

# College of Charleston Student Handbook 2019-2020

A Guide to Civil and Honorable Conduct



**THIS DOCUMENT IS NOT A CONTRACT AND MAY BE AMENDED AT ANY TIME IN THE DISCRETION OF THE COLLEGE OF CHARLESTON**

The College of Charleston reserves the right to make changes in its policies, regulations, and procedures as printed herein through normal channels. The *Student Handbook* is produced by the Division of Student Affairs.

**Equal Opportunity / Affirmative Action Statement**

The College of Charleston is an Affirmative Action / Equal Opportunity employer and does not discriminate against any individual or group on the basis of gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veteran status, genetic information, or disability. Inquiries and complaints should be directed to the Office of Equal Opportunity Programs, College of Charleston, 66 George St., Charleston, South Carolina 29424, 843.953.5754. The College's Affirmative Action Plan may be reviewed by contacting the Office of Equal Opportunity Programs or the Office of Human Resources.

**Notice of Non-Discrimination**

*The College of Charleston is committed to a policy of equal opportunity for all persons and does not discriminate on the basis of age, race, color, religion, national origin, sex (including pregnancy), sexual orientation, gender identity or expression, veterans' status, genetic information, disability or other category protected by applicable law in its educational programs and activities, employment or admissions. The College of Charleston also prohibits retaliation against any person for bringing a complaint of discrimination or for participating in an investigation of a complaint of discrimination.*

*The Office of Equal Opportunity Programs maintains additional information and policies related to the prohibition of discrimination, harassment, and sexual misconduct as well as access and equity at: [eop.cofc.edu](http://eop.cofc.edu). Inquiries regarding the College of Charleston's non-discrimination policies or complaints of discrimination or harassment may be directed to the director of the Office of Equal Opportunity Programs at 66 George Street, Charleston, SC 29424, 843.953.5754 or [eop@cofc.edu](mailto:eop@cofc.edu).*

*Questions about Title IX may be directed to the College of Charleston's Title IX coordinator or the deputy Title IX coordinator in the Office of Equal Opportunity Programs at: 66 George Street, Charleston, SC 29424, 843.953.5754 or [eop@cofc.edu](mailto:eop@cofc.edu), or to the assistant secretary for the Office of Civil Rights at the U.S. Department of Education.*

**Accreditation**

The College of Charleston is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award the Artium Baccalaureatus, the Bachelor of Arts, the Bachelor of General Studies, the Bachelor of Professional Studies, the Bachelor of Science, the Master of Arts, the Master of Arts in Teaching, the Master of Business Administration, the Master of Education, the Master of Fine Arts, the Master of Public Administration, and the Master of Science. Contact: Southern Association of Colleges and Schools Commission on Colleges at 1866 Southern Lane Decatur, GA 30033-4097 or call 404.679.4500 for questions about the accreditation of the College of Charleston.

**Electronic Version Available**

An electronic version of the *Student Handbook* is currently available on the World Wide Web. You can access it through the College of Charleston web page at <http://studentaffairs.cofc.edu/honor-system/studenthandbook/>

# College of Charleston Student Handbook 2019-2020

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## A Guide to Civil and Honorable Conduct



### Letter from the President

August 20, 2019

Dear Student,



I am excited to welcome you to the College of Charleston for the 2019-20 academic year. You are joining an incredible campus community that is full of talented, curious, energetic and creative people. We – the faculty and staff – are proud that you have chosen the College of Charleston.

Here at the College, we are guided by our motto, *Sapientia Ipsa Libertas*, which means “Wisdom Itself Is Liberty.” During your time with us, you will come to “Know Thyself” (which appears in Greek on the arch of Porters Lodge) and experience some of the most challenging years of your life. These will also be some of the most productive, rewarding and enlightening

years of your life.

I encourage you to take full advantage of your time here and to seek out the exceptional opportunities to participate in activities outside the classroom that will add value to your time inside the classroom. We have more than 200 student groups, undergraduate research opportunities, a competitive intramural program, numerous community service events, a collaborative fraternity and sorority life system, fantastic sports teams to cheer on and fun events scheduled throughout the year.

I hope you have a productive and successful year. I look forward to seeing you around campus, and I wish you the best of luck as you pursue your educational goals!

Sincerely,

Andrew T. Hsu  
President, College of Charleston

## Letter from the Executive Vice President for Student Affairs

August 15, 2019

Dear Student:

Welcome to our newest students and welcome back to our returning students! I hope this letter finds you ready for a productive new academic year. Your positive experience and success at the College are of the utmost importance to me.



This Handbook is designed to share with you many of the policies and procedures which apply to you as a student at CofC. The information provided is designed to guide your experience as a productive member of our academic community. We expect you to embrace and adhere to these guidelines and come forward with any suggestions for review or improvement. Please contact my office if you do have suggestions.

As a member of the College of Charleston community, you are also a member of the greater Charleston community. Whether this year finds you living on or off campus, you are also a resident of a local neighborhood. We have high expectations for you to be a productive contributor to our greater community and we take great interest in how you represent yourself and the College. As more of our students take rooms and apartments in the neighborhoods adjacent to campus or in more distant neighborhoods, and others interact frequently with local residents, problems between students and permanent residents are likely to surface. If there are difficulties, they are typically a direct result of poor communication between neighbors or insensitivities to neighborhood rules and expectations. To help prevent such problems, I encourage you to follow these suggestions:

1. Soon after moving in, take the time to meet your neighbors.
2. Since many local houses are very close to each other, be conscious of noise level, particularly during the week. Your neighbors may need to study or get to sleep in preparation for class or work the next day.
3. Tell your neighbors ahead of time if you are expecting more than just a few guests, let your guests know where they should properly park, and share neighborhood expectations that might apply to them as visitors.
4. Make sure that you and your landlord maintain the appearance of your house or apartment so that it meets neighborhood standards. Learn your rights and responsibilities as a tenant in South Carolina, for you and your landlord share many responsibilities.
5. Know and obey local and state laws and ordinances. No matter your level of awareness of these mandates, you will be expected to abide by them. You can find a list of key local ordinances on the webpages of Residence Life and Public Safety.

I thank you in advance for your cooperation. Please understand that to your neighbors, you are more than individuals; you are the College of Charleston. While it is my desire for you to have a great experience in college, please represent us well. If there are any ways in which I may be of assistance to you, please do not hesitate to contact me. Have a fantastic and rewarding year.

Sincerely,

Alicia Caudill, Ph.D.  
Executive Vice President for Student Affairs



## Letter from the Honor Board

August 15, 2019

Dear Students,

Welcome to the College of Charleston! We are excited that you chose the College of Charleston as the place to further your education.

As members of the Honor Board, we would like to remind you that the primary motive for attending college is to obtain an education that will aid you in your search of a successful future. The Honor Board is made up of students, just like you, with the same demands on our time, the same desire to have fun, and capable of making the same mistakes you make. We are not here just to adjudicate cases; we know that circumstances and poor judgment affect us all, and we will help you. If you transgress these rules, we will treat you with fairness, respect, and understanding, but we will not allow you to harm yourself or our community. With over 150 hours per week outside of the classroom of your own free time, we ask you to be responsible adults and to make sound decisions. We invite you to get to know the faculty and staff members that help make up this college community so that you not only learn from and with them, but feel able to seek their guidance and wisdom during trying times. Talk to them, they listen; ask them questions, they answer; give them respect, they deserve it; but most importantly, keep their trust.

Most of the academic cases that are presented before the Honor Board could have been avoided if the students had only communicated their troubles to the professor ahead of time. Faculty members are here to help you, do not be afraid of them. On the other hand, most of our non-academic cases occur because individuals do not know their tolerance for alcohol or understand that this campus and city take a serious stance against illegal substances. We understand that for many of the freshmen, this is your first year away from home and a time of experimentation. Be careful of your actions, because they have consequences. You are no longer in high school and will not be treated like you are. You will be held accountable for your actions like adults.

Please consider joining the Honor Board. We are always looking for new members. Whether you are beginning or continuing your studies here, we wish you a successful endeavor to gain knowledge, experience and friendships all surrounded by honest learning and civil behavior. Your time at the College of Charleston should be some of the best years of your lives; so remember to have fun, but responsibly.

Sincerely,  
The Honor Board

## Statement of Student Rights and Responsibilities



The purpose of the following statement of students' rights and responsibilities is to reflect the fundamental principles upon which our university functions are built.

Students are not only members of the academic community but are also members of the larger society. Students, therefore, retain the rights, guarantees and protections afforded to and the responsibilities held by all citizens. The university community acknowledges and celebrates the rights of students to 1) participate in a free exchange of ideas; 2) participate in all areas and activities of the university free from any form of discrimination on the basis of race, color, religion, national origin, sex (including pregnancy), sexual orientation, gender identity or expression, veterans' status, genetic information, disability or other category protected by applicable law; 3) have personal privacy except as otherwise provided by law or reasonable campus policy; and 4) engage a fundamentally fair process should they be subject to conduct action arising from alleged violations of student codes and campus policies.

As members of the university community, students have a responsibility to know and follow the student codes and campus policies. A student is not immune to prosecution by local, state, or federal law enforcement agencies irrespective of whether the university initiates conduct proceedings in a given situation.

