

# STUDENT CONDUCT POLICY

**Sponsor:** Student Success

**Contact:** Vice Provost for Student Success

**Category:** Student Affairs

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## Background Information:

### A. STUDENT CONDUCT REGULATION AUTHORITY

Section 356 of the Education Law empowers the College 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 President of SUNY Empire State (or duly authorized designee), on behalf of the College Council. The President has delegated administration of programs for student welfare and conduct to the Vice Provost of Student Success (Vice Provost). Standards of conduct, recommendations for new policies, or modification of policies or regulations affecting student welfare and conduct are initiated through the Office of the Vice Provost for Student Success. The Vice Provost has jurisdiction over the Student Conduct System and designates the Student Conduct Director (SCD), who manages the SUNY Empire's Student Conduct System and ensures fair and impartial procedures for adjudicating alleged violations.

In addition to the Student Conduct Policy, 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 Empire. (See Rules for the Maintenance of Public Order.) SUNY Empire has the authority to choose whether the Rules for the Maintenance of Public Order or this Student Conduct Policy will be applied.

### B. SEXUAL VIOLENCE AND HARASSMENT

SUNY Empire is committed to maintaining a safe environment that is supportive of its primary educational mission and free from all exploitation and intimidation. SUNY Empire will not tolerate sexual harassment, sexual assault, or any other form of nonconsensual sexual activity to include dating violence, domestic violence, and/or stalking.

## Purpose

SUNY Empire State strives to maintain a community that promotes and values the academic experience, institutional and personal integrity, and justice, equality, and diversity. Members of the SUNY Empire community should be able to work and learn in an environment that is orderly, peaceful, and free of disturbances that impede individuals' growth and development, or their ability to perform their responsibilities. Respect for the rights of others and SUNY Empire property are essential expectations for each SUNY Empire student.

To maintain a fair, just, and safe community environment, this Student Conduct Policy defines the minimum expectations for behavior at SUNY Empire. It also provides for the procedures for responding to allegations of student misconduct, and the actions the SUNY Empire may take in dealing with policy violations, which are outlined in the Student Conduct System.

## Definitions

- A. **"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.
- B. **"Business Day"** means a weekday or non-holiday when the SUNY Empire is open for regular business.
- C. **"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 the SUNY Empire.
- D. **"Complainant"** means any person or persons who have made a disciplinary complaint against a student and may or may not be the victim.
- E. **"Faculty" or "Faculty Member"** means any employee of SUNY Empire engaged in teaching, learning, advising, or evaluation of learning.
- F. **"May"** is used in the permissive sense.
- G. **"Personal Property"** means anything of value to which a person has legal possession or title.
- H. **"Reporting individual"** is the victim/survivor related to cases of rape, sexual assault, domestic violence, dating violence, and stalking. "Reporting Individual" status will also apply to cases where the respondent has been charged with conduct which violates the health and safety of an individual.
- I. **"Respondent"** is used to describe an accused student.
- J. **"Sanctions"** are educational and/or punitive measures assigned to a student after they have been found responsible for violating SUNY Empire policy.
- K. **"Shall"** is used in the imperative sense.
- L. **"Staff" or "Staff Member"** means any person employed by SUNY Empire.
- M. **"Student"** means all persons enrolled in a program or engaged in credit or noncredit learning and/or assessment activities at SUNY Empire, both full-time and part-time, or those individuals who were students at the time of an alleged violation of the Student Conduct Policy, whether on SUNY Empire premises or remotely. Persons who are not officially enrolled for a particular term but who have a continuing relationship as a student with the SUNY Empire are considered "students." A continuing relationship exists for a student who has begun a first term of enrollment, has not graduated, withdrawn or been expelled, and is within the 3-years of the end date of the last term of enrollment.

