

CODE OF STUDENT CONDUCT

ARTICLE I: STATEMENT OF PURPOSE

Orange County Community College Board of Trustees, administration, faculty, and staff have a primary concern for the academic achievement, standards, and personal integrity of our students. We recognize our obligation to protect college property and we take a special interest in the mental and physical health and safety of our community. We are committed to preserving the peace, uplifting campus morale, and creating a civil climate on our campuses. The College has adopted the following policies and procedures as an expression of its expectations of student conduct.

ARTICLE II: CODE OF STUDENT CONDUCT

SECTION A: Jurisdiction of the College

College jurisdiction shall be limited to conduct which occurs on College premises or which occurs off College premises and adversely affects members of the College community and/or the pursuit of the College mission.

SECTION B: Conduct – Rules and Regulations

Any student or organization found to have committed or to have attempted to commit any of the following acts of misconduct is subject to the disciplinary sanctions outlined in Article IV.

1. Acts of dishonesty, including, but not limited to:
 - a. Cheating, including cybercheating
 - b. Fabrication
 - c. Facilitating academic dishonesty
 - d. Plagiarism, including internet plagiarism
 - e. Forgery
 - f. Bribery
 - g. Multiple submission (submitting the same assignment to more than one instructor without the permission of the instructors). Please refer to the College Academic Policy for other means of resolution for academic dishonesty issues.
2. Violation of any provisions of the professional and/or ethical codes of programs in the fields of Allied Health, Nursing, Kindercollege or any other applicable programs.
3. Interference with the College approved operation of any College recognized student organization.
4. Disorderly conduct, including but not limited to: disruption or obstruction of teaching, research, administration, disciplinary proceedings, other College activities, and other campus activities.
5. Conduct which alarms, threatens or in some manner disrupts the learning process of another student and/or the ability of faculty to teach.

6. Physical abuse, verbal abuse, threats, intimidation, stalking, coercion and/or other conduct which threatens or endangers the health, well-being or safety of any person.
7. Sexual misconduct (see Sexual Assault and Sexual Harassment Policies).
8. Harassment which serves to degrade the status of another person. Most often, harassment focuses on a personal attribute, singling it out for ridicule, attack or disparagement. Attributes include, but are not limited to: race or ethnic origin, gender, physical or mental disability, age, religion, economic class, and sexual orientation. Harassment may include physical contact, written or verbal comments or suggestions, obscene or offensive pictures or “jokes,” hostile or threatening gestures or other forms of degradation. This includes acts of harassment carried out by one or more students on behalf of and/or at the request of another student.
9. Theft of and/or damage to property of the College, property of a member of the College community, or other personal or public property.
10. Hazing, which is an act which endangers the mental or physical health or safety of a student, or involves the forced consumption of liquor or drugs, or which destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Consent of the participants is not a defense against a complaint of hazing.
11. Failure to comply with directions of a College employee or emergency or service personnel acting in performance of their official duties.
12. Failure to identify oneself to a College employee or emergency or service personnel acting in performance of their official duties when requested to do so.
13. Unauthorized possession, duplication or use of keys, combinations, or access cards to any College premises or unauthorized entry to or use of College property.
14. Violation of published College policies, rules or regulations found in, but not limited to, the Student Handbook, the Rights and Responsibilities booklet, Parking and Traffic Regulations, Individual Department Handbooks, Academic Policy, and the College Catalog.
15. Use, possession or distribution of illegal drugs, narcotics or other controlled substances, and drug-related paraphernalia, except as permitted by federal, state and/or local law.
16. Public intoxication or the use, possession or distribution of alcoholic beverages except as expressly permitted by federal, state and/or local law and College regulations (see the College Alcohol Policy).
17. Possession of firearms, explosives, or other weapons, or unauthorized use of dangerous chemicals or substances on College premises.
18. Participation in a campus demonstration which disrupts the normal operations of the College and infringes on the rights of other members

