



Committee Meeting: Policy & Governance Committee	Date: September 14, 2018
Committee Chair: Kathleen Masiello	
New or Edited: Edited	

POLICY NAME: Code of Student Conduct Policy

POLICY TYPE: Managerial

SUBMITTED BY: Petrina Hill-Cheatom, Dean of Students II, M.Ed. and Tracy Gast, Vice President for Security and Facilities

ISSUE OR STATEMENT OF PURPOSE:

SUNY Erie wishes to update its Code of Student Conduct Policy and procedure, formally known as policy V-A-6, in order to be in compliance with the State University of New York (SUNY) Board of Trustees (BOT), state and federal regulations, and professional stands for Conduct Administrators.

SUNY Erie’s Code of Student Conduct will:

- Revise conduct regulations;
- Explain applicable procedures, definitions and SUNY Board of Trustees policies;
- Include regulations and or procedures as per state, federal and professional guidelines developed by the SUNY Student Conduct Association (SUNY-SCA) and the Council for the Advancement of Standards in Higher Education (CAS);
- Clarify and expand the rights of students (i.e., due process and fair play for students going through disciplinary proceedings);
- Define academic dishonesty content;
- Define procedures and clarify content;
- Revise Adjudicating Committee procedures and training script for members;
- Result in a SUNY Erie Student Code of Conduct Procedure Manual for all students

NEW OR EDITED POLICY:

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV of the SUNY Erie Code of Student Conduct:

1. Acts of dishonesty, include but are not limited to the following:
 - a. Academic-cheating, plagiarism, collusion or other forms of academic dishonesty.



POLICY NAME: Code of Student Conduct Policy-**Continued**

- b. Furnishing false information or documentation to any College official, faculty member, or office.
- c. Forgery, alteration, or misuse of any College document, record, or instrument of identification.

2. Disruptive conduct is defined as conduct that is disruptive to the normal operations of the College, which include but are not limited to obstruction of teaching, administration, disciplinary proceedings, other College activities, demonstrations, public functions on or off campus, or of other authorized non-College activities when the conduct occurs on SUNY Erie premises.

3. Harassment is defined as threats, intimidation, coercion, physical abuse, verbal abuse, bullying, stalking and/or other conduct that places a reasonable person in fear of physical harm, through words, actions or objectively disrupts a person's daily activities, including education and employment and which threatens or endangers the health or safety of any person. Harassment does not include conduct protected by the First Amendment.

Title IX of the Education Amendments of 1972 prohibits sex-based discrimination in education programs or activities that receive federal financial aid. Discrimination based on sex includes student sexual harassment and sexual violence. Sexual violence includes acts of rape, sexual assault, sexual battery, and sexual coercion.

Students desiring to file a complaint or an alleged Title IX violation must file with the Office of Equity and Diversity.

Sexual Misconduct

4. Sexual assault. Any form of sexual intercourse (anal, oral, or vaginal) however slight, or attempted sexual intercourse, without consent. Intercourse means penetration by a tongue, finger, or oral copulation by mouth to genital contact or genital to mouth contact.

a. Sexual violence. Any sexual act perpetrated against a person's will, including but not limited to the use of physical force or threats, or in circumstances in which the person is unable, due to incapacitation, to give consent. Acts falling into the category of sexual violence include but are not limited to nonconsensual sexual intercourse.

b. Nonconsensual intimate touching. Any unwelcome intentional intimate touching of another, which does not constitute sexual violence, without the consent of the other person or in circumstances in which the person is unable, due to incapacitation, to give consent.

5. Sexual harassment. Unwelcomed sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature directed at a person that places that person in reasonable fear of physical harm, or objectively disrupts employment, education, research, living or other activities.

6. Intimate Partner Violence Also referred to as "Relationship Violence" or Dating Violence is defined as causing or attempting to cause physical or sexual assault or abuse, placing another in reasonable fear of serious bodily injury, restricting another's liberty or freedom of movement, or stalking, where such conduct is directed against



POLICY NAME: Code of Student Conduct Policy-Continued

a person by someone with whom she/he is or has been in a romantic or intimate relationship. Whether there was such a relationship will be determined by its length, type, and frequency of interaction.

7. Stalking is defined as a pattern of conduct with a continuity of purpose composed of a series of acts or communications over a period of time, including following the targeted person, without proper justification. Such conduct causes a reasonable person to suffer substantial emotional distress, or to be in fear of bodily injury. Stalking can occur face-to-face; by telephone calls, voice messages, electronic messages, web-based messages, and text messages; by delivery of unwanted gifts; by trespassing; and by surveillance or other types of unwanted observation.