- N. **"Student Conduct Body"** means any person or persons authorized by the Student Conduct Director to determine whether a student has violated the Student Conduct Policy and to recommend sanctions when necessary.
- O. **"Student Conduct Director"** means the individual(s) designated to administer the SUNY Empire Student Conduct System.
- P. **"Student Conduct Hearing Officer"** means any individual assigned to advise a Student Conduct Body.
- Q. **"Student Conduct System"** means the procedures for responding to allegations of student misconduct and the delineation of actions SUNY Empire may take in dealing with policy violations.
- R. **"Student Organization"** means any number of persons who have complied with the formal requirements for recognition by SUNY Empire and has official recognition.
- S. **"Student Publication"** means written material including, but not limited to, brochures, newspapers, and special interest magazines published by students and distributed to the SUNY Empire community.
- T. **"SUNY Empire"** means the Empire State University.
- U. **"SUNY Empire Community Member"** means any person who is a student, faculty member, SUNY Empire official, or any other person employed by or affiliated with SUNY Empire. The Student Conduct Director shall determine a person's status in a situation.
- V. **"SUNY Empire Official"** includes any person employed by the university.
- W. **"SUNY Empire Premises"** or **"Campus"** includes all land, buildings, facilities, or other property in the possession of or owned, leased, used, or controlled by the university, including adjacent streets and sidewalks.
- X. **"SUNY Empire Property"** means all items owned, leased, or on loan to the university.
- Y. **"Title IX Coordinator"** shall mean the Title IX Coordinator or his or her designee.
- Z. **"Weapon"** any weapon or any device capable of use as a weapon by release of explosive material, noxious material, electric discharge, or projectile; any deadly weapon as defined in the NYS Penal Law Section 10.00(12); any weapon listed in NYS Penal Law Section 265; and as listed in the SUNY Board of Trustee Regulations 8 NYCRR Part 590 and SUNY Document #5403.

## Statements

SUNY Empire strives to create an atmosphere of student success in direct support of its mission. Students, like all citizens, are afforded the right of free expression and advocacy and the SUNY Empire encourages and seeks to preserve freedom of expression and inquiry within the institution. Students are to conduct themselves civilly, lawfully, and responsibly. Students will not engage in disruptive, threatening, unethical, or abusive conduct toward other members of the SUNY Empire community, including other students, instructors, and staff.

SUNY Empire has a responsibility to maintain standards of student conduct essential to the orderly conduct of its function as an educational

institution. Students are expected to be familiar with the Student Conduct Policy and the regulations included in the policy, and to abide by them.

Along with local, state, and federal laws and statutes, each student is accountable for his or her own behavior and for the behavior of their guests and/or those attempting to act on their behalf. Any violation of the Student Conduct Policy is strictly prohibited and may result in sanctions including, without limitation: disciplinary warning, disciplinary suspension, or disciplinary expulsion from SUNY Empire. The Student Conduct System is intended to be educational in nature and every effort is made to develop understanding and compliance with the SUNY Empire standards of conduct. However, occasions arise when disciplinary or punitive sanctions are necessary, and those actions are within the scope of the policy. 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.

## A. JURISDICTION

SUNY Empire jurisdiction and discipline pertains to conduct which occurs on its premises, in/on properties or buildings it owns/leases/operates, through online tools and learning management systems provided by SUNY Empire, or off campus and which adversely affects the SUNY Empire community, including any of its members, and/or the pursuit of its objectives and mission. In addition, illegal conduct off campus or on external online platforms may be adjudicated on campus as a violation of the Student Conduct Policy, and students outside of the United States may be held responsible on campus for violations of the laws of the country where they are visiting/residing.

## B. DUE PROCESS

The Student Conduct System is designed to support the right to due process, which is a process that is fair, consistent, provides adequate notice, and a meaningful opportunity to be heard. The student conduct proceedings provide the Student Conduct Body or officer a full opportunity to hear both sides of the issue in considerable detail. Except as otherwise provided in Section D below, no student shall be disciplined for a violation of this policy without being first given appropriate advance notice of the charges against him or her and a hearing before an appropriate body or officer. The student may waive in writing the requirement of a hearing when allowed by law or related regulations.

