



**Potsdam**  
THE STATE UNIVERSITY OF NEW YORK

# Community Rights & Responsibilities

Barrington Student Union 218

[www.potsdam.edu/studentlife/studetconduct](http://www.potsdam.edu/studentlife/studetconduct)

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*Approved 04/2018*

*Adopted, in part, from SUNY Albany*

## SECTION 1: INTRODUCTION

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*Community Rights and Responsibilities* is the official code of conduct outlining behavioral expectations for State University of New York College at Potsdam (“SUNY Potsdam” or the “College”) students. The College has developed this code of standards and expectations, consistent with its purpose as an educational institution and requires that each student accept responsibility for his or her own behavior and consequences. These regulations and the procedures for their enforcement apply to all student conduct and behavior. Once a student is accepted as a member of the College community, they are responsible to uphold the standards outlined in this document. As such, students should be familiar with this document. These specific regulations should not be viewed as a comprehensive code of desirable conduct; rather they describe the minimum standards.

The Office of Student Conduct and Community Standards (“Student Conduct Office”) oversees all aspects of the student conduct system. This office works closely with students, faculty, staff, and the local community on concerns related to policy violations, conflict resolution, appropriate citizenship, social responsibility, academic integrity, inclusivity, and other quality of life issues. It is the goal of the office through coordination of the Student Conduct System (“Student Conduct System”), to help students learn to think proactively about their own behavior and its effect on others. More information can be found at <http://www.potsdam.edu/studentlife/studentconduct>

It should be understood that all rules of the Board of Trustees of SUNY, and all local, state and federal laws apply on the SUNY Potsdam campus. The State of New York laws include, but are not limited to, the New York State Penal Law, the New York State Vehicle and Traffic Law, the New York State Education Law, and the Alcohol Beverage Control Law. Violations of these regulations may result in a referral to the Student Conduct System. In such cases, the College may commence the Student Conduct System procedure independent of criminal or civil court proceedings.

### 1. Philosophical Approach to Standards of Conduct

Because disciplinary actions must be commensurate with the seriousness of the offense and the total conduct record of the student, 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 community.

### 2. Jurisdiction of the College's Code of Conduct

The student code of conduct shall apply to conduct that occurs on College premises, at College sponsored activities and to off-campus conduct that adversely affects the College community, the pursuit of its objectives, or neighboring communities. A student may be charged with violating local, state and federal laws and the campus code of conduct as the student is subject to the rules of multiple jurisdictions, including the State and the College.

### 3. Inherent Authority for the Student Disciplinary Program

Section 356 of the Education Law empowers the University Council of each State-operated campus of State University of New York to make regulations governing the conduct of students, subject to the general management, supervision, control and approval of the Board of Trustees of the State University of New York. All programs for student welfare and conduct are entrusted to and administered by the SUNY Potsdam President on behalf of the College Council.

The President has delegated administration of programs for student welfare and conduct to the Chief Student Affairs Officer. Enforcement of standards of conduct, College regulations, recommendations for new policies, or modification of policies or regulations affecting student welfare and conduct are initiated through the Chief Student Affairs Officer. The Chief Student Affairs Officer has jurisdiction over the Student Conduct System.

In addition to *Community Rights and Responsibilities*, the rules, regulations, and procedures for *The Maintenance of Public Order* on campuses of the State University of New York, adopted by the Board of Trustees, are in effect at SUNY Potsdam. (See Rules for the Maintenance of Public Order: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=351](http://www.suny.edu/sunypp/documents.cfm?doc_id=351).)

## SECTION 2: DEFINITIONS

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1. **“Accused”** shall mean a person accused of a violation who has not yet entered an Institution's judicial or conduct process.
2. **“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.
  - a. 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.
  - b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - c. Consent may be initially given but withdrawn at any time.
  - d. Consent cannot be given when a person is incapacitated, and a reasonable person knows or should have known that such person is incapacitated. Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
  - e. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - f. When consent is withdrawn or can no longer be given, sexual activity must stop.
3. **“Appeal Board”** means any person or persons authorized by the Chief Student Affairs Officer to consider an appeal. This body shall consist of two students and three members of the faculty and staff. Every effort will be taken to include at least one faculty member. The Appeal Board can impose any of the sanctions set forth in Section 6, or any combination thereof, of this Code. Decisions will be made by a simple majority of the Board.
4. **“Banned Organization”** means a group who met the definition of “organization,” but who has permanently lost recognition by a college entity or by Student Government Association. Banned Organizations are not permitted to participate, as an organization, in SUNY Potsdam sponsored activities.
5. **“Bystander”** shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.
6. **“College”** means the State University of New York College at Potsdam.
7. **“College Official”** includes any person employed by the College, performing assigned administrative or professional responsibilities.
8. **“College Premises”** includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College including adjacent streets and sidewalks.
9. **“Course of Conduct”** is defined as a pattern of actions composed of two or more acts over a period of time.
10. **“Director of Student Conduct & Community Standards”** means the person designated by the Chief Student Affairs Officer to administer *Community Rights and Responsibilities*.
11. **“Chief Student Affairs Officer”** means the Chief Student Affairs Officer, or designee, who, as the President's designee, is responsible for the administration of *Community Rights and Responsibilities*.
12. **“Faculty Member”** means any person hired by the College to conduct classroom and/or research activities.
13. **“Greek Organization”** means a group that identifies as a fraternity or sorority and/or uses a new member education process (pledging, training, probationary members, etc.).
14. **“May”** is used in the permissive sense.