As would be expected, behavioral standards for the College of Charleston and the University of Charleston, South Carolina students are higher than those of communities not engaged in the creation of knowledge, instruction and the maintenance of a vibrant learning environment. Each of us in this university community is expected to exercise our freedoms in a responsible and careful manner. This institution's potential is boundless if we engender and maintain an atmosphere of respect for the individual, a sensitivity towards different cultures and differing points of view, and a support for the rights of others to freely express their opinions.



## 1. Introduction



The purpose of this Handbook is to assist you in understanding your rights, freedoms, and responsibilities as a student. This Handbook is an official publication of the College. As a student, you will be held accountable for its contents. This means that while officially enrolled at the College you are responsible for abiding by its rules which are intended to facilitate and sustain, in an orderly fashion, the on-going business of the College.

At the core of the College of Charleston community are individuals from diverse backgrounds whose lives are intertwined in support of the uplifting of the human condition through comprehensive studies. As with all communities, there is a moral code of ethical behavior that binds participants together, and a body of official rules and regulations that defines personal freedoms and responsibilities. The latter is codified in the College of Charleston Honor Code and Code of Conduct – our Honor System.

The codes and the conduct process for reporting and hearing violations are addressed in greater detail later in this publication.

## 2. Core Values at the College of Charleston



As members of the College of Charleston community, we affirm, embrace and hold ourselves accountable to the following core values:

**Integrity:** Adherence to the highest ethical standards in all our professional obligations and personal responsibilities

**Academic Excellence:** Commitment to a dynamic intellectual community, high academic standards, strong academic programs, and a high-quality faculty of engaged and engaging teacher-scholars

**Liberal Arts Education:** Dedication to a liberal arts and sciences education that encourages intellectual curiosity and fosters each student's ability to think creatively and analyze, synthesize, apply and communicate knowledge from many sources

**Respect for the Individual Student:** Devotion to the intellectual, ethical and social development of each student

**Diversity:** Commitment to a globally-oriented and diverse academic community

**Community:** Commitment to compassion, mutual trust, respect, civility, collegial shared governance, teamwork and the general welfare of the institution and the individual

**Public Mission:** Commitment to our social responsibilities and to serving the educational needs of the state of South Carolina and our community

College of Charleston students are responsible for knowing the information, policies and procedures outlined in this document. The University/College reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online <http://policy.cofc.edu/> for the updated versions of all policies and procedures.

### 3. Statement of Authority



The Honor System of the College of Charleston is intended to promote and preserve an atmosphere of trust and fairness in the classroom and in the conduct of daily life. The Honor System is composed of two major components: The Student Honor Code and the Code of Conduct. Specific policies fall under each major component. Students and student organizations and groups at the College of Charleston are bound by honor and by their acceptance and/or enrollment at the College to abide by the Honor and Conduct codes and are expected to report violations. Faculty and staff members are strongly encouraged to report violations of the Honor Code or Code of Conduct.

The Board of Trustees and the President of the College of Charleston have delegated authority for student discipline to the Executive Vice President for Student Affairs. Student conduct authority may be delegated to College officials and committees as set forth in these Codes, in accordance with other College policies, codes, rules, or regulations, and as deemed appropriate by the Executive Vice President for Student Affairs. The Dean of Students is the person designated by the President and the Executive Vice President for Student Affairs to be responsible for the administration of the Codes and other related student policies. The Dean of Students shall develop policies for the administration of the Honor System and procedural rules for the conduct of Honor System hearings that are not inconsistent with the provisions of the Honor System or other College policies. The final authority over all decisions made under the Honor System rests with the Executive Vice President for Student Affairs.

#### 4. New Student Code of Conduct



(From the official policy web site <http://policy.cofc.edu/> and retaining the policy web site numbering system)

#### ..... I. General Information

##### **A. Scope and Jurisdiction of the Student Honor Code and Code of Conduct**

1. The Student Honor Code and Code of Conduct are applicable to any student enrolled in or accepted for an academic course or program, regardless of credits carried, including but not limited to degree programs, pre-college, non-degree seeking, non-credit bearing programs. These Codes and this Procedure also apply to the Bridge, SPECTRA, and I-Charleston Programs and their participants. Each student shall be responsible for personal conduct from the time of admission through the actual awarding of a degree even though that conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. In addition, if a student is admitted and the College receives information that he or she has engaged in conduct that may impact the safety and/or health of any members of our campus community, including faculty, staff and/or students, then these Codes and this Procedure shall apply.

2. The Student Honor Code and Code of Conduct also apply to College of Charleston student organizations and groups. Separate procedures and sanctions for student organizations and groups are outlined in Section IV of the Code of Conduct.

3. Generally, the regulations contained in the Student Honor Code and Code of Conduct apply to student conduct which occurs at the College of Charleston, on the grounds of all other College campuses and properties wherever located, at all Bridge, SPECTRA and I-Charleston locations, or at any event sponsored by any of these institutions or by any campus organization or group, wherever the event is located or held. The College reserves the right to take action based on any student conduct, regardless of location, that may adversely affect the educational mission of the College or that may adversely, distinctly or directly affect the College community and/or its international programs. As an urban campus situated in the heart of Charleston, clearly, good relations with the City of Charleston and our Charleston neighbors as well as all others that we interact with are essential to the overall mission of the College. Accordingly, Student Affairs shall have discretion to exercise jurisdiction over conduct which occurs off-campus, wherever it may occur.

4. Residence Life and Housing Administration: The Departments of Residence Life and Housing Administration will review alleged violations of the Residence Hall Contract (which may also constitute violations of the Student Code of Conduct) that are NOT likely to lead to removal from the residential system AND any form of suspension or expulsion from the College. Such offenses will be resolved under policies as stated by Residence Life and Housing Administration. Alleged violations of the Residence Hall Contract unrelated to violations of the Student Code of Conduct shall be subject to administrative



action by the Departments of Residence Life and Housing Administration. For more information on regulations and policies concerning residence halls, please consult the webpages of Residence Life and the Residence Hall Contract. Alleged violations likely to lead to removal from the residential system AND any form of suspension or expulsion from the College shall be subject to action by the Office of the Dean of Students. This includes, but is not limited to all drug-related violations, multiple alcohol violations, forgery, weapons, arson, sexual misconduct, physical assault and serious vandalism.

5. The College retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll (and/or obtain official transcripts and/or graduate) and all sanctions must be satisfied prior to re-enrollment eligibility after a hold is lifted.

6. College of Charleston email is the College's primary means of communication with students. Students are responsible for all communication delivered to their College email address and are deemed to have notice of the contents of all communications sent by e-mail.

7. Letters of no contact, cease and desist letters, facilitated discussions, mediation agreements, restorative justice actions, mandatory move notices within our residential system, and other written forms of intervention may be initiated after determination by officials in Student Affairs that such action is appropriate and warranted. The student(s) will be given the opportunity to appear personally before an official of Student Affairs to contest the determination and discuss the original circumstances that gave rise to the no contact or other intervention order. Intervention letters do not constitute a formal conduct charge or sanction. However, formal conduct proceedings could be initiated if any conditions outlined within the correspondence are violated.

8. When considering consequences for student misconduct, the College focuses on primarily on educating students about their behavior, but may impose sanctions up to and including suspension and expulsion in order to preserve a safe and healthy environment for the College community.

## **B. Violations of Municipal, State, or Federal Law**

Students may be accountable to both outside authorities and to the College for acts which constitute violations of federal, state or local law(s) and of the Honor System and other campus regulations. Conduct action at the College will normally proceed during the pendency of criminal or civil proceedings and will not be subject to challenge on the ground that criminal or civil charges involving the same incident have been dismissed, diverted into an intervention program, reduced or resolved in favor or against the student. Determinations made or sanctions imposed under a conduct process shall not be subject to change because criminal or civil charges or violations arising out of the same facts giving rise to violation of College rules were dismissed, diverted, reduced or resolved in favor of or against the student.

## **C. Status of a Student/Group Pending Final Resolution of a Conduct Case**

Until a final resolution is determined, the status of a student/organization/group will not change unless interim restrictions have been imposed to protect the health and/ or safety of the complainant/respondent/student organization/group and/or the College community, including faculty and/or staff, and/or students.

## **D. Notice to Parents, Families, or Third Parties**

1. Students are adults, capable of making their own decisions, as well as accepting the consequences for those decisions. Except in limited circumstances, it is the student who notifies the parent(s) or self-selected third parties about a pending case. If a student decides to include a concerned third party and completes the necessary forms, then the Dean of Students office will be responsive to the inquiry, but the

student must ultimately reply to the meeting and/ or informal hearing request and forthrightly participate in the process. Conversations are between the College and its students, but students can have an advisor, who can be of their own choosing, including a parent or attorney, should they so desire.

2. If a student is found responsible for an alcohol or drug violation, the parents and/ or legal guardians of the student under 21 will be notified. The College may waive parental notification in exceptional circumstances, if a student makes a bona fide showing that such notification will create significant hardship, including but not limited to, potential violence or financial abandonment.

3. The College reserves the right to notify parents, emergency contacts and/ or legal guardians without a student's prior consent in health or safety emergencies, unless the College is notified in advance, in writing, of a legitimate safety risk to the student from such notification.

