disciplinary in nature, and the affected student may revive full access by obtaining a diagnostic or surveillance test or by submitting negative results of a diagnostic or surveillance test, as applicable. The institution shall notify the student of their reduction of access. Coming to campus or seeking access to a campus building or course without curing this deficiency shall be considered trespassing and may result in investigation and discipline.

For students who fail to submit their daily health screening via the institution's supplied portal for at least three consecutive days, without sufficient excuse, the institution shall undertake disciplinary action to enforce compliance, which may include interim suspension, or take administrative measures to electronically deactivate card access (or equivalent) and restrict access to any buildings. For students whose access has been restricted, they shall be ineligible to attend live classes (though they may continue in remote coursework only, if available and as subject to campus policy and process), and their parking privileges on campus may be temporarily revoked such that their car may be ticketed or towed if parked on campus. Restricting access to the

campus and revoking parking privileges are not disciplinary in nature, and the affected student may revive full access by submitting their daily health screening. Coming to campus or seeking access to a campus building or course without curing this deficiency shall be considered trespassing and may result in investigation and discipline.

VII- Student Athletes: For student athletes, in addition to the other provisions of this policy, a finding of responsibility for any violation detailed above in Sections I, II, and/or III, or repeated violations of other provisions above, may also include, at a minimum, a loss of the privilege of competing in intercollegiate athletics at the institution in the current academic year or longer, temporary or permanent removal of leadership roles, and loss of scholarship (where applicable). For student athletes found responsible for any violation detailed above in Sections I(A), I(B), I(C), the consequences may also include permanent loss of the privilege of competing in intercollegiate athletics at the institution, temporary or permanent removal of leadership roles, and loss of scholarship (where applicable). Such consequences may also impact NCAA, NCJAA, or other conference or association eligibility (pursuant to applicable rules).

VIII- Student Organizations: Where applicable, for recognized or registered student organizations, whether on or off campus, academic, social, athletic, or of any other nature, that have one or more members who know that they have tested positive for COVID-19, from one or more positive tests, or members who know they have had close contact to someone who has tested positive for COVID-19 or been treated or is symptomatic for COVID-19, and are found to have hosted a gathering of any size, indoor or outdoor, on campus or off campus, that exceeds the current limitation published by the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include de-registration or de-recognition and a report to a national organizing body (if applicable) or may also include permanent ineligibility for recognition or registration.

Where applicable, for recognized or registered student organizations, whether on or off campus, academic, social, or of any other nature, that are found to have hosted a gathering of any size, indoor or outdoor, that exceeds the current limitation published by the institution, Executive Order, or the State or local Department of Health, the available sanctions shall include a de-registration or de-recognition, a report to a national organizing body (if applicable), organizational suspension of at least one year, or permanent ineligibility for recognition or registration.

Student members of an organization found to have engaged in conduct described in either paragraph of this Section, who themselves individually organized or participated in such a gathering shall, in addition to the sanctions described above, be subject to loss of their membership and/or officer status (where applicable) in an organization found to have so violated.

[SUNY College Presidents are advised to refer] Questions on interpretation of this policy shall be directed to campus counsel. The SUNY Student Conduct Institute is directed to continue to provide technical assistance upon request to SUNY State-operated and community colleges, in coordination with campus counsel, and consistent with this directive, which may include webinars or additional written guidance.