- of the College community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
19. Intentional obstruction of the free flow of pedestrian or vehicular traffic on College premises or at College sponsored or supervised functions.
 20. Conduct which 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.
 21. Theft or other abuse of computer resources, including, but not limited to:
 - a. Commercial use of computing resources;
 - b. Data interception;
 - c. Forgery;
 - d. Willfully engaging in practices that place undue burdens on college resources (ie. Spamming);
 - e. Engaging in or disseminating illegal, obscene, threatening, discriminating, fraudulent, defamatory, intimidating, harassing, embarrassing or unwelcome electronic communication;
 - f. Copying, modifying or destroying college network or internet-based files; and,
 - g. Accessing or attempting to access the college network or internet resources for which the user is not authorized or granted explicit permission.
 22. Abuse of the judicial system, including but not limited to:
 - a. Failure to comply with the directive to appear before a hearing panel or disciplinary conference administrator after having received appropriate notification of such a directive.
 - b. Falsification, distortion, or misrepresentation of information before a hearing panel or disciplinary conference administrator.
 - c. Disruption or interference with the orderly conduct of a judicial proceeding.
 - d. Knowingly instituting a judicial proceeding without cause.
 - e. Influencing or attempting to influence another person to commit an abuse of the judicial system.
 - f. Attempting to discourage an individual's proper participation in, or use of, the judicial system.
 - g. Attempting to influence the impartiality of a member of a hearing panel or of a disciplinary conference administrator prior to and/or during the course of a judicial proceeding.
 - h. Harassment (verbal or physical) and/or intimidation of any person involved in a judicial proceeding.
 - i. Failure to comply with a sanction imposed under the Student Rights and Responsibilities.
 - j. Failure to comply with an agreed upon informal resolution.

23. Engaging in gambling activities defined as illegal by federal, state or local law and/or by College regulations.
24. Behavior prohibited by federal, state and/or local laws.

ARTICLE III: JUDICIAL PROCEDURES

SECTION A: Complaints and Hearings

1. Any member of the College community may file a complaint against a student for allegedly violating the Code of Conduct. The person who files the complaint shall be the Complainant. The student alleged to have violated the Code of Conduct shall be the Respondent.
2. All complaints shall be prepared in writing and directed to the Vice President for Student Development. A complaint shall contain;
 - a. The identity of the Complainant, the Respondent;
 - b. The specific element(s) of the Code of Conduct alleged to have been violated;
 - c. The date, time and place of the alleged violation(s); and,
 - d. The names of any witnesses.
3. Complaints should be submitted as soon as possible, but in no event later than 30 days, after the violation occurs. A complaint may be filed after 30 days only when the Vice President for Student Development finds special circumstances exist that warrant a late filing. Incident/security reports may be considered complaints and filed with the Vice President for Student Development, in which case the College may be considered the Complainant.
4. The Vice President for Student Development shall determine if the alleged conduct may constitute a violation of the Code of Conduct. If so, the case shall proceed for adjudication.

SECTION B: Informal Resolution

1. Filing a complaint shall not always require a formal adjudication process. In the event that the Vice President for Student Development elects to seek an informal resolution, the Vice President for Student Development may review all relevant information, interview pertinent witnesses, and bring together the Complainant and Respondent, if desirable.
2. Resolution shall be achieved when the Vice President for Student Development, Complainant and Respondent are satisfied that the behavior at issue has been addressed and a mutually acceptable outcome has been achieved. The resolution shall be reduced to writing by the Vice President for Student Development and mailed to the parties.
3. Respondent's failure to respond to a request by the Vice President for Student Development or designee's request to participate in an informal resolution may result in a letter to the Respondent warning the Respondent that failure to respond may result in referral of the complaint to the Board of Inquiry for a hearing.

4. If the Vice President for Student Development is unable to resolve the complaint to the mutual satisfaction of the Complainant and the Respondent, the Vice President for Student Development shall advise the Complainant of his/her right to proceed formally.

SECTION C: Formal Adjudication

1. If the complaint is to be adjudicated using formal procedures, the Vice President for Student Development shall convene the Board of Inquiry to act as the hearing panel.
2. All complaints to be adjudicated by the Board of Inquiry shall be presented to the Respondent in written form.
3. No student may be found responsible for the alleged violation of the Code of Conduct solely because the student failed to appear before a hearing panel, however, the hearing will proceed as scheduled if the Respondent fails to attend. In all cases, the evidence in support of the complaint shall be presented and considered.
4. As the Board of Inquiry does not meet during the summer months, all alleged violations of the Code of Conduct during that time period shall be resolved by the Vice President for Student Development through informal resolution. If informal resolution fails, the case will be referred to an alternate Board of Inquiry composed of faculty, staff and students as available.