8. Hazing is defined as any action or series of actions that recklessly or intentionally endangers the mental or physical health or safety of a student for any person, including but not limited to initiation into, admission into or affiliation with any Student group or organization. Hazing occurs if a person or group:

- a. Causes or attempts to cause physical injury or other harm to a student, including but not limited to emotional distress, or engages in any conduct that presents a threat to the student's health or safety. Hazing includes but is not limited to any physical brutality, such as whipping; beating; branding; exposure to the elements; forced consumption of any food, alcohol, drug or other substance; forced physical activities that could adversely affect the physical health, mental health or safety of any student and any activity that would subject the student to extreme mental stress, such as sleep deprivation, forced sexual conduct or forced exclusion from social contact.
- b. Engages in an action or activity that has a tendency to or is intended to demean, disgrace, humiliate or degrade a student. This includes but is not limited to forced conduct that could result in extreme embarrassment or servitude, or other forced activity that could adversely affect the mental health or dignity of the student.
- c. Conduct that by design, intent or recklessness causes a student to be reasonably unable to pursue, or which interferes with, or attempts to interfere with, a student's academic success.
- d. Causes, induces, pressures, coerces or requires a student to violate the Law or any College regulation.

The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule. Students observing hazing are required to report it to Dean of Students or Security and may do so anonymously.

Examples of hazing include, but are not limited to, paddling or other physical abuse or brutality, activities involving illegal acts of excessive fatigue and/or stress, and verbal and/or psychological abuse that compromise the dignity of individuals.

9. Invasion of Privacy is defined as engaging in acts of voyeurism, peeping, spying or recording another person in any location where a reasonable expectation of privacy exists.



POLICY NAME: Code of Student Conduct Policy-**Continued**

10. Any conduct that constitutes a violation of the laws of the United States, the State of New York, County of Erie, City of Buffalo, or any other civil jurisdiction.
11. Failure to comply or following a reasonable request issued by College officials or College Safety Officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so constitutes a violation of the Code of Student Conduct. See the Reasonable Request Policy for more information.
12. Attempted or actual theft of and/or damage to College property or the property of a member of the College community or other personal or public property, on or off campus.
13. It is unlawful to possess, use, sell, distribute or provide illegal drugs or any controlled substance. Possession or use of any illegal drug or paraphernalia is prohibited.

Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances except as expressly permitted by law.

SUNY Erie regulations regarding drug violations are categorized as the following:

Drug Violation Category I

It shall be a category I violation for a person to possess and/or use of drugs or drug paraphernalia.

Drug Violation Category II

It shall be a category II violation for a person to possess or use illegal drugs or misuse/abuse prescription drugs to another person.

Drug Violation Category IV

It shall be a category IV violation to sell, manufacture, distribute, or intend to distribute illegal or prescription drugs.

All students who are charged with a drug violation case will be reviewed on a case-by-case basis. Students will be subject to a Student Code of Conduct violation and or law according to the applicable criminal statute.

14. Smoking of tobacco products including smoke producing instruments (which include but are not limited to electronic E- Cigarettes, vaping, hookahs) are prohibited. Use of vaporized products is also against College policy on all campuses. Smoking products described above is prohibited in all campus buildings and within 10



POLICY NAME: Code of Student Conduct Policy-Continued

feet of any point of entry or exit of any campus building. (Effective July 17, 1997, SUNY Erie Community College became a smoke free College.)

The use of any such products by students, faculty, staff, guests and contractors is prohibited on all properties owned or leased by SUNY Erie, including (but not limited to):

- All interior and exterior spaces on every campus and property or facilities owned or leased by the College, including classrooms, auditoriums, athletic facilities, work areas, walkways, parking lots, breezeways, private offices, conference and meeting rooms, lounges and cafeterias, hallways, restrooms, elevators, stairs and stairwells including:

15. Unauthorized possession, duplication or use of keys to any College premises or unauthorized entry to premises or use of equipment owned or leased by SUNY Erie.

16. Parking and Traffic Regulations

All **eligible** SUNY Erie community members will be issued a Vehicle Registration Permit upon the completion of vehicle registration and the payment of the required fee(s), if applicable. The Vehicle Registration Permit must be clearly displayed. The permit number must be visible.