4. Visitors to and guests of the College may seek resolution of violations of the Student Code of Conduct committed against them by members of the College community.

#### **E. Withdrawals/Completion of Semester with Pending Conduct Action**

Should a referred student be academically dismissed or withdraw from the College of Charleston or the University of Charleston, South Carolina before pending conduct charges have been resolved, the Office of the Dean of Students may proceed with the informal or formal hearing according to the procedures below. A conduct hold on the student's records, including future registration and a hold on the granting of a degree may be imposed until the case is resolved.

A student who has a conduct charge brought against them at the end of an academic semester term may have a conduct hold placed on their records, including the posting of grades and the granting of a degree until the conduct charge has been resolved and/or sanctions completed.

Furthermore, a student who has a conduct charge brought against them after the end of an academic semester or term, but prior to graduation, may have a conduct hold placed on their records, including the posting of grades and the granting of a degree until the conduct charge has been resolved and/or sanctions completed.

A student's withdrawal or dismissal from the College will not affect the student's right to participate in the conduct action and be heard in the same manner as if the student remained enrolled at the College.

## **..... II. Behavioral Standards**

These College behavioral standards are set forth in writing to give students general notice and examples of prohibited conduct. The descriptions should be read and interpreted very broadly and are not designed to define expectations or categories of misconduct in limiting or restrictive terms. The provisions of the Code are not to be regarded as a contract between the student and the College. The College also reserves the right to amend any provision herein at any time. The College will publish such amendments on the College Policy website and <http://deanofstudents.cofc.edu/honor-system/studenthandbook/>. Such amendments will become effective with the first date of publication.

When the outcome of a conduct action is suspension from the College, a restriction will be placed prohibiting the student from performing any registration transactions during the period of suspension. The restriction will not be removed, and the student will not be allowed to perform registration transactions, until the stated period of suspension has expired and all disciplinary obligations are met. The student may be banned from campus property during a suspension.

Any behavior which may have been influenced by a student's mental state or voluntary use of drugs of alcohol

### **A. Academic Excellence and Integrity**

Students are expected to be honest in all their interactions with the administration, faculty, staff, students, visitors, neighbors and friends of the College. The values above insist on adherence to the highest ethical standards in all our professional obligations and personal responsibilities. Academic excellence and integrity are intricately linked and both underlie our commitment to a liberal arts education, dynamic intellectual community, high academic standards, and strong academic programs.

Please see the Honor Code for the behavioral standards related to academic integrity: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/5-the-honor-code.php>. The following are examples of behaviors that violate this section of the Student Code of Conduct. (Violations of either the Honor Code or the Student Code of Conduct will subject a student to action under Student Conduct Procedures):

1. Acts of dishonesty, including but not limited to:  
Intentional misrepresentation by word or action of any situation of fact, or intentional omission of material fact(s), so as to mislead any College official, faculty member, staff member or volunteer. Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments.
2. Representing the College or any student organization or group without the explicit prior consent of the appropriate officials of that organization or group.
3. Tampering with, forging or otherwise falsifying any College records, documents, computer files, storage units, terminals or programs which contain electronic records, or student conduct records. This includes tampering with the election of any College-recognized student organization. (Knowingly omitting material facts or knowingly submitting false information for inclusion into these records is interpreted as tampering with the official record system.)
4. Unauthorized accessing of the records of any individual, whether such access is obtained through paper records, computer files or systems, where such information is protected by the College regulations concerning privacy and confidentiality.
5. Refusal to identify one's self to any properly identified (by name and position) member of the College staff, acting in performance of their duties, when appropriately requested to do so. The preferred form of identification shall be a current, valid College of Charleston Identification Card.
6. Altering, improperly possessing, or lending an Identification College Card to another person for any reason not expressly authorized by the College. A College Identification Card falling into any of these categories may be confiscated by any student, staff or faculty member in the course of their charged work responsibilities.
7. Failure of any student to accurately report an off-campus arrest by any law enforcement agency for any felony crime to the Office of the Dean of Students within seventy-two (72) hours of release.
8. No student shall sell or attempt to sell/benefit financially from any class materials provided by any instructor or guest lecturer in any course of study offered at the College of Charleston, without the permission of the instructor of record.
9. Impersonation of another person, including a member of the college community.



## **B. Respect for the Individual Student and Diversity**

Choosing the College community obligates each member to observe a code of civilized behavior. Students are expected to uphold a high standard of civility, strive to learn from differences in people, ideas and opinions, and to be responsible along with all members of the College community for ensuring a safe and healthy campus. Students are expected to demonstrate their respect for all members of our richly diverse community and refrain from and discourage behaviors which threaten the freedom and respect every individual deserves. The College has special concern for incidents in which individuals or groups are subject to physical assault, harassment, threats, or intimidation because of membership or perceived membership in a particular racial, ethnic, religious, gender, gender identity, gender expression, or sexual orientation group, color, national origin, disability or veteran status. Such incidents damage not only individuals, but also the free and open academic environment of the College.

Students are encouraged to read our companion campus-wide Prohibition on Discrimination and Harassment, Including Sexual Harassment and Abuse Policy and the Student Sexual Misconduct Policy: <http://policy.cofc.edu/documents/9.1.10.pdf> and <http://deanofstudents.cofc.edu/honor-system/studenthandbook/student-sexual-misconduct-policy-2019-2020.pdf>. The following are examples of behaviors that violate this section of the Student Code of Conduct:

1. Discrimination and harassment based on status – Conduct directed at an individual or group because of their status. A student shall not engage in conduct directed at an individual or group, on the basis of race, gender, gender identity, gender expression, sexual orientation, color, religion, disability, age, ethnicity, genetic background, service in a uniformed service, or national origin, and has the purpose or effect of unreasonably interfering with an individual's or group's work or academic performance or other education benefit or creating an intimidating or hostile working, learning or living environment.
2. Campus and Individual Safety
  - a. Physical Assault/Abuse: Physical Assault includes physical attack upon or physical interference with a person, including contact causing physical restraint.
  - b. Sexual Misconduct: See applicable policies and procedures regulations found within the Student Sexual Misconduct Policy and the Prohibition on Discrimination, Including Sexual Harassment Policy: <http://policy.cofc.edu/documents/9.1.10.pdf> <http://deanofstudents.cofc.edu/honor-system/studenthandbook/student-sexual-misconduct-policy-2019-2020.pdf>.
  - c. Intimidation: Intimidation includes expressed or implied threat(s) or act(s) that cause reasonable apprehension that prevents the person from conducting their customary or usual affairs, or substantially interferes with their educational experience.
  - d. Harassment: Repeated use of written, verbal, or electronic expression or physical act or gesture, or any combination thereof, directed at a person that places that person in reasonable fear for their physical safety or prevents the person from conducting their customary or usual affairs, or substantially interferes with their educational experience.
  - e. Threats: Threats include any statement, communication, conduct, or gesture, including those in written form, directed toward any member of the College community that causes a reasonable apprehension of physical harm to a person or property. A student can be held responsible for threatening behavior even if the person(s) who is(are) the object of the threat does not observe or receive it, so long as a reasonable person would interpret the maker's statement, communication, conduct, or gesture as a serious expression of intent to physically harm.

- f. Coercion of any type, including the use of explicit or implied force, threats, pressure or intimidation to make someone engage in actions against their will.
- g. Disruption or obstruction of teaching, studying, research, administration, conduct proceedings, living/learning environment or other college activities, including its public service functions on or off campus or other authorized non-college activities.
- h. Failure to Comply: A failure to act in accordance with the directions of College officials acting in performance of their duties.
- i. Bullying: Severe aggressive behavior likely to intimidate or intentionally hurt or diminish another person mentally or physically (that is not speech or conduct otherwise protected by the First Amendment).
- j. Stalking: The repetitive and menacing pursuit, following, harassing, and/or interfering with the peace and/or safety of another.
- k. Rioting or participating in a violent demonstration or action which disrupts the normal operations of the College and/or infringes upon the rights of others. This includes leading or inciting others to riot or disrupt the scheduled and/or normal activities anywhere on campus.
- l. Obstructing or blocking the free flow of vehicular or pedestrian traffic on college premises or at College sponsored or supervised events.
- m. Engaging in disorderly, lewd, or indecent conduct, in breach of the peace on College premises, surrounding areas, or at College sponsored events; or aiding, abetting, inciting, and/or procuring another person to breach the peace on College property, surrounding areas, or at College sponsored events.

### **C. Community and Public Mission**

Choosing the College community obligates each member to build and enhance their community and care for its property and the property of others. Our value of community means a commitment to compassion, mutual trust, respect, civility, collegial shared governance, teamwork and the general welfare of the institution, and the individual.

The following are examples, but not an exhaustive list, of behavior that violates this section of the Student Code of Conduct:

- 1. Attempted or actual theft, unauthorized possession, use, removal of, defacing, or tampering with property, or damage to or destruction of such property.
- 2. Unauthorized presence in or use of College premises, facilities, or property.
- 3. Possession or Use of Dangerous Items: Unauthorized or illegal possession of or the unlawful use of fireworks, dangerous chemicals (**excluding** the lawful carrying of and defensive use of lachrymatory agents/ pepper spray), firearms, electroshock weapons, or other hazardous or dangerous weapons, including, but not limited to, facsimiles of weapons that might be construed by a reasonable person to be capable of or are capable of discharging projectiles of any kind.