15. **"Member of the College Community"** includes any person who is a student, faculty member, College official or any other person employed by or contracted with the College. A person's status in a particular situation shall be determined by the Chief Student Affairs Officer.
16. **"Organization"** means any persons enrolled as students at The College who are associated with each other and who are recognized as a collective grouping by a college entity, or by Student Government Association. Examples of these include, but are not limited to: a club that is recognized by SGA or registered through the office of Campus Life, and academic honor society, an ensemble through a department, etc.
17. **"Policy"** is defined as the written regulations of the College as found in, but not limited to, *Community Rights and Responsibilities*, Residence Hall License Agreement, and the Graduate and Undergraduate Catalogs.
18. **"Proceedings"** refers to the activities related to an institutional disciplinary complaint, including but not limited to, fact-finding investigations, formal or informal meetings, hearings, and appeals.
19. **"Reasonable Person"** refers to a hypothetical person who exercises average care, skill and judgment in conduct and who serves as a comparative standard.
20. **"Referring Party"** shall mean a person who files a Student Conduct Referral against a student for an alleged violation of the *Community Rights and Responsibilities*.
21. **"Reporting Individual"** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report that they have personally experienced a violation.
22. **"Respondent/Referred Party"** shall mean a person accused of a violation of the *Community Rights and Responsibilities* who has entered an Institution's judicial or conduct process.
23. **"Results"** means any initial, interim, and final decision by any College official or entity authorized to resolve disciplinary matters within the institution.
24. **"Sexual Activity"** shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3): (A) 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; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) 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 (D) 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; (3) the term "sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
25. **"Sexual Misconduct"** is sexual harassment or sexual violence and encompasses a wide range of behavior for sexual purposes that is against another's will or at the expense of another. Sexual misconduct includes, but is not limited to sexual assault, intimate partner violence, stalking of a sexual nature, or any conduct of a sexual nature that is nonconsensual, or has the effect of threatening or intimidating another.
26. **"Shall"** is used in the imperative sense.
27. **"Student"** is defined as: persons registered for courses, either full time or part time, pursuing undergraduate, graduate, or professional studies, as well as non-degree seeking students; individuals who confirm their intent to enroll in programs; those attending orientation sessions; between academic terms; taking online classes; auditing classes; residing in the residence halls; those that were enrolled on the date of an alleged incident; persons who are active but not enrolled at the College.
28. **"Student Conduct Administrator"** means any College official appointed by the Chief Student Affairs Officer to resolve student conduct referrals in lieu of a hearing or to review appeals.
29. **"Student Conduct Hearing Board"** refers to the authorized persons who hear all student conduct referrals, including alleged violations of academic dishonesty. This body shall consist of one student and two faculty and staff. Every effort will be made to include at least one faculty. The Hearing Board can impose any of the sanctions set forth in Section 6, or any combination thereof, of this Code. Decisions will be made by a simple majority.

30. **“Student Conduct Referral”** means the College Student Conduct System Standard Case Form that includes a description of alleged misconduct and specific *Community Rights and Responsibilities* code violations.
31. **“Student Conduct System”** means the program established to maintain the integrity of the values of the College community by reviewing alleged violations of *Community Rights and Responsibilities*.
32. **“Title IX Coordinator”** shall mean the Title IX Coordinator and/or his or her designee or designees.
33. **“Unrecognized Organization”** means persons enrolled as students at the College who are associated with each other and who are not recognized as a collective grouping by a college entity or by Student Government Association. Unrecognized organizations are not permitted to participate, as an organization, in SUNY Potsdam sponsored activities.

## SECTION 3: PROHIBITED CONDUCT

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The behaviors listed in this section violate the College's student code of conduct. This list is not exhaustive, but is intended to describe general types of behavior that may result in disciplinary action. These codes apply both to student behavior, which occurs on campus or at College sponsored events as well as those occurring off-campus. Prohibited behavior includes not only completed actions, but also attempted violations of the student code of conduct.

A student who withdraws from the College shall not be exempt from disciplinary proceedings for behavioral infractions, which took place prior to withdrawal. Campus disciplinary procedures shall be followed with the accused student receiving due notice of hearing. Any resulting sanction of suspension or dismissal will be notated on the undergraduate or graduate academic transcript, as well as the student's conduct record.

### 1. Fire Safety

- A. Causing or creating a fire, regardless of intent (except as authorized for use in class, or in connection with University-sponsored research or other approved activities).
- B. Tampering with safety measures or devices, including but not limited to, alarm systems, fire extinguishers, exit signs, emergency phone systems, smoke or heat detectors, fire hoses, security systems, locked exterior doors, etc.
- C. Failing to conform to safety regulations, including but not limited to, falsely reporting an incident, failure to evacuate facilities in a timely fashion in emergency situations or in response to fire alarms, inappropriate use of the fire alarm system.

### 2. Weapons and Dangerous Objects

Possessing or using any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, switchblade knives, knives with blades five or more inches in length, explosives, fireworks or dangerous chemicals (except as authorized for use in class, or in connection with College-sponsored research or other approved activities). The term firearms include pellet guns, air guns, rifles, shotguns, handguns, paint ball guns, pellets, ammunition, multiple firing weapons and any weapon capable of firing a shot.

Permission to store a rifle, shotgun or firearm may be requested through the University Police Department (UPD) and is subject to written approval by the University Police Department. All weapons for which permission has been granted for storage on campus must be stored at the University Police Department and may be signed out by the owners through a log maintained by the University Police Department. ***You may NOT bring any weapon onto campus without prior written approval to do so.***

**NOTE: Possession of any rifle, shotgun or firearm in or upon any building or grounds of the College is also a crime under New York state law without written authorization from the President.** Any person doing so without authorization is subject to arrest and incarceration in addition to any penalty that may be assessed through the University's Student Conduct System.

### 3. Threatening or Abusive Behavior

Intentionally or recklessly causing physical harm to any person or reasonable fear of such harm. Students cannot justify such behavior as defensive if:

- A. The behavior is a physical response to verbal provocation;
- B. The student has the ability to leave the situation, but instead chooses to respond physically;
- C. In circumstances where such actions are punitive or retaliatory.