Parking is prohibited at all times on the roadways (except as posted), sidewalks, lawns, grounds, lanes, and throughways of parking areas. The College may have illegally parked vehicles towed away at the owner's expense. All unpaid parking tickets, towing charges, and storage costs will be the responsibility of the owner and must be paid before the vehicle is released.

SUNY Erie's **city campus parking lot locations** are reserved for **SUNY Erie students only**. Faculty, staff, and visitors attending programs or meetings at SUNY Erie are welcomed, but unfortunately, free parking is unavailable through the College. For your safety, all affiliates must have identification. SUNY Erie ID cards or event/program confirmations are required.

Parking rules and regulations are subject to change for certain campus events, special occasions, and emergencies. Restrictions will be posted by the College Safety Office and will be strictly enforced.

For additional information on vehicle registration, permits, permanent or temporary handicapped parking permits, parking policies, parking fines, parking penalties, and liabilities, please reference the Official Compilation of Codes, Rules, and Regulations of the State University of New York, Section 560.3 - Campus Rules and Regulations [8 CRR-NY 560.3NY-CRR]



POLICY NAME: Code of Student Conduct Policy-**Continued**

Fines

Parking fines not paid or appealed within 30 days of receipt of the summons will be doubled. Students who have outstanding parking fines are barred from registering for class or receiving their transcript. Employees who have outstanding parking fines for more than 90 days will have the fines deducted from their paychecks. Vehicles parked on campus with outstanding parking fines are subject to either towing or the placement of an immobilization boot on the vehicle.

Appeals

Appeal requests must be directed to the College Safety Office within 30 days of summons issuance. Attempts to appeal summonses later than this date will not be processed. You will receive notification of the hearing date and time via a letter mailed to the address that you stipulate on the parking summons. The decision of the hearing safety officer is final. Therefore, it is imperative that you are prepared for your defense. All documentation must be submitted to the hearing officer at the time of your appeal. It is solely your responsibility to provide any necessary documents. You have 15 days from your hearing date to comply with the judgement of the safety officer. If you are found guilty, additional penalties will be incurred after 15 days. Cancellation and rescheduling an appeal may only be made one time.

Appeals based on the following will not be successful:

- Ignorance of the regulation.
- Inability to find a permitted parking space.
- Operation of the vehicle by another person.
- Failure of the Safety officer to ticket previously for similar offenses.
- Inability to pay fine.
- Disagreement with the parking rules and regulations.
- Failure to display current parking permit, vehicle registration, or inspection.
- Improper display of the parking permit.

17. Unauthorized entry to College facilities. Unauthorized access or entry to College property, buildings, structures, facilities.

18. Violation of any College policy, rule, or regulation published in hard copy or available electronically on the College website.

19. Use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly permitted by College regulations and permits).



POLICY NAME: Code of Student Conduct Policy-**Continued**

Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under 21 years of age.

A person under 21 years of age may not make arrangements with any person to purchase or procure alcoholic beverages.

A person may not misrepresent their age, or in any way alter, deface, or falsify their identity as offered as proof of age, with the intent of purchasing alcoholic beverages, whether for their own use or the use of any other person.

A person may not sell, deliver, furnish or otherwise provide alcoholic beverages to any person less than 21 years of age.

Drinking games, in the form of hazing or other potentially dangerous drinking behaviors are prohibited. Disruptive or conduct that is hazardous related to use of alcohol beverages is prohibited.

No person shall be coerced to drink or abuse alcohol.

Alcohol may not be served to intoxicated persons.

Approved alcohol events will subscribe to the philosophy of responsible and legal use of the products represented.

Open containers of alcoholic beverages in public or in areas on the grounds of the College are not permitted except at approved events.

20. Illegal or unauthorized possession of firearms, explosives, knives, chemical spray (e.g. Mace) or other weapons, or dangerous chemicals on College premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others. College Safety and Security Officers are permitted to carry chemical spray in the commission of their duties.

21. Tampering with fire safety alarms, firefighting equipment or any other safety devices or emergency equipment.

22. Participating in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of the College and/or infringes on the rights of other members of the College community. (See Freedom of Assembly Policy)

23. Leading or inciting others to disrupt scheduled and/or normal activities within any SUNY Erie campus building or area.