Unauthorized possession or use of ballistic knives, butterfly knives, throwing knives, sliding blade knives, switchblade knives, stiletto knives, sheath knives, or any knife with more than one cutting edge per blade. All offensive uses of bladed weapons including, but not limited to, brandishing, assault, and battery, are strictly prohibited.

4. **Wheeled Devices:** The use of skateboards, roller blades, roller skates, bicycles, hover boards, and similar wheeled devices in unauthorized areas or in a manner that threatens physical safety. The use of such devices is not permitted inside College buildings, including residence halls. Hover boards are not permitted inside any College buildings. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to College property caused by these activities.

5. **Reckless Behavior:** Endangering the safety of persons (self or others) or property, or any action that might lead to loss of life or serious physical harm to others. Reckless behavior includes, but not is limited to, throwing or dropping objects from buildings unauthorized access to rooftops and/ or other restricted areas of building or garages, fights which involve other than willing participants, tampering with or damaging elevator equipment or other machinery, covering, tampering, damaging or removing a fire extinguisher or any part of a smoke or fire alarm, or violating Fire and Emergency Safety procedures such as:

- a. Attempting to set, the setting of, or the adding to unauthorized fires on property owned, occupied, or leased by the College.
  - b. Failure to Evacuate: Failure to leave any College building after a fire alarm has sounded, or other notice has been given.
6. Alleged or actual violation of federal, state, or local laws on College premises, at College-sponsored or College-supervised activities, or elsewhere, including off-campus locations, if such conduct adversely affects the College community and its mission.

#### 7. Drugs and Alcohol

- a. **Distribution or Sale of Alcohol:** The manufacture, distribution, dispensing or sale of, or the attempted manufacture, distribution, dispensing of alcohol which is unlawful or otherwise prohibited by or not in compliance with any College policy or campus regulations or being unable to exercise care for one's own safety because one is under the influence of alcohol. See Alcohol standards for further information: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/alcohol-policies-2019-2020.pdf>.
- b. **Unlawful Possession or Use of Alcohol:** The possession or use of alcohol which is unlawful or otherwise prohibited by or not in compliance with any College policy or campus regulations. See Alcohol standards for further information: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/alcohol-policies-2019-2020.pdf>.
- c. **Distribution or Sale of Controlled Substances:** Unlawful manufacturing, distribution, dispensing, regulation, or sale of or the attempted manufacturing, distribution, dispensing or sale of controlled substances identified in Federal or State law. See Drug standards for further information: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/drug-policy-2019-2020.pdf>
- d. **Unlawful Possession or Use of Controlled Substances:** The possession or use of controlled substances which is unlawful or otherwise prohibited by or being unable to exercise care for one's own safety because one is under the influence of controlled substances. See Drug standards for further information: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/drug-policy-2019-2020.pdf>.
- e. **Possession of Drug Paraphernalia** as identified in Federal, State or Local law or regulation; this includes objects used or primarily intended for use or designed for use in ingesting, inhaling, injecting, or otherwise introducing marijuana, cocaine, hashish, hashish oil, or other controlled

substances into the human body, including but not limited to pipes, water pipes, bongs, vaporizers, drug spoons, grinders, rolling papers, vials and/or other drug paraphernalia. Determination of whether an item is drug paraphernalia will be made by considering all relevant facts, including but not limited to, the proximity of the item to controlled substances.

f. Drunkenness

g. Driving under the influence of alcohol and/or drugs.

#### **D. Other Violations, Including Violations of Other Campus Policies, Rules or Regulations**

Choosing the College community obligates each member to adhere to all our campus policies, codes, rules and regulations. The following are examples of behaviors that violate this section of the Student Code of Conduct:

1. Violation of College policies, codes, rules, and/or regulations of any type, whether published in hard copy or available electronically on the College of Charleston website.
2. Abuse of any of the College's campus conduct procedures, including but not limited to:
  - a. Failure to obey the notice of a conduct body or college official to appear for a meeting or hearing as part of a conduct process.
  - b. Falsification, distortion, omission, or misrepresentation of information before a conduct body or official.
  - c. Disruption or interference with the orderly conduct of a conduct proceeding.
  - d. Institution of a conduct proceeding knowingly without cause.
  - e. Attempting to discourage an individual's proper participation in, or use of, conduct procedures.
  - f. Attempting to influence the impartiality of a member of a hearing body or official prior to, and/or during the course of, the conduct proceeding.
  - g. Harassment (verbal or physical, and/or on social media) and/or intimidation of a conduct official, member of a hearing body prior, or other parties to, during, and/or after a conduct proceeding.
  - h. Failure to comply with the sanction(s) imposed under the Honor System.
  - i. Influencing or attempting to influence another person to commit an abuse of conduct procedures.
3. Retaliating against any student or other person for filing a complaint or participating in an investigation in good faith. Acts of retaliation include, but are not limited to, intimidation, threats, harassment and other adverse action against any such complainant, witness, third party or investigator.
4. Gambling as prohibited by the laws of the State of South Carolina.
5. Unauthorized use (including misuse) of College organizational names and images.

6. Theft or other abuse of the campus network, computers, or computer time, including but not limited to:
- a. Unauthorized entry into a file to use, read, or change the contents or for any other purpose.
  - b. Unauthorized transfer of a file.
  - c. Unauthorized use of another individual's identification and/or password.
  - d. Use of computing facilities and resources to send obscene, threatening, intimidating or harassing pictures, videos, files, or messages of any type.
  - e. Use of computers or computing facilities and resources to interfere with the work of another student, faculty member, or college official.
  - f. Use of computing facilities and resources in violation of copyright laws. (Also see College Policy on Peer-to-Peer File Sharing.)
  - g. Any violation of the College's information technology policies.
7. Use of any technology to create, display or distribute an audio, video, digital file, picture, image, or film of another individual without that person's knowledge and consent, while the person is in a place where they would have reasonable expectation of privacy.
8. Hazing, including any violation of our campus Hazing policy, which includes, but is not limited to, any act(s) which endangers the mental or physical health or safety of a student, which subjects a student to harassment, ridicule, intimidation, physical exhaustion, sleep deprivation, financial requirements other than normal dues or fees for the organization, abuse of any type, or mental distress; or which destroys, takes, or removes private or public property, associated in any way to the initiation, admission into, affiliation with, or membership in a group or organization. The express or implied consent of the victim will not be defense. Apathy, acquiescence or silence in the presence of or regarding knowledge of hazing is not a neutral act and will be considered a violation of this rule. Find the companion Hazing Policy here: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/hazing-policy-2019-2020.pdf>.
9. Unauthorized possession, duplication or use of keys, access codes or entry cards to any College premises, building or restricted area; trespassing, or unauthorized entry to or use of any College premises, building, or restricted area.

### ..... III. Procedures – Applies to Student Honor Code and Code of Conduct

The College's Honor Code and Code of Conduct and related procedures are inherently educational in nature and process and as such, do not ascribe to the rules of evidence or standard of proof found in criminal or civil proceedings, as they are educational in nature. The burden of proof shall at all times rest upon the complainant. The standard of proof for deciding a matter shall be by a preponderance of the evidence.

There is a three-year time limit on reporting violations of the Honor Code or Student Code of Conduct. The longer someone waits to report an offense, the harder it becomes for College officials to obtain information and witness statements and to make determinations regarding alleged violations. Therefore, prompt and timely reporting is encouraged.

Though anonymous complaints are permitted, unless otherwise forbidden by State and/or federal law, doing so may limit the College's ability to investigate and respond to a complaint. Those who are aware

of misconduct are encouraged to report it as quickly as possible to the Office of the Dean of Students and/or to Campus Police (Public Safety, etc.).

**Student Status during Conduct Process:** The status of a student or student organization/group in most instances will not be altered and conduct sanctions are not initiated until completion of an initial review or an appeal, if any. Failure to respond to a written notice indicating a required appointment with a designated College conduct official and failure to complete conduct sanctions by an established deadline are violations of the Student Code of Conduct and may trigger additional sanctions or restrictions. In situations where the continued presence of the student on the campus poses a threat to others or to the stability and continuance of normal college functions, the Dean of Students or designee, pending interim hearing, may suspend the respondent student for an interim period pending final outcome of conduct proceedings or medical evaluation (See Section H. Interim Action).

### **A. Overview of the Conduct Process**

This overview gives a general idea of how the College of Charleston's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of any College rules.

**NOTICE:** Once notice is received from any source (complainant, victim, RA, 3rd party, online, etc.), the College of Charleston will proceed with a preliminary investigation and/or may schedule an initial educational meeting/conference with the responding student to explain the conduct process to the responding student and gather information.

#### **STEP 1: Preliminary Inquiry and/or Informal Hearing**

The College conducts a preliminary inquiry into the nature of the incident, complaint or notice, the evidence available, and the parties involved. The preliminary inquiry may lead to:

1. A determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the Honor Code or Student Code of Conduct, (e.g., for reasons such as mistaken identity or allegations of behavior that falls outside the code);
2. A more comprehensive investigation, when it is clear more information must be gathered;
3. A formal complaint of a violation and/or an educational conference with the responding student.