### 4. Harassment

Engaging in behavior that is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the College's education program and/or activities, and creates an academic environment that a reasonable person would find intimidating or hostile. Activity protected by the First Amendment will not constitute harassment. Harassment may include:

- A. directing unwanted physical or verbal conduct at an individual based on one or more of that person's protected characteristics or status, including age, color, race, disability, marital status, national/ethnic origin, religion, veteran's status, sex [including pregnancy], gender expression or gender identity, sexual orientation, political activities or

- genetic information; or
- B. subjecting a person or group of persons to unwanted physical contact or threat of such; or
- C. engaging in a course of conduct, including following the person without proper authority (e.g., stalking), under circumstances which would cause a reasonable person to fear for his or her safety or the safety of others or to suffer emotional distress.

## 5. Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

**Dating Violence**—Any act of violence, including physical, sexual, psychological, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. 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 the interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.

**Domestic Violence**—Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government 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.

## 6. Stalking

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy or alarm him or her. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

## 7. Endangerment

Acting to create or contribute to dangerous or unsafe environments anywhere on or off-campus. Reckless or intentional acts, which endanger, or put at risk, the welfare of oneself or others are prohibited.

8. **Sexual Harassment** - Unwelcome, verbal, nonverbal, 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.

## 9. Rape, Sexual Assault and Sexual Exploitation

**Sexual Assault I**— sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) without the active consent of the victim.

**Sexual Assault II**—touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the active consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.

**Sexual Exploitation**—Nonconsensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and Sexually Transmitted Infection ("STI") prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; and

inducing incapacitation with the intent to sexually assault another person.

## **10. Hazing**

Any activity expected of someone that humiliates, degrades, abuses, or which endangers the mental, emotional, physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in an organization or team whose members are or include students at SUNY Potsdam is prohibited. Hazing may occur regardless of the person's willingness to participate. (Note: A person commits a hazing offense if the person engages in hazing; solicits, encourages, directs, aids or attempts to aid another engaging in hazing; or intentionally, knowingly, or recklessly permits hazing to occur.)

## **11. Academic Dishonesty**

Conduct including, but not limited to, plagiarism, cheating, multiple submission, forgery, sabotage, unauthorized collaboration, falsification, bribery or use of purchased research service reports without appropriate notation; and theft, damage or misuse of library or computer resources. Attempts to commit such acts shall also constitute academic dishonesty. Students assume full responsibility for honesty in academic exercises.

(Students should be warned that if found in-violation of academic dishonesty they may be subject to two types of sanctions. If the instructor is convinced that the student has been dishonest, he or she may administer an academic penalty. The student who disagrees with the judgment or penalty may appeal through established academic appeal procedures. Consult the appropriate department chair, school dean, or academic catalogs for details. At the same time, the student may be subject to the proceedings and sanctions of the Student Conduct System outlined in *Community Rights and Responsibilities*.)

## **12. Forgery, Fraud, Dishonesty**

Altering or misusing documents, records, stored data or instrument of identification, or furnishing false information to any College, local, state or federal official.

## **13. Property Damage**

- A. Removing, destroying or damaging College property, or property under College administration or supervision.
- B. Destroying or damaging the property of others, on or off-campus.

## **14. Theft**

Stealing property and/or services; possessing stolen property.

## **15. Unauthorized Entry or Use**

Entering or using facilities or property on or off-campus, belonging to individuals, College -recognized groups and/or corporate entities without proper authorization.

## **16. 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 dangerous drug, or any drug unlawful to possess, e.g. marijuana, except as expressly permitted by law. Drug paraphernalia including, but not limited to: bongs, 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.



## **17. Alcohol**

Consistent with New York State Law, individuals under the age of 21 years are prohibited from using, possessing, or distributing alcoholic beverages. Individuals over the age of 21 may use and possess alcohol as permitted by the law and College regulations. Open containers and public intoxication are prohibited. Students who are irresponsible in their use of alcohol or who provide alcohol to minors will be subject to this code regardless of the student's age. This applies to both on campus and off-campus behavior.

## **18. Obstruction or Disruption**

Any obstructing or disruption of College activities. Such activities include, but are not limited to, teaching, research, administration, disciplinary procedures, or other authorized activities including public service functions. It can include participation in campus demonstrations which disrupt the normal operations of the College and infringes on the rights of other members of the College community by leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.

## **19. Student Group Violations**

Students are expected to know and abide by the regulations governing their membership in a student organization (e.g. SGA recognized groups, Campus Life recognized groups, Greek Organizations, etc.). All violations of College policy and the law by officers/members of student groups/ organizations will be adjudicated through the Student Conduct System including both individual and organizational violations.

Affiliating with any group that has been permanently banned by the College is prohibited. For this purpose, affiliation is defined as joining, rushing, pledging or being involved in any activity that would normally be associated with being a member of such organization. In addition, residing in facilities that are owned or controlled by a banned organization is considered affiliation.

## **20. Compliance**

Failing to comply with the directions of an authorized local, state, federal or College official acting in the performance of his or her duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities.

## **21. Parking and Motor Vehicle Violations**

Violating College policies and regulations governing the possession or use of motor vehicles on campus. College parking regulations are available at <http://www.potsdam.edu/studentlife/safety/parking>. University Police has the ability to fine or withdraw the right to use a vehicle on campus in addition to or in lieu of sanctions imposed through the campus Student Conduct System.

## **22. Smoking/Tobacco Use**

Smoking is prohibited in all indoor College buildings, including campus residence halls. Smoking is prohibited out of doors in the following areas: within 50 feet of exterior ventilation intakes; within 50 feet of building entrances and open windows; and in all exterior stairwells. This includes the use of E-cigarettes and other smokeless devices. The College is a Tobacco-restricted campus; as such, Tobacco products can only be used in designated areas.

## **23. Residence Hall Regulations/ Published Institutional Rules**

Failure to abide by any College policies, including the Residence Hall policies as defined in the terms and conditions of the Residence Hall License. Complete text of the Residence Hall policies are available at <http://www.potsdam.edu/sites/default/files/ResLife.pdf>.