POLICY NAME: Code of Student Conduct Policy-Continued

24. Obstruction of the free flow of pedestrian or vehicular traffic on College premises or parking lots under the control of College-sponsored or supervised functions.
25. Conduct that is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on College premises or at functions sponsored by, or participated in by, the College or members of the academic community. Disorderly Conduct includes but is not limited to: Any unauthorized use of electronic or other devices to make an audio or video record of any person while on College premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.
26. Theft or other abuse of computer facilities and resources, including but not limited to:
- a. Theft of a personal or business computer.
 - b. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
 - c.. Unauthorized transfer of a file.
 - d.. Use of another individual's identification and/or password.
 - e.. Use of computing facilities and resources to interfere with the work of another student, faculty member or College Official.
 - f. Use of computing facilities and resources to send obscene or abusive messages.
 - g. Use of computing facilities and resources to interfere with normal operation of the College computing system.
 - h. Use of computing facilities and resources in violation of copyright laws.
 - i. Any other violation of the SUNY Erie Computer Use Policy.
27. Abuse of the Code of Student Conduct System, consists of but is not limited to:
- a. Failure to obey the notice from the Dean of Students or the Adjudicating Committee to appear for a meeting or hearing as part of the adjudication process.
 - b. Falsification, distortion or misrepresentation of information in the process of an investigation and or administrative meeting or hearing process.
 - c. Disruption or interference with the orderly conduct of an Adjudication Committee .
 - d. Engaging in a conduct code proceeding in bad faith.
 - 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 Adjudicating Committee.
 - g. Failure to comply with the sanction(s) as imposed by the Adjudicating Committee.
 - h. Influencing or attempting to influence another person to commit an abuse of the Student Code of Conduct.

Enforcement and appropriate sanction of any violation 1-27 will be determined by the Dean of Students and or an adjudicating committee.



POLICY NAME: Code of Student Conduct Policy-Continued

28. Students are required to engage in responsible social conduct that reflects positively on the College community and to model good citizenship in their conduct at all times.

29. In order to provide a learning environment free from disruption use of cell phones are prohibited in the classroom and must be put away at the time of instruction. Students may not text, answer or read messages on their cell phone while in a classroom setting unless given expressed permission by the instructor to do so.

DOES IT SUPERCEDE A POLICY/WHICH ONE: Yes, V-A-6 Student Code of Conduct

POLICY COMMITTEE RECOMMENDED ACTION:

Policy Committee recommends the Board of Trustees accept the Managerial policy under Committee Briefings, Policy & Governance Committee. This Policy supersedes all prior policies/procedures and practices related to V-A-6 Student-Code of Conduct.

POLICY COMMITTEE MEMBERS PRESENT: Trustee Kathleen Masiello, Trustee Susan Swarts, Student Trustee TK Adebayo, Executive Vice President for Administration and Finance Penelope Howard, Vice President of Enrollment Steven Smith, Vice President of Student Affairs Nora Clark, Vice President of Facilities and Security Tracy Gast, Director of Registrar Paul Lamanna, Dean of Liberal Arts and Sciences Joanne Colmerauer, College Senate Representative Michael Delaney, Dean of Students Petrina Hill-Cheatom

DATE OF BOARD ACCEPTANCE: September 27, 2018

POLICY COMMITTEE TEAM FOLLOW-UP:

Following Trustee acceptance, this Managerial policy will be included in the SUNY Erie Community College Board of Trustees Managerial Policy Manual. The Code of Student Conduct will be distributed at orientation and available on the SUNY Erie website.

INFORMATION/INPUT CONSIDERED DURING POLICY COMMITTEE DELIBERATIONS:

List documentation that was referenced in creating and/or updating this policy.

1. Lowery, J. & Stoner, E. (2004). Navigating Past The Spirit of Insubordination. Vol.31 No.1, pp.1-pp.78
2. Karp, D.R. & Waryold, D.M. (2015). CAS Professional Standards for Higher Education (Student Conduct Programs). Edition 9
3. SUNY Policies:
 - Rules for Maintenance of Public Order 3653
 - Sexual Violence Prevention and Response
 - Student Conduct Part 500 (8 NYCRR)
 - Campus Conduct 3650



POLICY NAME: Code of Student Conduct Policy-**Continued**

4. Waryold, D.M. & Lancaster, J. (2008). Student Conduct Professionals Practice The Complete guide for Student Affairs Professionals. Sterling, Virginia: Stylus Publishing LLC.
5. Karp, D. (2013). Restorative Justice for Colleges & Universities. Intercourse, PA: Good Books
6. Pranis, K. (2005). Circle Processes. Intercourse, PA: Good Books

The Policy has been reviewed and discussed at the Policy & Governance Committee meetings of October 20, 2017, May 18, 2018, June 22, 2018 and September 14, 2018.