When an initial educational meeting/conference is held, the possible outcomes include:

1. A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter may be closed and records will so indicate, with the option for the College to conditionally close, pending the receipt of additional evidence or information;
2. A decision on the allegation, also known as an "informal" or "administrative" resolution to an uncontested allegation (see immediately below);
3. A decision to proceed with additional investigation and/or referral for a "formal" resolution.

If a decision on the allegation is made and the finding is that the responding student is not responsible for violating a Code, the process will end. If the College's finding is that the responding student is in



violation, and the responding student accepts this finding within three days, the College considers this an “uncontested allegation.” The administrator conducting the initial educational conference will then determine the sanction(s) for the misconduct, which the responding student may accept or reject. If accepted, the process ends.

If student accepts the findings, but rejects the sanction, the College will conduct a sanction-only hearing, conducted by a hearing body which recommends a sanction to the Office of the Dean of Students. The sanction is then reviewed and finalized by the Office of the Dean of Students and is subject to appeal (see Appeal Procedures below) by any party to the misconduct. Once the appeal is decided, the process ends.

Student shall be allowed an advisor of their choice and an opportunity to be heard, present questions, and present evidence at all hearings.

If interim measures are imposed, which result in a student being barred from classes, and the student rejects the interim barring, an interim hearing may be requested and held for that issue only, which is subject to appeal by the student being barred. Once that appeal is concluded, the interim appeal outcome shall stand pending the conclusion of the conduct proceedings.

If the administrator conducting the informal hearing determines that it is more likely than not that the responding student is in violation, and the responding student rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

#### **STEP 2: Formal Hearing**

In a contested allegation, additional investigation may then be commenced and/or a hearing may be held when there is reasonable cause to believe that a rule or rules have been violated. A formal notice of the complaint will be issued, and a hearing will be held before hearing body or administrator. Student will be allowed an advisor of their own choice and an opportunity to be heard, present questions, and present evidence. A finding will be determined. If the finding is that the responding student is not responsible, the process ends. Applicable appeals options are described below.

#### **STEP 3: Review and Finalize Sanction(s)**

If the student is found in violation(s), sanctions will be recommended by the hearing body or administrator to the Office of the Dean of Students, who will review and finalize the sanctions, subject to the College appeals process by any party to the complaint.

### **B. Student Conduct Authority**

#### **1. Authority**

The Executive Vice President for Student Affairs is vested with the authority over student conduct by the President. The Executive Vice President for Student Affairs assigns to the Dean of Students to oversee and manage the student conduct process. The Dean of Students (or designee) may appoint administrative hearing official or hearing body members as deemed necessary to efficiently and effectively supervise the student conduct process. The Office of the Dean of Students and officials within Residence Life or other impacted offices will assume responsibility for the investigation of an allegation of misconduct to determine if the complaint has merit. The Executive Vice President for Student Affairs has final authority over all matters related to the student conduct process.

#### **2. Gatekeeping**

No complaint will be forwarded for a hearing unless there is reasonable cause to believe a policy, code of conduct or honor code provision, or regulation has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or a complainant's statement. A complaint wholly unsupported by any credible information may, at the discretion of the Dean of Students with advice and counsel, not be forwarded for a hearing.

### 3. Conflict Resolution Options

The Office of the Dean of Students has discretion to refer a complaint for mediation or other forms of appropriate conflict resolution in lieu of formal proceedings. All parties must agree to conflict resolution and to be bound by the decision with no review/appeal. Any unsuccessful conflict resolution or failure to comply with agreed upon alternative counseling or other measures, can be forwarded for formal processing and hearing however, at no time will complaints of physical violence be mediated as the sole institutional response. The Office of the Dean of Students may also suggest that complaints that do not involve a violation of the Student Code of Conduct or Honor Code be referred for mediation or other appropriate conflict resolution.

### 4. Composition of the Hearing Body

The Office of the Dean of Students will be responsible for assembling the Hearing Body, called an Honor Board, according to the following guidelines:

- a. The membership of the body is selected from a pool of at least 20 students, 8 faculty, and 8 staff/administrative members appointed and trained annually by the Office of the Dean of Students in conjunction with the leadership of the pool.
- b. For each complaint, a body will be chosen from the available pool, and is usually comprised of three students, one faculty member and one staff member or administrator. Availability may determine a different composition for the body. The chair of the hearing body assures that College procedures are followed throughout the hearing.

### 5. Administrative Hearing Officers or Conduct Officers

Administrative Hearing Officers (AHO) are chosen from a pool of annually trained administrators or staff members selected by the Office of the Dean of Students.

### 6. Honor Board Pool

To serve in the Honor Board pool, students must:

- a. Be in academic good standing with a cumulative GPA of at least 2.5 (unless an in-coming first-year or in-coming transfer student).
- b. Be in good standing with the conduct process. Good standing is defined as having no record of misconduct during the academic year(s) in which a student wishes to serve in the hearing pool.
- c. Be selected to serve in the pool by the leadership of the Honor Board.

The Dean of Students (or designee) will have final authority to approve all those serving on the hearing body. The non-voting advisor to the hearing body is a professional within the Office of the Dean of Students with responsibility for training the hearing body, conducting preliminary investigations, and ensuring a fair process for the party bringing the complaint and the responding student or organization. In

the event of a resignation from the hearing body, the Office of the Dean of Students in conjunction with the Chairperson of the Honor Board will solicit a replacement from the group from which the representative came.

## 7. Interpretation and Revision

The Office of the Dean of Students will develop procedural rules for the administration of hearings that are consistent with provisions of the Student Code of Conduct and Honor Code. Material deviation from these rules will, generally, only be made as necessary and will include reasonable advance notice to the parties involved, either by posting online and/or in the form of written communication. The Office of the Dean of Students may vary procedures with notice given, upon determining that elements of the specific incident or parties or changes to law or regulation require policy or procedural alterations not reflected here. The Office of the Dean of Students may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the Student Code of Conduct will be referred to the Dean of Students. The Student Code of Conduct will be updated periodically as needed and when needed under the direction of the Office of the Dean of Students. Students are responsible for being aware of changes as they are disseminated to the College community, after notice and changes have been published.

### **C. Formal Conduct Procedures**

College as Convener: The College is the convener of every action under this code. Within that action, there are several roles. The responding student is the person who is alleged to have violated the Code. The party bringing the complaint, who may be the College, a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the responding student. There may be witnesses, who may offer information regarding the allegation.

### **D. Conditional Amnesty**

#### 1. For Victims

The College may provide amnesty to victims, subject to conditions and limitations as set forth within the Amnesty Policy, <http://deanofstudents.cofc.edu/honor-system/studenthandbook/good-samaritan-medical-amnesty-policy-2019-2020.pdf> who may be hesitant to report to College officials because they fear that they themselves may be accused of minor policy or code violations, such as underage drinking or drug use, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.

#### 2. For Those Who Offer Assistance

To encourage students to offer help and assistance to others, College pursues a policy of amnesty, subject to and in accordance with the College Amnesty Policy, for minor violations when students offer help to others in need. At the discretion of the Office of the Dean of Students, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

#### 3. For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the College may be offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result.

Abuse of amnesty requests can result in a decision by the Office of the Dean of Students not to extend amnesty to the same person repeatedly.

#### 4. Safe Harbor

The College has a Safe Harbor practice for students. The College believes that students who have a substance abuse and/or addiction problem deserve help. If any College student brings their own use, addiction, or dependency to the attention of College officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor practice by the student. Failure to follow the action plan may result in campus conduct processes being initiated.

#### **E. Reporting of Alleged Violations**

Any member of the College community, visitor or guest may report an alleged policy, Code, or regulation violation(s) by any student under this Code or College policy [by the following process and/or via the following <https://cm.maxient.com/reportingform.php?CollegeofCharleston>]: Report an Incident or Violation.

Reporting may also be directed to the Office of the Dean of Students. Additionally, administrators may act on notice of an alleged violation whether a formal allegation is made or not. All allegations can be submitted by a campus member or a third party, and should be submitted as soon as possible after the offending event occurs. The College has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.