## **24. Disruptive Conduct**

Impairing, interfering with or obstructing the orderly conduct, processes and functions of the College or surrounding community. This behavior includes, but is not limited to, excessive noise, abusive or obscene language in a public place, obstructing vehicular or pedestrian traffic and boisterous or threatening conduct, which is unreasonable in the area, time or manner in which it occurs.

## 25. Information Technology Acceptable Use Policy

Violations of this policy are subject to referral to the Office of Student Conduct and Community Standards.

<https://www.potsdam.edu/cts/policiesforms/acceptableuse>

## 26. Hate or Bias-Related Crime

Intentionally selecting a person against whom a criminal offense is committed or intended to be committed because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation, regardless of whether the belief or perception is correct.

## 27. Gambling

Gambling, including, but not limited to, contests of chance, illegal lottery and policy for money or something of value; promoting or advancing gambling; gambling using College computing/network facilities; possessing gambling devices or gambling records is prohibited.

## 28. Abuse of the Student Conduct System

Abusing the Student Conduct System, including but not limited to:

- a) Failure to obey the request of a Student Conduct Hearing Board or College official.
- b) Falsification, distortion, or misrepresentation of information before a Student Conduct Hearing Board.
- c) Disruption or interference with the orderly conduct of a student conduct proceeding.
- d) Knowingly instituting a student conduct referral without cause.
- e) Attempting to discourage an individual's proper participation in, or use of, the Student Conduct System.
- f) Attempting to influence the impartiality of a member of a Student Conduct Hearing Board prior to, and/or during, and/or after a student conduct proceeding.
- g) Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Hearing Board prior to, and/or during, and/or after a proceeding.
- h) Failure to comply with the sanction(s) imposed under the student code of conduct.
- i) Influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

## 29. Retaliation

A. Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System.

B. An intentional act taken against an individual who initiates **any** sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral.

## 30. Greek Policies Related to Alcohol and Drugs

1. The possession, sale, use or consumption of ALCOHOLIC BEVERAGES, while on chapter premises or during a fraternity or sorority event, in any situation sponsored or endorsed by the chapter, or at any event an observer would associate with the fraternity or sorority:
  - a. must be in compliance with any and all applicable laws of the state, province, county, city and institution of higher education, and
  - b. must comply with either the BYOB or Third Party Vendor Guidelines.
    - i. Sponsorship and endorsement may include the contribution of funds, supplies, food, or management of the event or significant portion of membership in attendance.
    - ii. There is increased potential for responsibility where alcohol is present at an event.
    - iii. BYOB (Bring Your Own Beverages) is the process where members or guests bring their own individual supply of a beverage for personal consumption. BYOB is not the use of a common source of alcohol provided by any members, alumni, guests, or co-sponsors such as cases of beer, bottles of alcohol, kegs, party balls, etc.
    - iv. Third Party Vendor use applies to situations in which the organization contracts a licensed purveyor of alcohol in a bar, dance hall, drinking establishment, hotel, restaurant, etc., or by inviting a catering company to the organization's or co-sponsor's location.
    - v. The organization may pay for:
      1. The vendor employee salaries.
      2. Set up costs excluding any purchase of alcohol.

3. Facility rental.
  - vi. Events with a Third Party Vendor maintain that individuals of age will pay for their own drinks on a cash per drink basis only.
  - vii. There may not be "all you can drink" nor "discount" rates by way of chapter subsidy or by gift of the vendor.
2. No alcoholic beverages may be purchased through or with chapter funds nor may the purchase of same for members or guests be undertaken or coordinated by any member in the name of or on behalf of the chapter. The purchase or use of a bulk quantity or common source(s) of alcoholic beverage, for example, kegs or cases, is prohibited.
3. OPEN PARTIES, meaning those with unrestricted access by non-members of the fraternity, without specific invitation, where alcohol is present, are forbidden.
4. No members, collectively or individually, shall purchase for, serve to, or sell alcoholic beverages to any minor (i.e., those under legal drinking age).
5. The possession, sale or use of any ILLEGAL DRUGS or CONTROLLED SUBSTANCES while on chapter premises or during a fraternity event or at any event that an observer would associate with the fraternity is strictly prohibited.
6. No chapter may co-sponsor an event with an alcohol distributor or tavern (tavern defined as an establishment generating more than half of annual gross sales from alcohol) at which alcohol is given away, sold or otherwise provided to those present. This includes any event held in, at or on the property of a tavern as defined above for purposes of fundraising. However, a chapter may rent or use a room or area in a tavern as defined above for a closed event held within the provisions of this policy, including the use of a third party vendor and guest list. An event at which alcohol is present may be conducted or co-sponsored with a charitable organization if the event is held within the provisions of this policy.
  - a. An organization may have events with a bar or drinking establishment, but without the use of advertisement, and only within a controlled setting regarding guests and Third Party Vendor guidelines.
  - b. The sale of tickets to an event, such as a band, may not be coordinated at the event, may not be used to pay the vendor, and must be paid to the entertainment prior to the event and separate from any situation where alcohol is present. Such events must still remain restricted and careful sale of tickets may only be to those determined by the guest list.
  - c. The organization may not advertise for an event using the name of an alcohol vendor or information about the presence of any alcohol whether it is BYOB or using a Third Party Vendor.
  - d. All financial transactions with the vendor must take place prior to the event and not involve alcohol purchase or subsidy.
7. No chapter may co-sponsor, co-finance or attend or participate in a function at which alcohol is purchased by any of the host chapters, groups or organizations.
8. All recruitment or rush activities associated with any chapter will be non-alcoholic. No recruitment or rush activities associated with any chapter may be held at or in conjunction with a tavern or alcohol distributor as defined in this policy.
9. No member or pledge, associate/new member or novice shall permit, tolerate, encourage or participate in "drinking games". The definition of drinking games includes but is not limited to the consumption of shots of alcohol, liquor or alcoholic beverages, the practice of consuming shots equating to one's age, "beer pong", "century club", "dares" or any other activity involving the consumption of alcohol which involves duress or encouragement related to the consumption of alcohol.
10. No alcohol shall be present at any pledge/associate member/new member/novice program, activity or ritual of the chapter. This includes, but is not limited to, activities associated with "bid night", "big brother/big sister night," and initiation.