## C. VIOLATION OF LAW AND STUDENT CONDUCT POLICY

Students may be charged with violations of both the SUNY Empire's Student Conduct Policy and the laws of the broader society. Proceedings under this Student Conduct Policy may be carried out prior to, simultaneously with, or following external civil or criminal proceedings for the same factual situation without regard to the status of civil litigation in court or criminal arrest and prosecution. Exceptions may be approved by the Student Conduct Director for temporary delays as requested by external legal or law enforcement entities. Temporary delays should not last more than 10 business days except when law enforcement specifically requests and justifies a longer delay.

When a student is charged by federal, state, or local authorities with a violation of law, SUNY Empire will not request or agree to special consideration for that individual because of the individual's status as a student. The alleged offense may also be the subject of a proceeding before a Student Conduct Body under the Student Conduct Policy and SUNY Empire may advise off-campus authorities of the existence of the Student Conduct Policy and of how such matters will be handled within SUNY Empire. SUNY Empire will cooperate fully with law enforcement

and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual students and faculty/staff members, acting in their personal capacities, remain free to interact with governmental representatives, as they deem appropriate.

## D. INTERIM SUSPENSION AND DIRECTIVES

The Student Conduct Director, or designee, may impose interim measures prior to and pending a hearing, and determination of said hearing, including interim suspension and loss of privileges, which may include no contact orders, and other reasonable measures, upon learning of a possible Student Conduct Policy violation. Students have the right to challenge the terms of the interim measure(s) or request a modification. Interim suspensions may only be imposed when, in the judgement of the Student Conduct Director, the continued presence of such student would constitute a danger to themselves, to the safety of persons or property, and/or would pose an immediate threat of disruptive interference with the normal conduct of the SUNY Empire's activities and functions. Violation of any condition of the interim suspension shall be grounds for additional charges and sanctions up to and including expulsion from the SUNY Empire.

## E. AMNESTY IN SEXUAL MISCONDUCT CASES FOR ALCOHOL AND/OR DRUG USE

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 Empire recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. SUNY Empire strongly encourages students to report incidents of sexual misconduct to SUNY Empire officials. A bystander or Reporting Individual, acting in good faith, who discloses any incident of sexual misconduct to SUNY Empire officials or law enforcement, will not be subject to the Student Conduct Policy for violations of alcohol and/or drug use policies occurring at or near the time that the sexual misconduct occurred.

## F. PROHIBITED CONDUCT

The following list of prohibited conduct is not exhaustive and is intended to describe minimum standards for specific and/or general types of behavior that may result in sanctions outlined in the procedures for this policy. These prohibitions apply both to student behavior which occurs on campus, at SUNY Empire-sponsored events off campus, in SUNY Empire-sponsored virtual and online activities, and may apply to off campus behaviors as noted in "Section A: Jurisdiction" of this policy. Prohibited behavior includes not only completed actions, but also attempted violations of the Student Conduct Policy.

### 1. FIRE SAFETY

- a. Causing or creating a fire, regardless of intent (except as authorized for use in class, in connection with SUNY Empire-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, and inappropriate, negligent or reckless behavior which results in the activation of a fire alarm.

### 2. WEAPONS

- The on-campus possession or use of any weapon or any device capable of use as a weapon whether it is through the release of explosive material, noxious material, electric discharge, or projectile; or cutting, thrusting, stabbing, striking.
- The on-campus possession or use of a deadly weapon as defined in NYS Penal Law Section 10.00(12) or any weapon listed in NYS Penal Law Section 265.

Note: in addition to SUNY Empire policy restrictions, possession of a weapon on school grounds, including all SUNY Empire locations, is a felony under NYS Penal Law Section 265.01-a.