The Office of the Dean of Students will assume responsibility for the investigation of the alleged violation as described in the sub-section below. If the matter is a potential violation of our student sexual misconduct policy or our prohibition of discrimination policy, then the Office of Equal Opportunity Programs will be contacted immediately. Please see: <http://deanofstudents.cofc.edu/honor-system/studenthandbook/student-sexual-misconduct-policy-2019-2020.pdf>

#### **F. Investigation**

The Office of the Dean of Students will appoint an official to investigate the allegations under these Codes. The investigation will take the following steps, if not already completed by the official:

1. Initiate any necessary remedial actions on behalf of the complainant. Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, the alleged victim, or a College proxy or representative;
2. Conduct an immediate preliminary investigation to identify an initial list of all policies or codes that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint;
  - a. If the complainant is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the complainant;
  - b. Notify the complainant of whether the College intends to pursue the complaint regardless of their involvement, and inform the complainant of their rights in the process and option to become involved if they so choose;

- c. Preliminary investigation takes approximately between one to seven business days to complete but may be longer in the sole discretion of the Dean of Students;
3. If indicated by the preliminary investigation, the Office of the Dean of Students will conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated College policy, codes, or regulations, and to determine what specific policy, code, or regulation violations should serve as the basis for the complaint;
  - a. If there is insufficient evidence through the investigation to support sufficient cause, the allegations may be closed with no further action, with the option to reopen upon receipt of further information or evidence.;
  - b. A comprehensive investigation usually takes approximately between one day and two weeks, subject to extension for good cause. All time frames expressed are meant to be general guidelines rather than rigid requirements. Extenuating circumstances may arise that require an extended time frame. Good cause to extend the timeframe may include pending workload requirements, other assigned cases, the complexity, nature and scope of the allegations, the number of witnesses involved, the availability of the parties, hearing board members, or officer, or witnesses, the effect of a concurrent criminal investigation or proceeding, any intervening school break or vacation, or other unforeseen circumstances.
4. Meet with the party bringing the complaint to finalize the party bringing the complaint statement, which may be drawn up by the official or designee as a result of this meeting or submitted by the party;
5. Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student, who may be given notice of the interview prior to or at the time of the interview.
6. Prepare the notice of alleged policy, code, or regulation violation(s) based on the reasonable cause determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the Student Affairs Officials.
7. Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy or collect signed witness statements;
8. Obtain all documentary evidence and information that is available;
9. Obtain all physical evidence that is available;
10. Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline;
11. Periodically update the complainant on the status of the investigation.

#### **G. Notice of Alleged Policy Violation**

Once a determination is made that reasonable cause exists for the Office of the Dean of Students to refer a complaint for a hearing, notice will be given to the responding student. Notice will be in writing and will be emailed to the student's College-issued email account. Once emailed, such notice will be presumptively delivered. The letter of notice will:

1. Include the alleged violation and notification of where to locate the Student Honor Code or Code of Conduct and College procedures for resolution of the complaint; and

2. Direct the responding student to contact the Office of the Dean of Students within a specified period of time to respond to the complaint. This time period will generally be no less than two working days from the date of delivery of the notice letter.

3. A meeting with an official in the Office of the Dean of Students may be arranged to explain the nature of the complaint and the conduct process. Students may be accompanied by an advisor of their choosing. At this meeting, the responding student may indicate, either verbally or in writing, to the official, whether they:

- a) admit to all the alleged policy violations,
- b) admit to some violations and contest others,
- c) or contest all the alleged policy violations

#### **H. Interim Action**

Whenever there is evidence that the continued presence of the student or student organization on the campus poses a threat to others or to the stability and continuance of normal college functions, the Dean of Students (or designee) may suspend and/or remove from campus housing or install other interim actions or requirements affecting the respondent student for an interim period pending conduct proceedings or medical evaluation, such interim suspension to become immediately effective without prior notice. The College also reserves the right to exercise its authority of interim action/suspension upon notification that a student is facing criminal investigation and/or complaint. During the interim suspension, a student may be denied access to the residence halls and/or campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Dean of Students (or designee) may determine to be appropriate. At the discretion of the Dean of Students (or designee), and with the approval of, and in collaboration with, the appropriate instructor(s) conditioned upon and subject to the review of the appropriate academic supervisorial authority, alternative coursework options may be pursued to ensure as minimal an impact as possible on the student.

A student suspended on an interim basis will be given an opportunity to an Interim Hearing regarding barring from classes and campus, and may appear personally either before the Dean of Students, or other appropriate official, appointed by Student Affairs, within five working days from the effective date of the interim suspension for an Interim Hearing only on the following issues:

1. The reliability of the information concerning the student's conduct.
2. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the campus poses a threat to others or to the stability and continuance of normal college functions.

The student may be accompanied by an advisor of their own choosing and shall have notice, the opportunity to be heard, present questions, and present evidence as to the two issues addressed. The Interim Hearing outcome may be appealed to the Executive Vice President for Student Affairs. Regardless of the outcome of this hearing, the College may still proceed with the campus conduct process.

A decision reached by the Dean of Students or designee about an interim action may be appealed by the respondent to the Executive Vice President for Student Affairs within two working days of the transmittal of the decision. Such appeals shall be in writing and shall cite the name of the case; the grounds for the appeal and the relief requested. The conditions of the interim action shall be imposed while any appeal is under review. The appeal decision of the Executive Vice President for Student Affairs shall be final.

#### **I. Hearing Options and Preparations**



The following sub-sections generally describe the College's conduct hearing processes, subject to adjustment on case – by - case basis. No student may be found to have violated the Student Honor Code or Code of Conduct solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information related to the complaint will be presented to, and considered by, the hearing body or administrator presiding over the hearing.

Where the responding student admits to violating the Student Honor Code or Code of Conduct or College policies, the Dean of Students (or designee) may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an administrative hearing. In an administrative hearing, complaints will be heard and determinations will be made by an official.

Where the responding student denies violating the Student Honor Code or Code of Conduct or College policies, a formal hearing will be conducted. This process is known as an Honor Board or Formal Administrative hearing. At the discretion of the Office of the Dean of Students, a request to participate in the hearing by one or more of the parties to the complaint for an administrative hearing may be considered. Students who deny a violation for which a hearing will be held will be given a minimum of five working days to prepare unless all parties wish to proceed more quickly. Preparation for a formal hearing is generally summarized in the following guidelines:

1. Notice of the time, date and location of the hearing will be in writing and emailed to the student's College-issued email account. Once emailed, such notice will be presumptively delivered.
2. If there is an alleged victim of the conduct in question, the alleged victim may serve as the party bringing the complaint or may elect to have the College administration serve as the party bringing the complaint forward (only if it has been determined there is sufficient evidence to proceed without the direct participation of the victim). Where there is no alleged victim, the College administration will serve as the party bringing the complaint forward.
3. If a responding student fails to respond to notice from the Office of the Dean of Students, the Office of the Dean of Students may initiate a complaint against the student for failure to comply with the directives of a College official and give notice of this offense. Unless the student responds to this notice within two working days by answering the original notice, an administrative hearing may be scheduled and held on the student's behalf. As a result of the administrative hearing, the student may be administratively withdrawn from attending classes or a conduct hold may be placed on their College account, deeming them ineligible to register for courses or College housing until such time as the student responds to the initial complaint.
4. At least five working days before any scheduled formal hearing, the following will generally occur:
  - The responding student will deliver to the Office of the Dean of Students a written response to the complaint;
  - The responding student will deliver to the Office of the Dean of Students a written list of all witnesses for the College to call at the hearing;
  - The responding student will deliver to the Office of the Dean of Students a list of all physical evidence the student intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Office of the Dean of Students can arrange for its presence;
  - The party bringing the complaint will deliver to the Officer of the Dean of Students a written list of all witnesses for the complainant to call at the hearing;

- The party bringing the complaint will deliver to the Office of the Dean of Students a list of all items of physical evidence needed at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Office of the Dean of Students can arrange for its presence;
  - The party bringing the complaint and the responding student will notify the Office of the Dean of Students of the names of any advisors/attorneys who may be accompanying the parties at the hearing.
5. The Office of the Dean of Students will ensure that the hearing information and any other available written documentation are shared with the parties at least two working days before any scheduled hearing. In addition, the parties will be given a list of the names of all the hearing body members in advance. Should any party object to any hearing body member, that party must raise all objections, in writing, to the Office of the Dean of Students immediately. Hearing body members will only be unseated if the Office of the Dean of Students concludes that their bias precludes an impartial hearing of the complaint. Additionally, any member who feels they cannot make an objective determination must recuse themselves from the proceedings.

## **J. Hearing Procedures**

The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Office of the Dean of Students no less than two days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the responding student fails to give the requisite minimum two-day notice, or if the responding student fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped unless the College chooses to pursue the allegation on its own behalf because it has sufficient evidence, as determined by the Dean of Students (or designee).

The Chair of the hearing will conduct the hearings according to the following guidelines:

1. Hearings will be closed to the public, unless the respondent or complainant requests that others attend provided that they are not witnesses. The granting or denying of this request shall be subject to a majority vote of the conduct body or the official presiding over the case.
2. In hearings involving more than one responding student, the general procedure will be to hear the complaints jointly; however, the Dean of Students (or designee) may permit the hearing pertinent to each responding student to be conducted separately, either by her own decision or upon the written request of any individual student who desires an individual hearing. In joint hearings, separate determinations of responsibility will be made for each responding student.
3. The parties have the right to an advisor of their own choosing, including attorneys. Parties may select whomever they wish to serve as their advisor. The advisor may not make a presentation, present legal or oral arguments, or represent the party bringing the complaint or responding student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the chair during recess or in writing so as no disruptive to the hearing and suggest questions to their advisee.
4. If the respondent or complainant has any special needs regarding the hearing set-up, the request for accommodation must be relayed to the Dean of Students Office at least two working days prior to the actual hearing. The Dean of Students Office may, after reviewing a request, ask the conduct body or official to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, and/or other witnesses during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone or video conference, written statement, or other means.