## SECTION 4: STUDENT CONDUCT PROCEDURES

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### 1. Introduction

The Student Conduct System addresses charges that are brought against a student or organization that allegedly violates the student Code of Conduct, *Community Rights and Responsibilities*. **The Student Conduct System 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.**

### 2. Referrals

- A. When an incident occurs and there are allegations that a student violated the code of conduct, a Student Conduct Referral may be filed by any College faculty, staff and/or student.
- B. Individuals who wish to initiate a Student Conduct Referral must meet with a Student Conduct Administrator who will determine if the case has merit to move forward to a referral.
- C. If the case is deemed to have merit, then the Referring Party will be asked to put the allegations of misconduct in writing with sufficient detail to support a referral. Any charge should be submitted as soon as possible after the event takes place, preferably within the academic year in which the alleged infraction took place. While timeliness is preferable, there is no deadline by which a complaint must be filed as long as the referred party is a current student at the College.
- D. If there is an allegation of misconduct that the Student Conduct Administrator has determined has merit, the Referred Party will:
  - I. Be notified that a complaint has been filed against him/her via College email;
  - II. Have an opportunity to meet with a Student Conduct Administrator to review the Student Conduct Referral which includes the code violations;
  - III. Learn about the student conduct process and have questions answered;
  - IV. Have an opportunity to give his/her perspective about the incident;
  - V. Provide witness information, if applicable;
  - VI. Sign the Student Conduct Referral indicating the referral and possible sanction outcomes have been reviewed; and
  - VII. Receive a copy of the Student Conduct Referral.
- E. After the Referred Party has received a copy of the Student Conduct Referral, the Referred Party has the option to take up to three calendar days to review their Student Conduct Referral and decide whether or not to accept responsibility for the charges. After three calendar days, the Referred Party must communicate their decision to the Student Conduct Administrator. The Student Conduct Administrator will determine the manner in which the case will be resolved and will communicate this to the Referred Party.

### 3. Resolutions

Resolutions are the manner in which student conduct cases are resolved. A description of each type of resolution follows:

#### A. Administrative Agreement

##### I. Sanction Agreement

The Referred Party acknowledges responsibility for violating the code of conduct and resolves the case with a Student Conduct Administrator by agreeing to an appropriate disciplinary sanction. An application to appeal may not be filed, except for cases of Sexual Misconduct, where the Reporting Party may appeal.

##### II. Imposed Sanction

If the Referred Party does not wish to accept an appropriate sanction from the Student Conduct Administrator, but the preponderance of evidence standard has been met, a sanction will be imposed. A

sanction may also be imposed if the student fails to attend a scheduled meeting with the Student Conduct Administrator. The Referred Party maintains the right to file an application to appeal.

Imposed sanctions may only be applied in cases where sanctions will not result in removal from residence hall, suspension or dismissal.

## B. Hearing before a Student Conduct Hearing Board

When the Referred Party contests the charges and/or sanctions and/or is facing removal from residence, suspension or dismissal from the College or at the discretion of the Student Conduct Administrator, a hearing will be scheduled. Regardless of who served as the original Referring Party, the Student Conduct Administrator may later serve as the Referring Party at a Student Conduct Hearing. The Director of Student Conduct and Community Standards will make every effort to schedule hearings around students' academic schedules only.

Hearings are conducted as follows:

- I. Both the Referred Party and Referring Party:
  - a. Receive written notice of a hearing date, time and place at least 5 calendar days in advance;
  - b. Must represent themselves;
  - c. May have one advisor present. The advisor may not address the Student Conduct Hearing Board but may speak privately with the advisee during the proceedings;
  - d. Have the right to call witnesses who have direct knowledge of the incident;
  - e. Hear the description of incident and conduct charges (the Referred Party will then make a plea of responsible or not responsible for the charges);
  - f. Have the opportunity to make an opening statement;
  - g. Have the opportunity to ask questions of each other and their witnesses;
  - h. May be questioned by the Student Conduct Hearing Board.
  - i. Have the opportunity to make a closing statement.
- II. The Student Conduct System encourages student involvement in the conduct proceedings and relies on full and open discussion of cases with all parties concerned in order to render a fair judgment. The Student Conduct System is administrative in nature and, as such, is not considered a court of law where formal rules of process, procedure or technical rules of evidence apply.
- III. Referrals involving multiple students for the same incident may be resolved at one hearing.
- IV. Hearings are regarded as confidential and closed to all but the principals of the case, their witnesses, their advisor and the Director of Student Conduct and Community Standards.
- V. An official audio recording will be made of the proceedings. This recording is the property of the College and will not be duplicated or released. Participants are prohibited from making their own recording during the hearing (including but not limited to audio, photographic and/or written recording). The Referred Party and Referring Party may submit a written request to the Director of Student Conduct and Community Standards for permission to listen to the official audio recording in a supervised location on campus. An official written transcript can be provided by the College at the requesting party's expense.
- VI. Evidence to be presented by the Referring Party and Referred Party during any hearing on the charges must be submitted to Community Standards at least two (2) business days in advance of the scheduled hearing. This evidence will be shared with the opposing party. The Student Conduct Hearing Board may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. Community Standards or the Student Conduct Hearing Board will make the final decision related to the admissibility of all evidence.
- VII. It shall be the responsibility of the Student Conduct Hearing Board to determine the relevancy of testimony and written evidence.
- VIII. Should the Referred Party or Referring Party fail to appear for a scheduled hearing, a finding will be made based upon the information available and sanction(s) imposed, if appropriate.