SECTION D: Hearing Procedures

The following procedures apply when a complaint has been directed by the Vice President for Student Development to the Board of Inquiry, which will serve as the hearing panel.

1. Composition of the Board of Inquiry-The Board of Inquiry is composed of seven members; four students appointed by the Student Senate at the beginning of the fall semester to serve for a period of one academic year, and three faculty members appointed by the College Governance System. One of these faculty members shall be designated as the Chair of the Board of Inquiry. The College Governance System shall appoint alternate faculty members and the Student Senate shall appoint alternate student members.
2. Advisors-The Complainant and Respondent may be advised by a faculty or staff member of Orange County Community College. Members of the Board of Inquiry, The Vice President for Student Development and the Director of Student Life shall not serve as advisors. The student may not appear by or be represented by an attorney. The advisor may be an attorney or member of the legal profession, so long as such individual acts in the capacity of advisor only, and not in the capacity of attorney, and the same rights and limits on participation that apply to advisors, generally, shall apply to an advisor who happens to be an attorney or member of the legal profession.

3. Scheduling the Hearing-Absent exigent circumstances, or unless the student and the College otherwise agree in writing, a hearing shall be scheduled to take place not more than fifteen (15) business days after the Respondent has been notified of the complaint.
4. Attendance-The hearing shall be closed and attendance shall be limited to members of the Board of Inquiry, the Judicial Advisor, the Complainant, the Respondent, their respective advisors, and any witnesses deemed necessary by the parties
5. Role of Panel Chair-The chair of the hearing panel shall preside over the hearing. All procedural questions shall be subject to the final direction and discretion of the chair. The chair of the hearing panel shall introduce members of the hearing panel and ask all hearing participants to identify themselves. All testimony and questioning shall be at the direction and the discretion of the chair. The chair may limit or exclude testimony or questioning of any hearing participant to the extent that such testimony or questioning is repetitive of matters previously presented or is not relevant to the incident in question. The chair may recess the hearing at any time.
6. Role of Judicial Advisor-The Judicial Advisor shall be available to the hearing panel for consultation regarding procedural elements any time during the hearing. The Judicial Advisor may request that the chair recess the hearing at any time.
7. Hearing Procedures-All hearings shall contain the following elements:
 - a. The chair shall make opening remarks.
 - b. The Complainant shall have the opportunity to present a statement about the incident in question. The Respondent shall then have the opportunity to present a statement about the incident in question.
 - c. After the statements by the Complainant and the Respondent, members of the hearing panel shall have the opportunity to question both the Complainant and the Respondent. The Complainant and the Respondent shall have the opportunity to question each other. Only questions relevant to the alleged incident, and not repetitive to the hearing panel's questioning, shall be allowed.
 - d. The Complainant shall be offered the opportunity to present relevant evidence and witnesses one at a time. Members of the hearing panel shall have the opportunity to ask questions at the conclusion of each witness's testimony. The Complainant and the Respondent shall have the opportunity to question the witness at the conclusion of each witness's testimony. The chair shall permit witnesses to be present in the hearing room only during their testimony.
 - e. The Respondent shall be offered the opportunity to present relevant evidence and witnesses one at a time. Members of the hearing panel shall have the opportunity to ask questions at the conclusion of

each witness's testimony. The Complainant and the Respondent shall have the opportunity to question at the conclusion of each witness's testimony. The chair shall permit witnesses to be present in the hearing room only during their testimony.

- f. Members of the hearing panel shall have the opportunity to ask final questions. Prior to deliberations, the Complainant and the Respondent shall be asked if they have any other testimony they wish to present.
- g. After the presentation of all testimony, witnesses and evidence, and subsequent questioning, the chair shall call the board to deliberate. The Complainant, the Respondent, and their advisors shall be excused by the Judicial Advisor. The witnesses shall remain available at the hearing site until dismissed by the board.
8. A record of the proceedings shall be kept, including the evidence presented, documents and other exhibits, witnesses who testified, and the final findings and recommendations of the Board of Inquiry and the members' votes.