### 3. THREATENING OR ABUSIVE BEHAVIOR

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

- the behavior is a physical response to verbal provocation
- the student has the ability to leave the situation, but instead chooses to respond physically, and/or
- such actions are punitive or retaliatory.

Additionally, it is prohibited to use a self-defense spray in circumstances that do not justify the use of such device.

### 4. HARASSMENT

Engaging in behavior that is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, denies, or limits any SUNY Empire Community Member's ability to participate in or benefit from the SUNY Empire's education program and/or activities, threatens or violates the personal safety of any SUNY Empire Community Member, and/or 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:

- directing unwanted physical, verbal, or electronic 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, military/veteran's status, sex [including pregnancy], gender expression or gender identity, sexual orientation, domestic violence victim status, criminal or arrest record, political activities, or predisposing genetic characteristics; or
- subjecting a person or group of persons to unwanted physical contact or threat of such; or
- repeated contact with an individual or office after being instructed to cease.

### 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.

- a. **Dating Violence** - Any act of violence, including physical, sexual, psychological, electronic, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Individual. 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.
- b. **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/or 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

Stalking is engaging in a course of conduct (including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, online tools, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property) directed at a specific person(s) that would cause a reasonable person(s) to:

- a. fear for their safety or the safety of others; or
- b. suffer substantial emotional distress (defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling).

Stalking does not require direct contact between parties and can be accomplished in many ways, including through third parties or through the use of electronic devices and social media.

## 7. ENDANGERMENT

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

## 8. SEXUAL HARASSMENT

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, nonverbal, graphic, physical, electronic, or otherwise, when the conditions outlined in subsections a. and/or b. below, are present:

- a. Submission to, or rejection of, such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation

in any SUNY Empire programs or activities or is used as the basis for SUNY Empire decisions affecting the individual (often referred to as "quid pro quo" harassment); or

- b. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual's ability to participate in, or benefit from, SUNY Empire's education or employment programs or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective.

## 9. SEXUAL ASSAULT AND SEXUAL EXPLOITATION

- a. Sexual Assault I - Intentionally engaging in any form of vaginal, anal, or oral penetration, however slight, with any object (an object includes but is not limited to parts of a person's body) without the person's Affirmative Consent
- b. Sexual Assault II - Intentionally engaging in touching a person's intimate parts (defined as mouth, genitals, groin, anus, inner thigh, breast, or buttocks) whether directly or through clothing, without the person's Affirmative Consent. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.
- c. Sexual Exploitation - Intentionally engaging in, or attempting to engage in, abusive sexual behavior without Affirmative Consent that does not otherwise constitute Sexual Assault I or Sexual Assault II. Examples include, but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the nonconsenting party; nonconsensual video or audio recording of sexual activity; sharing and/or 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; inducing incapacitation with the intent to sexually assault another person; creating, possessing, or distributing the sexual performance of a child (as defined in NYS Penal Code 263.00) ; and aiding, abetting, or otherwise facilitating sexual activity between persons without the Affirmative Consent of one or more party.

The following principles outlined in NYS Education Law Article 129-B apply to the SUNY Empire's interpretation of Affirmative Consent

- 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, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily

restrained, or if an individual otherwise cannot 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.

## 10. HAZING

Hazing is any reckless or intentional conduct in connection with the initiation into, or affiliation with, any organization or group which degrades, humiliates, or endangers the mental or physical health of any person, regardless of the person's willingness to participate.

## 11. FORGERY, FRAUD, DISHONESTY

Altering or misusing documents, records, stored data, or instruments of identification, or furnishing false information to any SUNY Empire, local, state or federal official. This includes possessing, creating, or using a fake or forged instrument of identification, or monetary notes, or knowingly making a false complaint to a SUNY Empire office. A good faith complaint which is later not substantiated is not considered to be a false complaint.