- IX. The primary function of any Student Conduct Hearing Board is to determine, by simple majority, using a preponderance standard, whether the Referred Party has violated the provisions of *Community Rights & Responsibilities* and if so, determines an appropriate sanction.
- X. The Referred Party will be notified, in writing, of the final decision of the Student Conduct Hearing Board and of the right to appeal. Consistent with the provisions of the Family Educational Rights and Privacy Act (FERPA) regulations, and in cases involving sexual offenses or crimes of violence, the Referred Party, Referring Party, and Reporting Individual will be notified of the final decision of the Student Conduct Hearing Board.
- XI. The Referred Party's status at the College is not altered until the appeal decision is final. In certain cases, however, the Chief Student Affairs Officer may determine that the Referred Party's presence is a threat to the College community and uphold the sanction imposed by the Student Conduct Hearing Board until the appeal is final.

## C. Alternative Dispute Resolution

### I. Mediation

Mediation is a voluntary process that requires the commitment of all parties. It is appropriate when a violation arises out of a dispute between students. It is generally reserved for first time and less serious violations. The goal is to reach a written agreement to resolve the dispute and to prevent it from reoccurring. The Student Conduct Administrator will act as the mediator, and will retain a record of the mediation efforts and the mediation agreement. If the parties fail to live up to the agreed settlement, or if mediation attempts fail to reach an agreement, a referral will be processed.

## D. Procedures for Organizational Hearings

Hearing for organizations will follow the same procedure as hearing for individual students as described in this section 4 B. Additional guidelines for organizational hearings are as follows:

- I. The organization's President or designee and no more than 2 other organization members shall represent the organization charged throughout the conduct process. All representatives/designees must be current SUNY Potsdam students.
- II. SUNY Potsdam may choose to share information with affiliated alumni, affiliated students and the advisor of the organization. The organization can share information with members and alumni as it relates to the hearing.
- III. The past history of an organization will not be admissible in a hearing except in the following cases.
  - a. A representative for the organization presents false information during the hearing about the organizations' past conduct and/or other history.
  - b. If, in the past, the organization charged was found to have violated a similar policy ("Past Violation"), the information related to the Past Violation may be considered if:
    - i. The previous violation was substantially similar to the present complaint; and
    - ii. The previous violation indicated a pattern of behavior and substantial conformity with that pattern by the organization charged.
- IV. Should there be a need for sanctioning, the Director or Assistant Director of Campus Life will work with the hearing board to ensure the sanctions are appropriate and educational.

Note: In the case of Greek affiliated hearing and appeal boards, every effort will be made to ensure that at least one member of the Hearing or Appeal Board is/was affiliated with a Greek community either at SUNY Potsdam or at their previous institution. While the College will work towards this goal, it is not absolute and the hearing or appeal will proceed even if there are no hearing or appeal board members available at the scheduled time.

## SECTION 5: CASES OF SEXUAL MISCONDUCT

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### 1. Introduction

This section outlines the policy and procedures that will be followed for all cases of sexual misconduct in addition to procedures described in 4.3A or 4.3B and Section 7.4.

In the event that there is a conflict between any procedures set forth in this section with any procedures described in any other portion of this code, the procedures set forth in this section will control for cases of sexual misconduct.

Compliance with any of the below listed provisions does not constitute a violation of Section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

The burden of proof in all sexual misconduct cases is a "preponderance of the evidence" - whether it is more likely than not that, the sexual misconduct occurred. If the evidence meets this standard, than the respondent MUST be found responsible of a violation of this code.

#### A. Students' Bill of Rights

The State University of New York and SUNY Potsdam are committed to providing options, support and assistance to members of our community that are affected by sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College/University-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad. To view a complete list of all of the rights afforded to students in the Student Bill of Rights, please visit: <http://www.potsdam.edu/offices/hr/titleix/billofrights>

#### B. Policy for Alcohol and/or Drug Use Amnesty in Sexual Misconduct Cases

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

### 2. Student Conduct Process in Cases involving Sexual Misconduct

A. Reporting Individuals have the right to request that student conduct charges be filed against the Accused. Conduct proceedings are governed by the procedures set forth in the *Community Rights & Responsibilities* as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

B. Throughout conduct proceedings, the Respondent and the Reporting Individual will have:

- I. The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Advisors may not address the Student Conduct Hearing Board during a disciplinary hearing but may speak privately with the advisee during the proceedings.
- II. The right to a prompt response to any complaint. SUNY Potsdam will conduct timely reviews of all complaints of sexual misconduct. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator or

the Chief Student Affairs Officer, or a designee of either of those individuals. The Respondent, Referring Party, and Reporting Individual will be notified in writing of the delay, the reason for delay, and provide the date of the new deadline or event. Extensions requested by one party will not be longer than five (5) business/school days. With respect to timing, parties should take notice of the following:

- a. The preliminary review of all complaints, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint.
  - b. The subsequent, comprehensive review and investigation of the complaint, including interviews with all involved parties and gathering of evidence, will usually be completed within thirty (30) days of receipt of the complaint.
  - c. Results of the complaint, via either a formal hearing or waiver of hearing will typically be issued within sixty (60) days of receipt of the complaint, or, if longer, within a prompt and timely manner.
  - d. Appeals for cases of sexual misconduct will be conducted as per the procedures described in Section 7.4, "Appeals of Cases of Sexual Misconduct".
- III. The right to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is, "not responsible" until a finding of responsibility is made and other issues related to sexual assault, domestic violence, dating violence, and stalking.
  - IV. 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.
  - V. The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
  - VI. 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.
  - VII. The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by SUNY Potsdam).
  - VIII. The right to present evidence and testimony at a hearing, where appropriate.
  - IX. The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
  - X. The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
  - XI. The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
  - XII. The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
  - XIII. The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.



- XIV. The right to written or electronic notice about the sanction(s) that may be imposed on the Respondent based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- XV. 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 (See Section 7.4)
- XVI. The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
  - a. Student Conduct & Community Standards, (315) 267-2579, Barrington Student Union Room 218
- XVII. The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- XVIII. The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.
- XIX. Evidence to be presented by the Referring Party and Respondent during any hearing on the charges must be submitted to the Director of Student Conduct and Community Standards at least two (2) business days in advance of the scheduled hearing. This evidence will be shared with the opposing party. The Student Conduct Hearing Board may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The Director of Student Conduct and Community Standards or the Student Conduct Hearing Board will make the final decision related to the admissibility of all evidence.