SECTION E: Deliberations

1. Normally, deliberations shall be carried out and completed as soon as practical following the hearing. Deliberations shall take place in private, with only the members of the hearing panel present. The Judicial Advisor shall be available to the hearing panel during the deliberations for consultation regarding the hearing procedure. During the sanctioning phase of the deliberations, the Judicial Advisor shall provide information regarding any previous judicial action involving the Respondent.

SECTION F: Findings of Fact and Recommendations

1. Upon hearing all testimony, witnesses and evidence and after deliberations, the hearing panel shall either dismiss the complaint or find that the Respondent violated the Code of Conduct.
2. Findings that the Respondent violated the Code of Conduct shall be made on the basis of whether it is more likely than not that the Respondent violated the Code of Conduct.
3. A Respondent shall be presumed not responsible for a violation of the Code of Conduct until it has been demonstrated through credible testimony and evidence that it is more likely than not that the student committed the violation.
4. If the Board of Inquiry determines that the Respondent violated the Code of Conduct, it shall recommend to the Vice President for Student Development a sanction for the violation.
5. Prior to making a recommendation of sanction, the Judicial Advisor shall advise the Board of Inquiry of any previous judicial action taken

against the Respondent. The hearing panel may recommend any level or combination of sanctions.

6. The findings of fact and recommendations shall reflect the majority opinion of the Board of Inquiry.

SECTION G: Communication and Implementation of Findings of Fact and Recommendations

1. The written findings of fact and recommendations shall be forwarded to the Vice President for Student Development for action within two business days after the end of the hearing under normal circumstances.
2. The Vice President for Student Development may accept, reject, or modify the recommended sanction. The sanctions, as determined by the Vice President for Student Development, shall be implemented unless an appeal is filed.
3. The Vice President for Student Development shall communicate his/her decision in writing to the Respondent, the Board of Inquiry, the Judicial Advisor, the Complainant (as appropriate with concern to the Respondent's privacy rights) and any other appropriate College authorities. Under normal circumstances, the Vice President for Student Development shall communicate his/her decision within five days after receipt of the Board of Inquiry's recommendation.

SECTION H: Appeal Procedures

1. The Respondent may file a written appeal to the hearing panel's decision to the President not more than five business days after receiving notification of the decision. Filing shall mean "received in the Office of the President".
2. In the written appeal, it shall be the responsibility of the appellant to provide evidence of one or more of the following grounds for appeal:
 - a. The original hearing was not conducted in conformity with prescribed procedures;
 - b. Insufficiency of the evidence to reasonably support the decision;
 - c. The sanction imposed was unduly harsh for the violation committed;
 - d. Availability of new evidence that was not available at the time of the hearing sufficient to alter the decision.
3. If an appeal is granted by the President, he/she shall have access to the hearing record, including all documentary evidence, the written findings, and any other pertinent written information. After receiving the materials, he/she shall proceed in one of the following manners:
 - a. The President may alter the recommended sanction by making it more severe, less severe or otherwise different; or
 - b. The manner may be remanded to the hearing panel for re-opening of the hearing to allow reconsideration of the original determination and/or recommended sanction(s).

4. If an appeal is denied by the President, the decision of the hearing panel shall stand and the recommended sanction(s) shall be imposed.
5. The President shall provide written notification of the appeal decision to the hearing panel, Complainant (when necessary and appropriate), Respondent, the Judicial Advisor, and any other appropriate College authorities.
6. Recommended sanctions shall not be imposed during the pendency of an appeal unless the nature of the conduct under review or the circumstances involved dictate otherwise.