## 12. PROPERTY DAMAGE

- a. Removing, destroying or damaging SUNY Empire property, or property under SUNY Empire administration or supervision.
- b. Destroying or damaging the property of others, on- or off-campus.

## 13. THEFT

Stealing property and/or services; possessing stolen property. This includes identity theft (i.e., unauthorized possession or use of a financial instrument, SUNY Empire ID Card, etc.).

## 14. UNAUTHORIZED ENTRY, PRESENCE, OR USE

Entering, being present in/on, or using facilities or property on- or off-campus, belonging to individuals, SUNY Empire-recognized groups and/or corporate entities without proper authorization.

## 15. DRUGS

Consistent with the federal Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101- 226), possessing, using, distributing, or intent to distribute, a controlled substance or dangerous drug, or any drug unlawful to possess, (i.e., 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 must have an authentic medical prescription. Driving under the influence of drugs is prohibited. This applies to both on- and off-campus behavior.

While possession of marijuana by adults (21+) in New York State has been legalized, it remains prohibited on all state campuses as required by federal law. Possession while at a SUNY Empire location or event will result in a Student Conduct Policy violation.

## 16. 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 SUNY Empire policies. 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 policy regardless of the student's age. Driving under the influence of alcohol is prohibited. This applies to both on and off-campus behavior.

## 17. OBSTRUCTION OR DISRUPTION

Impairing, obstructing, or disrupting the orderly conduct, processes, activities, and functions of SUNY Empire, including teaching and learning, or the community where the conduct occurs including, without limitation, 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 SUNY Empire and infringe on the rights of other SUNY Empire Community Members by leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; and intentional obstruction which unreasonably interferes with freedom of movement, be it pedestrian, vehicular, or electronic on campus. It also includes, without limitation, excessive noise, abusive, or obscene language in a public place, littering, obstructing vehicular or pedestrian traffic, and boisterous, indecent, or threatening conduct that is unreasonable in the area, time, or manner in which it occurs. Behaviors, speech, or actions that interfere with the ability of the instructor(s) to teach or students to learn are considered disruptive.

Conduct protected by the First Amendment is excluded.

## 18. STUDENT GROUP VIOLATIONS

Students are expected to know and abide by the regulations governing their membership in a Student Organization. Prohibited conduct by officers/members of student groups and organizations may result in a referral to the Student Conduct System for individual students.

It is a violation of SUNY Empire policy for students to affiliate with organizations that have had recognition suspended or permanently revoked by SUNY Empire. The definition of affiliation includes joining or being involved in any activity that would normally be associated with being a member of such organization.

## 19. MISUSE OF SUNY EMPIRE NAME AND MARK

Use of the SUNY Empire name, symbols, logo, and wordmark inconsistent with the university's Use of University Name and Wordmark Policy, available here: <https://www.sunyempire.edu/policies/?search=cid%3D37966>

## 20. AIDING AND ABETTING

Aiding, abetting, or otherwise facilitating an individual to commit or attempt to commit a violation of the Student Conduct Policy.

## 21. NON-COMPLIANCE

- a. Failure to comply with SUNY Empire policy and/or any local, state, public health directive, federal law, rule, or regulation.
- b. Failure to comply with the directions of an authorized local, state, federal, or SUNY Empire Official acting in the performance of their duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities. This includes, without limitation: not appearing at meetings when

directed to do so; not providing identification; not abiding by any temporary and/or administrative directive; and not leaving areas/events/offices when directed to do so.

- c. Failure to notify SUNY Empire of a felony or misdemeanor crime. It is the obligation of every student to notify the SUNY Empire (via e-mail – Collegewidestudentservices@sunyempire.edu) five (5) calendar days from the date of arrest of any felony or misdemeanor arrests at any time after a student pays their orientation fee through graduation or separation from SUNY Empire, regardless of geographic location of the arrest or specific crime alleged. Failure to do so may result in conduct charges by the SUNY Empire or administrative/ registration holds placed on the student's account. SUNY Empire may review the facts underlying the arrest to determine if there is an associated SUNY Empire policy violation.