### **3. Temporary and Administrative Directives**

- A. When the Accused or Respondent is a student, the College may issue a “No Contact Order” meaning that continuing to contact the protected individual, either directly in person, by telephone, email, text message, or other electronic means of communication, or through a third party (other than an attorney), is a violation of College policy subject to additional conduct charges; if the Accused or Respondent and a protected person observe each other in a public place, it is the responsibility of the Accused or Respondent to leave the area immediately and without directly contacting the protected person.
- B. When the Accused or Respondent is a student and presents a continuing threat to the health and safety of the community, the Accused or Respondent may be subject to a temporary suspension pending the outcome of the student conduct process (see Section 6.2A regarding “Temporary Suspension”).
- C. Both the Accused/Respondent and the Reporting Individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any Administrative Directives and/or Temporary Directives (See Section 6.2 or 6.3). The Accused/Respondent or Reporting Individual shall be allowed to submit evidence in support of his or her request.
  - I. The request for review must be submitted in writing to the Director of Student Conduct and Community Standards (by email: - [Newmanja@potsgdam.edu](mailto:Newmanja@potsgdam.edu) or in person: Barrington Student Union Room 218) within two (2) calendar days of the imposition of Temporary and/or Administrative Directives.
  - II. The College may establish an appropriate schedule for the Accused/Respondent to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the Reporting Individual.

## SECTION 6: SANCTIONS, TEMPORARY AND ADMINISTRATIVE DIRECTIVES

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Failure to comply with sanctions and directives is a violation of College policy subject to additional conduct charges.

### 1. Sanctions

A sanction is a requirement or status that is imposed as a result of either accepting responsibility or being found responsible for violating the student code of conduct, *Community Rights and Responsibilities*.

Disciplinary sanctions shall be communicated to students in writing via College email, which is the official means of communication between Student Conduct Administrators and students.

**Sanctions are determined by the seriousness of the code violation and are not necessarily progressive. For example, a student with no prior disciplinary record may be assigned a sanction commensurate with the offense up to and including removal from residence, suspension or dismissal.**

#### A. Conduct Warning

A written notice to a student that the behavior is counter to the expectations in the student code of conduct. A Conduct Warning is issued for low-level behavior infractions. This is not considered a formal referral, rather a written understanding between the administrator and student with the expectation that the student modifies future behavior.

#### B. Disciplinary Warning

This is a lower level sanction issued as a result of a formal Student Conduct Referral. A student is placed on Disciplinary Warning for a period of four months excluding winter and summer intersessions. This serves as a stronger notice to a student that the behavior is counter to the expectations in the student code of conduct. Having an active Disciplinary Warning can affect your ability to hold positions with campus offices and/or organizations and other campus opportunities.

#### C. Disciplinary Probation

This is a higher-level sanction issued as a result of a formal Student Conduct Referral that does not compromise a student's housing or their status as a student. Disciplinary Probation lasts 15 weeks (while classes are in session) and includes all the restrictions of Disciplinary Probation. This is an official written notice that advises that the student may risk separation from the college if there are any further violations.

#### D. Terminal Disciplinary Probation

This is the most severe sanction issued as a result of a formal Student Conduct Referral and is imposed for serious violations or a pattern of violations of the student code of conduct. A student is placed on Terminal Disciplinary Probation for a specified period to include until Graduation based on the violation. Having an active Terminal Disciplinary Probation status can affect your ability to hold positions with campus offices and/or organizations and other campus opportunities. Specifically, a student cannot run for or hold certain campus-wide leadership positions including elected or appointed student government offices; hold a position in Residential Life; or serve on the Student Conduct Board.

#### E. Removal from Residence

Students who have a serious violation of the community standards set in the student code of conduct or the residence license, or because of a series of breaches of the community standards in the Residence Halls will be asked to leave campus residence either permanently or for a period of time. This sanction carries with it the penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs. Depending on the nature of the incident, the student may also receive a disciplinary probation as part of this sanction.

## **F. Deferred Suspension**

This sanction is imposed when the hearing officer/board has found the student(s) responsible for a violation sufficient to warrant suspension but feels there are mitigating circumstances that warrant one final chance. Being found responsible for another violation during the period of deferred suspension, no matter how minor, will result in immediate suspension without appeal.

## **G. Suspension – Disciplinary**

A student who is suspended from the College is unable to register for and attend classes or to be present on College property for a prescribed period of time. Suspension is a severe sanction and the student forfeits tuition and fees along with room and board if a residential student and does not receive academic credit for the semester in which the suspension occurred. Students who are Disciplinary Suspended and wish to return to the College must first meet with The Director of Student Conduct and Community Standards to assess their readiness for readmission. Students who are Disciplinary Suspended **with conditions** and who wish to return to the College must meet with The Director of Student Conduct and Community Standards to verify the successful completion of the conditions.

## **H. Dismissal – Disciplinary**

A student who is dismissed (expelled) from the College is permanently separated from the community, prohibited from being on any property of the College and may never return to the institution. The student forfeits tuition and fees along with room and board if a residential student, as well as the academic credit for the semester in which the dismissal occurred.

## **I. Residence Hall or Campus Restriction**

A student may be restricted from appearing in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community. Other restrictions may be imposed such as denial of access to specified campus services or programs. A student may also be barred from the entire campus if the Director of Student Conduct reasonably believes the student poses a threat to the health, safety or well-being of the College community.

## **J. Restitution**

If College property is damaged, the appropriate College department and/or personnel will make an assessment of the damage. The responsible student(s) may be billed as appropriate. Restitution for personal property cannot be resolved via the Student Conduct System.

## **K. Educational Programs & Services**

Educational Programs & Services such as Alcohol Education Programs, Drug Education Programs, Community Service, By-Stander Intervention Programs, reflection or research papers, etc., may be used to supplement any other student conduct sanction. It is the sole responsibility of the student to bear any costs associated with these sanctions.