5. The party bringing the complaint, the responding student, and the decisional authority will have the opportunity to question all present witnesses and to question all present parties (directly or through the decisional authority, at the discretion of the decisional authority). Unduly repetitive witnesses can be limited at the discretion of the hearing body Chair. Witnesses will normally be admitted to the hearing only to answer questions, and will leave after questioning. The party bringing the complaint, the responding student, and witnesses may elect to participate by video or audio conference, but may not be compelled to do so.
6. Pertinent records, exhibits, and signed written statements may be accepted as information for consideration by the decisional authority. Formal rules of evidence are not observed and hearsay information is permissible. The decisional authority may limit the number of witnesses presented or may accept written statements instead.
7. If, at any time, the presiding officer or official finds it proper and necessary to recess the hearing or to continue it to a new time, they may do so, in their sole discretion.
8. A finding of “in violation” requires a majority vote of the decisional authority if a board, or a single vote if there is no board and is a one-person decisional authority.
9. All procedural questions are subject to the final decision of the decisional authority.
10. After a hearing, the decisional authority will deliberate and determine, by majority vote, that the responding student has violated a code, policy or regulation of the College. An official from the Office of the Dean of Students will be available as a resource during all deliberations. Once a finding is determined, if the finding is that of a violation(s), the decisional authority will determine an appropriate sanction(s). The Office of the Dean of Students is responsible for informing the decisional authority of applicable precedent and any previous conduct violations or other relevant information about the responding student. The decisional authority will prepare a written rationale and deliver it to the Office of the Dean of Students, detailing the recommended finding and the information cited in support of its recommendation. This report should conclude with any recommended sanctions. If expulsion is the recommended sanction, it must be by a unanimous vote. This report should be submitted to the Office of the Dean of Students within two working days of the end of deliberations, but such time may be extended, for good cause shown, in the discretion of the Division of Student Affairs (Executive Vice President for Student Affairs).
11. The Office of the Dean of Students will consider the recommendations of the decisional authority, may make appropriate modifications to the letter and will then render a decision and inform the responding student and party bringing the complaint (if applicable by law or College policy) of the final determination, generally within two business days of the determination by the decisional authority, but such time may be extended, for good cause shown, in the discretion of the Division of Student Affairs (Executive Vice President for Student Affairs). Notification will be made in writing and will be delivered by email to the student’s College-issued email account. Once emailed, such notice will be presumptively delivered. In cases of sexual misconduct and other crimes of violence, notice of the outcome will be delivered to all parties the same day, meaning without substantial delay between the notifications to each.
12. There will be a single verbatim record, such as an audio recording, for all formal hearings. Deliberations will not be recorded. The record will be the property of the College and maintained according to the College’s record retention policy, thereafter to be purged from the system. The respondent and complainant have the opportunity to review the recording in the Office of the Dean of Students in the event of an appeal.
13. If a finding of “in violation” has been rendered by the decisional authority, the decisional authority can inform the complainant that an “impact statement” may be submitted by the complainant, in writing,

outlining the impact of the respondent's behavior on the complainant's personal life and/or educational goals.

#### **K. Status of a Student Pending Final Resolution of a Conduct Case**

Until a final resolution is determined, the status of a student will not change unless interim restrictions have been imposed to protect the health and safety of the complainant/respondent/student organization or the College community.

#### **L. Violations Committed during Final Exam Periods, Maymester, or Summer Sessions**

These procedures shall be in effect during final exam periods, Maymester and summer sessions. Efforts will be made to consolidate several hearings at one time so as not to inordinately interfere with the exam and summer schedules of the conduct body members and the parties involved. The period of time between the violation(s) and the hearing may be slightly longer than during the regular school year. Further, during these periods, the student may choose for an official in Student Affairs to hear a response of no violation or to determine a sanction for an admission to a violation in order to expedite their case.

#### **M. Notification of Outcomes**

The outcome of a campus hearing is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a "crime of violence" or forcible or non-forcible sex offense, the College will inform the alleged victim/party bringing the complaint in writing of the final results of a hearing regardless of whether the College concludes that a violation was committed. Such release of information may only include the alleged student's/responding student's name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with all parties to the complaint in addition to the finding and sanction(s).

In cases where the College determines through the student conduct process that a student violated a policy, code or regulation that would constitute a "crime of violence" or non-forcible sex offense, the College may also release the above information publicly and/or to any third party. FERPA defines "crimes of violence" to include:

1. Arson
2. Assault offenses (includes stalking)
3. Burglary
4. Criminal Homicide—manslaughter by negligence
5. Criminal Homicide—murder and non-negligent manslaughter
6. Destruction/damage/vandalism of property
7. Kidnapping/abduction
8. Robbery
9. Forcible sex offences
10. Non-forcible sex offences

#### **N. Conduct Sanctions**

One or more of the following sanctions may be imposed for violations of the honor system or other regulations:

1. Conduct warning – a written letter sent to the student from an official in Student Affairs or faculty member, stating that the student has been found to have violated a particular item of a code, that such conduct is unacceptable and that further misconduct will result in more severe disciplinary action.
2. Restriction – certain student privileges may be suspended for a set period of time, providing that suspension of these privileges does not interfere with the student’s ability to complete his/her academic work at the College.
3. Fines -- previously established and published fines may be imposed.
4. Restitution – compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
5. Conduct probation – a student on probation is not considered in good standing within the College, and his/her continued enrollment is conditioned upon good conduct for the probationary period. The period of time over which the probation extends shall be set forth in the letter to the student as well as the probability of more severe conduct sanctions if the student is found to violate any regulation during the probationary period. This sanction may limit student participation in other College activities or programs as determined by individual College units.
6. Residence Probation -- this sanction informs students that the standards necessary for community living have been seriously violated and that future violations of College policy may result in residence suspension, suspension, or expulsion from the College.
7. Residence Reassignment – Reassignment to another College housing facility.
8. Residence Suspension -- this sanction requires the student to terminate occupancy of on-campus residence for a specified period of time, and is automatically accompanied by the assignment of a barred status from all residential environments of the College and full payment of the housing contract if the removal is due to a policy, code or regulation infraction. Residence suspension status does not limit participation in non-residential programs. Conditions which must be met in order to be eligible to live on-campus at the end of the residence suspension period must be clearly outlined.
9. Residence Expulsion – permanent separation of the student from the residential system. This sanction is automatically accompanied by the assignment of a barred status from all residential environments of the College and full payment of the housing contract if the removal is due to a code or regulation infraction.
10. Deferred suspension -- a student on deferred suspension is not considered in good standing within the College, and the suspension is held in abeyance as long as all other sanction conditions are completed and the student has no other serious proven code violations. The period of time over which the deferred suspension extends shall be set forth in the letter to the student. This sanction may limit student participation in other College activities or programs as determined by individual College units.
11. Deferred expulsion -- a student on deferred expulsion (permanent dismissal) is not considered in good standing within the College, and the expulsion is held in abeyance as long as all other sanction conditions are completed and the student has no other serious proven code violations. The period of time over which the deferred expulsion extends shall be set forth in the letter to the student. This sanction may limit student participation in other College activities or programs as determined by individual College units.
12. Transcript notation – Some form of notation describing the reason for a particular status indicator, grade, period of separation or dismissal. (See the Honor Code for a description of the XX + grade outcome.)

13. Conduct suspension -- denial of enrollment, attendance, barring of access to campus property, and suspension of other privileges at the College for a given period of time; permission to reapply for admission at the end of the period may be granted with or without qualifications. This sanction may be enforced with a campus ban action as necessary.

14. Conduct Expulsion – permanent dismissal from the College. This sanction may be enforced with a campus ban action as necessary.

15. Other Sanctions – Additional or alternative sanctions may be created and designed as deemed appropriate to the offense with the approval of the Office of the Dean of Students, including but not limited to:

- a. written or verbal apology
- b. disciplinary or restorative service hours may be assessed where the student will do work benefiting the College or community;
- c. withholding a transcript or degree otherwise earned until the completion of the process set forth in this Student Handbook, including the completion of all sanctions imposed, if any;
- d. rehabilitative educational experiences may be required, with or without fees attached (restorative justice circle, drug or alcohol counseling, psychological assessment, defensive driving course, essays, class presentations, etc.);
- e. any other sanction deemed appropriate.

## **O. Appeals**

A decision reached or a sanction imposed by a conduct body or official may be appealed by the respondent and/or complainant to the Executive Vice President for Student Affairs within five working days of the transmittal of the decision. Such appeals shall be in writing and shall cite the name of the case; the grounds for the appeal and the relief requested.

The Executive Vice President can elect to call an advisory Appellate Board. The Appellate Board will consist of three to five persons, none of whom participated in the original hearing in any capacity. The Appellate Board serves in an advisory capacity to the Executive Vice President for Student Affairs and is not a decisional authority. Its recommendations are non-binding. The Executive Vice President may use an Appellate Board in any capacity they deem necessary to best benefit the honor system and the parties involved.

Appeals shall be filed to the Executive Vice President for Student Affairs in one of two ways:

1. By Certified Mail addressed to the Executive Vice President for Student Affairs with a copy to the Dean of Students, 66 George Street, Stern Student Center, College of Charleston, Charleston, SC 29424 or;
2. By email with proof of sending to the Executive Vice President for Student Affairs' email address with a copy to the Dean of Students at their email address.