## 22. ELECTRONIC USE

Misuse or abuse of the SUNY Empire computer systems, voice mail, or telephone services. This includes, without limitation:

- a. Unauthorized use or abuse of your SUNY Empire computer account, including failure to safeguard or sharing of user IDs and passwords
- b. Sending abusive or threatening messages to students, faculty, or staff.
- c. Accessing a student or staff account without authorization.
- d. Using a SUNY Empire office email account to send messages without authorization.
- e. Failure to comply with any SUNY Empire technology policies.
- f. Illegal use including, but not limited to illegal downloading, uploading, or use of file sharing programs with regard to copyrighted materials.

## 23. 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, or other classes protected by state or federal law regardless of whether the belief or perception is correct.

## 24. ABUSE OF THE STUDENT CONDUCTION SYSTEM

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

- a. Failure to obey the notice of a Student Conduct Body, Student Conduct Director, or SUNY Empire Official.
- b. Falsification, distortion, or misrepresentation of information before a Student Conduct Body, Student Conduct Director, or SUNY Empire Official.
- c. Disruption or interference with the orderly conduct of a student conduct proceeding.
- d. Knowingly instituting a student conduct complaint 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 Body or any other party/individual

that may choose to participate in a student conduct proceeding.

- g. Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Body or any other party/ individual that may choose to participate in a student conduct proceeding.
- h. Failure to comply with the sanction(s) or directives imposed under the Student Conduct Policy.
- i. Influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

## 25. RETALIATION

Retaliation is adverse action taken against an individual or groups for making a good faith report of prohibited conduct or for participating in any investigation or proceeding regarding prohibited conduct. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report, made in good faith, was not substantiated. Retaliation may be committed by the Respondent, the Reporting Individual, or any other students.

## Applicable Legislation and Regulations

The following link to FindLaw's New York State Laws (<https://codes.findlaw.com/ny/>) is provided for users' convenience; it is not the official site for the State of New York laws.

NYS Education Law §356(3)(g) (<https://codes.findlaw.com/ny/education-law/edn-sect-356.html>) (Councils of state-operated institutions; powers and duties)

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of New York State Consolidated (<http://public.leginfo.state.ny.us/navigate.cgi>).

Board of Trustees Established Guidelines - Student Conduct (8 NYCRR Part 500) (<https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations/?guid=I098c5420ab3911dd9e3f9b6a3be71c54&originationContext=documenttoc&tr>

Board of Trustees Rules - Maintenance of Public Order (8NYCRR Part 535)

State University of New York Board of Trustee Resolution 82-261, adopted October 27, 1982 ([https://www.suny.edu/sunypp/documents.cfm?doc\\_id=352](https://www.suny.edu/sunypp/documents.cfm?doc_id=352))

## Related References, Policies, Procedures, Forms and Appendices

Domestic Violence in the Workplace Policy (<https://www.sunyempire.edu/policies/reg-docs/reg-docs-html/domestic-violence-in-the-workplace-policy.php>)

Non-Discrimination/Anti-Harassment Policy (<https://www.sunyempire.edu/policies/reg-docs/reg-docs-html/non-discriminationanti-harassment.php>)

Sexual Harassment Policy (<https://www.sunyempire.edu/policies/reg-docs/reg-docs-html/sexual-harassment-policy.php>)

Sexual Violence Prevention and Response Policies (<https://www.sunyempire.edu/policies/reg-docs/reg-docs-html/sexual-violence-prevention-and-response-policy--student-affairs.php>)

Workplace Violence Policy (<https://www.sunyempire.edu/policies/reg-docs/reg-docs-html/workplace-violence-policy.php>)

Student Conduct System (<https://www.sunyempire.edu/policies/reg-docs/reg-docs-html/student-conduct-system-procedure.php>)