ARTICLE IV: SANCTIONS

SECTION A: Interim Suspension of Privileges

1. Faculty members retain the right to remove from the classroom (for the duration of that class period) any student demonstrating disruptive behavior. It is the responsibility of the faculty member to report the incident to the Vice President for Student Development and to indicate if they do not want the student to return to class (interim suspension) and the rationale for that request. This request will be acted upon by the Vice President for Student Development or designee prior to the next class session.
2. The Vice President for Student Development may issue an interim suspension of privileges for the following reasons:
 - a. To insure the safety and well-being of members of the College community or to preserve College property;
 - b. To insure a student's own safety or well being; or
 - c. If a student poses a threat of disruption or interference with the normal operations of the College.
3. During the interim suspension, a student may be denied access to College activities, facilities and/or classes or other privileges for which the student might otherwise be eligible, as the Vice President for Student Development may determine to be appropriate.
4. The decision to alter or suspend privileges for an interim period shall be communicated by the Vice President for Student Development in writing to the Respondent and shall be effective immediately. Notification shall either be hand-delivered or sent by certified mail. Failure or refusal to take receipt of notification shall not negate or postpone said action. The appropriate College officials shall be notified of the interim suspension including those directly involved in the pending complaint.
5. The interim suspension or altered privileges shall remain in effect until a final decision has been made regarding pending complaints or until the Vice President for Student Development determines that the reason for imposing the interim suspension of privileges no longer exists. Absent exigent circumstances, or unless otherwise agreed to by both parties, an expedited hearing shall take place within 10 business days of notification of the interim suspension.

SECTION B: Other Sanctions

1. The following sanctions may be imposed individually or in combination for any violation(s) of the Code of Conduct:
 - a. Warning – A written notice to the student, identifying the nature of the Code of Conduct violation(s). The warning shall be placed in the student’s official record.
 - b. Loss of privileges – Revocation of specified privileges for a specified time period (e.g. use of College facilities, co-curricular activities, work study).
 - c. Restitution – Compensation for loss, damage or injury. Restitution may be monetary, an appropriate form of service, or the replacement of specific materials, as dictated by the situation.
 - d. Educational Project – Completion of a project specifically designed to help the student understand why the Code of Conduct violation was inappropriate.
 - e. Probation – A written reprimand for violation of a specified item in the Code of Conduct. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found responsible for violating the Code of Conduct during the probationary period.
 - f. Suspension – Separation from the College for a specified period of time, after which the student is eligible to return or the organization may resume its activities.
 - g. Expulsion – Permanent separation from the College.
2. The proper College authorities shall be notified of any sanction imposed.
3. Disciplinary sanctions shall be recorded in the student’s confidential file maintained in the Office of Student Development.
4. The following sanctions may be imposed upon student clubs or organizations:
 - a. Those sanctions listed above in section B 1, a-f.
 - b. Deactivation – Loss of recognition for a specified period of time.

ARTICLE V: WITHDRAWAL AND READMISSION

The Director of Academic Services shall be advised of any student who voluntarily withdraws from the College while a complaint is pending. The student must present adequate evidence of permission to re-enroll. Permission for re-enrollment may be granted only after the complaint has been resolved, unless circumstances dictate otherwise. If the complaint cannot be resolved because the complainant, witnesses or evidence are not available, such permission may be denied by the Vice President for Student Development.

ARTICLE VI: INTERPRETATION AND REVISION

1. Any question of interpretation regarding the Student Rights and Responsibilities shall be referred to the Vice President for Student Development or designee for final determination.
2. The Student Rights and Responsibilities shall be reviewed every three (3) years by the Board of Inquiry, the Vice President for Student Development and the College Attorney. The Ad Hoc Committee on the Code of Student Conduct may also be re-formed at this time to give input.

SEXUAL ASSAULT PREVENTION

Sexual Assault and the Law

Orange County Community College (SUNY Orange) has programs in place to protect all members of the college community from sexual assault, including programs for prevention and prosecution of these crimes that occur within the jurisdiction of SUNY Orange at both the Middletown and Newburgh Extension Center Campuses.

NYS Law contains the following legal provisions defining the crimes related to sexual assault:

Section 130.20 - Sexual Misconduct. This offense includes sexual intercourse without consent and deviate sexual intercourse without consent. The penalty for violation of this section includes imprisonment for a definite period to be fixed by the court up to one year.

Section 130.25/30/35 - Rape. This series of offenses includes sexual intercourse with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to mental defect, mental incapacity, or physical helplessness. This series of offenses further includes sexual intercourse with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

Section 130.40/45/50 - Criminal Sexual Act. This series of offenses includes oral or anal sexual conduct with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes oral or anal sexual conduct with a person under the age of consent.

The penalties for a violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

Section 130.52 - Forcible Touching. This offense involves the forcible touching of the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. Forcible touching includes the squeezing, grabbing, or pinching of such other person's sexual or other intimate parts.