## **2. Temporary Directives**

### **A. Temporary Suspension**

The Director of Student Conduct & Community Standards or designee may take action immediately to suspend a student from the College and remove the student from campus, when in consultation with the Chief Student Affairs Officer, reasonably believes that the continued presence of such student would constitute a danger to the safety of persons or property. The Director of Student Conduct or designee may also temporarily suspend an organization and/or the activities of an organization for an interim period pending conduct charges and proceedings. The suspension is temporary pending the resolution of the student's or organization's Conduct Referral as outlined in *Section 4: Student Conduct Procedures of the Community Rights & Responsibilities*.

### **B. Temporary Removal from Residence**

When the Director of Student Conduct & Community Standards or his/her designee reasonably believes that the behavior of a resident student significantly detracts from the educational environment of the residence hall

or constitutes a danger to the safety of other persons or property in the residence hall, the Director may temporarily remove the student from campus housing and restrict the student from the buildings and grounds of the residential complexes. The removal is temporary pending the resolution of the student's Student Conduct Referral as outlined in *Section 4: Student Conduct Procedures of the Community Rights & Responsibilities*.

### **3. Administrative Directives**

#### **A. No Contact Order**

A written directive prohibiting certain behaviors with a protected individual, either directly in person, by telephone, email, text message, or other electronic means of communication, or through a third party (other than an attorney). If the accused or respondent and a protected person observe each other in a public place, it is the responsibility of the accused or respondent to leave the area immediately and without directly contacting the protected person.

#### **B. Cease & Desist**

A written directive to both parties prohibiting contact with each other, either directly or through a third party.

#### **C. Residence Hall or Campus Restriction**

A student may be restricted from appearing in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community. Other restrictions may be imposed such as denial of access to specified campus services or programs. A student may also be barred from the entire campus if the Chief Student Affairs Officer reasonably believes the student poses a threat to the health, safety or well-being of the College community.

## SECTION 7: STUDENT CONDUCT APPEALS

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### 1. Introduction

An appeal is the process to request a review of the original student conduct outcome. The Referred Party has the right to submit one application for appeal to the Director of Student Conduct and Community Standards. In cases of Sexual Misconduct, the Referred Party, Referring Party, and Reporting Individual have the right to appeal (see Section 7.4 for further clarification). An appeal does not rehear a student conduct case, but rather, determines if the conclusion reached in the original case is valid based on substantiation of a procedural error, new evidence, or the severity of the sanction.

Note: Student conduct cases that are resolved through *Administrative Resolution: Sanction Agreement (Section 4.2.A.I)* are not eligible for appeal, except for cases of Sexual Misconduct.

### 2. Appeal Grounds

An application for appeal may only be filed on the grounds below and must meet at least one of the three standards to be considered for appeal.

- A. **Procedural Error:** Procedural error occurs when the policies outlined in *Community Rights and Responsibilities* are not followed, 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.
- B. **New Evidence:** This refers to new evidence that was unavailable during the original hearing or investigation that could significantly affect the original finding or sanction. A summary of the new evidence and its potential 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 information for any reason).
- C. **Sanction Severity:** A sanction imposed as a result of the original student conduct hearing that is significantly outside of the parameters of the Sanction Guidelines may be appealed. Evidence must show that the sanction is inappropriate based on the infraction, according to standard Sanction Guidelines available at <http://www.potsdam.edu/studentlife/studentconduct/judicial/sanctions>.

### 3. Appeal Procedure

- A. An application for appeal must be submitted electronically within seven calendar days of receiving the decision letter via College e-mail. Instructions on how to file an application for appeal are provided in the decision letter. Applications for appeal may not be submitted by a third party.
- B. Applications for appeal are reviewed by the Chief Student Affairs Officer or his/her designee to determine if the appeal was submitted **timely** for appeal. The original decision and sanction will stand if the appeal is not timely or does not meet the grounds for appeal, and the decision is final.
- C. If the application is timely AND meets the grounds, the Appeal Board will review the appeal.
- D. Appeal outcomes are determined based on the Referred Party's approved written application for appeal and the rationale of the original Student Conduct Hearing Board. A simple majority will make the Appeal Board's decision.
- E. Appeal findings shall be recommended to the Chief Student Affairs Officer or designee who will render a final decision. A written notification of the appeal decision will be made via College email. This decision is final.

### 4. Appeals of Cases of Sexual Misconduct

In such cases, both parties will receive written notification of the Student Conduct Hearing Board's decision and either party can then submit an application for appeal within seven calendar days according to the procedures described above under "Student Conduct Appeals."

If one party submits an application for an appeal, the non-requesting party will receive notice that an appeal was submitted and may then submit either his/her own appeal or a written response to the requesting party's appeal within seven days of the notification. If both parties appeal, the appeals will be considered concurrently. The appeal(s) shall be considered in accordance with the "Student Conduct Appeal Procedure" described above in Section 3. Both parties

will be notified of the appeal decision within thirty days of the last appeal received and the decision is final.

## **SECTION 8: APPOINTMENT OF STUDENT CONDUCT HEARING AND APPEAL BOARDS**

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### **I. Appointment**

All members of the Student Conduct Hearing Board and Appeal Boards shall be appointed by the Director of Student Conduct and Community Standards.

- A. The Director of Student Conduct & Community Standards will select Student Conduct Hearing Boards and Appeal Board members who are capable of adjudicating cases in a fair, knowledgeable, and impartial manner.
- B. Student Conduct Hearing Board and Appeal Board members will possess or receive the necessary education and training regarding the subject matter of cases they will be adjudicating. Training will minimally be done annually.
- C. The Director of Student Conduct & Community Standards shall choose from a list of currently trained Student Conduct Hearing Board members and Appeal Board members.
- D. Student Conduct Hearing Board members and Appeal Board members who are unable to be impartial for whatever reason shall disqualify themselves.