The Dean of Students will then notify and provide a copy of the appeal to the other party or parties to the proceeding. The non-appealing party or parties shall have three days from receipt of the appeal to state their position on the appeal with the Executive Vice President for Student Affairs with a copy to the Dean of Students.



If the appeal is not timely or substantively eligible, the original finding and sanction(s) will stand and the decision is final. Deviations from designated procedures will not be a basis for sustaining an appeal unless they affect the finding of a material fact or they could have otherwise affected the outcome. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents. The only grounds that will justify changing or overruling a previous decision by the official or Honor Board are the following:

1. There was no reasonable basis in the record for the decision rendered or the sanction imposed;
2. There was a substantive mistake of procedure that likely influenced the outcome of the proceeding; or
3. New evidence, sufficient to alter a decision was not brought out in the original hearing, because such evidence was either unavailable or unknown at that time after diligent inquiry by the person appealing.

The Executive Vice President for Student Affairs will make every attempt to reach a determination within ten working days from the date of the appeal. The Executive Vice President for Student Affairs, as deemed necessary, may elect to interview the parties. At this stage in the appeals process, the Executive Vice President for Student Affairs' response time may be modified if circumstances dictate. The decision of the Executive Vice President is final, and the Executive Vice President is not required to give any deference to previous determinations.

In cases involving appeals by student respondents of violating the Student Honor Code, Code of Conduct and/or other policy, review of the sanction by the Executive Vice President for Student Affairs cannot result in more severe sanction(s) for the respondent student.

In cases involving appeals by persons other than student respondents of violating the Student Honor Code, Code of Conduct, and/or other policy, the Executive Vice President for Student Affairs may, upon review of the case, reduce or increase the sanction(s) imposed by the Honor Board or official.

For drug-related, marijuana and alcohol violations: If the student admits to the violation or is found in violation through a conduct process the minimum sanction is NOT subject to appeal on the grounds of the sanction being excessive or inappropriate. All sanctions above the minimum sanctions as proposed in the Student Handbook may be reviewed for their appropriateness.

The final authority over all decisions made under the honor system rests with the Executive Vice President for Student Affairs.

#### **P. Conduct Records**

All conduct records are maintained by the College for seven (7) years from the time of their creation except those that result in expulsion or are pending cases, which are maintained indefinitely.

No earlier than one year after the date of sanction completion, a student may request that their conduct record be destroyed. This stipulation does not apply to the XX+grade sanction, pending cases or expulsions. This request must be made in writing and will be reviewed by the Executive Vice President for Student Affairs or their designee. The Executive Vice President will consider destruction of a conduct file after examining the incident, the sanctions, sanction completion, conduct history, evidence of personal development, demonstration of good cause shown, and any other criteria the Executive Vice President deems appropriate.

### **..... IV. Conduct and Student Organizations**

Student organizations enrich the campus and community by providing a source of intellectual, personal and social development of students through their programs and activities. The College fulfills an important mission by providing procedures and policies for the registration and support of student organizations.

As a guiding principle, groups will be held responsible for the acts of their members when those acts grow out of or are in any way related to group life. Isolated violations of individuals should not be chargeable to the group, but evidence of group conduct exists when one or more of the questions below are answered in the affirmative:

- Would a reasonable person understand the behavior to fall within the scope of the organization's activity?
- Was the behavior committed by one or more members and sanctioned by the organization and/or its officers?
- Was the behavior committed by one or more members during the course of an activity financed by the organization and/or on property owned by the organization?
- Was the behavior committed by one or more members and supported by its members?
- Did the officers have prior knowledge the incident would take place?
- Did the members lie about the incident?
- Was there a pattern of member(s) violations of College policies or codes found to have existed without proper and appropriate organization control, remedy, or sanction?

#### Amnesty Stipulations

- a. Individuals who have experienced hazing and who truthfully report will likely not be individually charged with a violation of this regulation.
- b. Individuals who have knowledge of hazing activities, but who did not participate, and truthfully report the organization, team, or group, will likely not be individually charged in relation to that particular incident.
- c. Any organization, team, or group that seeks assistance in hazing education/prevention and positive new member activities in efforts to prevent hazing from occurring within, even if past behaviors have included hazing, will likely not be charged with a past violation of this regulation.
- d. Any organization, team or group that self-reports a hazing behavior to an appropriate College Official or the Department of Public Safety will likely be given the opportunity to change those behaviors without immediate threat of being charged with a violation of this regulation. An organization or group that self-reports shall identify those individuals responsible for the hazing behaviors. If evidence is presented in subsequent semesters that hazing behaviors have continued within the organization, that organization may be held responsible for past behaviors.

Cases involving student organizations are not considered confidential under the Family Educational Rights and Privacy Act (FERPA); therefore, the College does not protect the confidentiality of the conduct records regarding the conduct of student organizations.

#### **A. Student Organization Discipline Procedures**

When the College of Charleston receives information regarding alleged violations of the Student Code of Conduct, Honor Code, or other policy violation, one of two processes may be employed: The Partnership Process or the Honor Board Process. Each process is outlined below, and, each begins with the same first

two steps. Steps 3 and onward are unique to either the Partnership Process or Honor Board Process. A general timeline for each process is included, although the Division of Student Affairs may extend the time in exceptional circumstances or for good cause shown.

The opportunity to participate in the Partnership Process may be revoked based on egregiousness of offense/allegation.

If organization is subject to additional process, that process may begin only after the Office of the Dean of Students has concluded its process.

Barring exigent circumstances (e.g., conclusion of semester, academic breaks, prolonged investigations, etc.), the Office of the Dean of Students will make earnest attempts to maintain the integrity of the specified timelines for each step of a process. Should the Office of the Dean of Students anticipate a potential derivation from specified timelines, the organization will be notified.

1. Incident report is received by the Office of the Dean of Students, Fraternity and Sorority Life (FSL), Public Safety, informant, self-report, or other source.
2. Notification letter of allegation(s) and invitation to meet with an official from the Office of the Dean of Students and/or other selected officials, functional area staff member, and functional area student representative is sent within three business days of receipt of information. In cases involving dangerous misconduct and/or death/injury, the Office of the Dean of Students may issue a cease and desist of all organizational activities; local/regional/national advisor(s) receive same notification. Notification letter may outline the potential violation(s) of College of Charleston policy and/or the Student Code of Conduct.

## **B. Partnership Process**

1. Organization officers and advisor on file meet in the Office of the Dean of Students with selected officials, functional area student representative and a functional area staff member within three business days of receipt of notification letter. Group discusses internal investigation process/strategy.

Written report of internal findings due to the selected officials and functional area staff member within five business days of meeting. The written report should be detailed and specific, including names of individuals to be held accountable. A sample report will be provided to the organization as a suggestion on how to format the final submission.

If the organization does not accept responsibility, obstructs the process, provides false/inaccurate information, omits information, or misses a deadline or meeting, the process automatically moves to Step 3 of the Honor Board Process.

2. Organization officers and advisor meet in the Office of the Dean of Students with the selected officials, functional area staff member, and functional area student representative to discuss information discovered through internal investigation and recorded in the written report. Organization accepts responsibility and prepares an initial draft of Organizational Enhancement Plan (OEP) where appropriate. Organization may be subject to additional sanctions by the selected officials and/or functional area staff member.

If information points to an individual or group of individuals and is not adequate to support organizational charges, the organization is found Not Responsible and the Office of the Dean of Students proceeds with individual charges. Names of individual students must be provided to proceed.

Case materials (e.g., incident report, meeting notes, internal investigative report, etc.) are kept on file in the Office of the Dean of Students for record keeping purposes, in accordance with the college's normal

records retention policies. Student organizations do not retain the same FERPA protections as individual students. Therefore, case materials may be disclosed if a Freedom of Information Act (FOIA) request is submitted. All information identifying individual students would be redacted if such a request is received and before release of case materials.

3. Organizational Enhancement Plan further developed by organization officers with assistance from advisor, selected officials, functional area representative and functional area student representative. Organization officers must confirm acceptance of plan by all members within five business days. Signed final draft of OEP is sent to the selected officials and functional area staff member for final review. Final outcome may include an organizational status which is mutually agreed upon in the OEP.

If the organization does not accept responsibility and/or the accountability outcome, process moves to Step 3 of the Honor Board Process

4. Within five business days, the Office of the Dean of Students formalizes institutional accountability outcome (sanctions) with organizational leadership and advisor in a signed final OEP.

5. If the organization misses any deadlines or violates the OEP, or is charged with any further violations (including failure to comply), the organization will participate in the Honor Board process and may incur additional charges.

### **C. Honor Board Process**

1. The Office of the Dean of Students assembles investigation team to conduct member interviews. The timeline for the investigation will be determined by the interviewers and shared with the organization. Additionally, a Cease and Desist Order may be issued based on the egregiousness of the allegation or possible continued threat to the health and safety of others.

- a. Organization may waive this step after reviewing materials offered by the Office of the Dean of Students
- b. Waiver must be submitted in writing via email to the Office of the Dean of Students

2. Investigation provides information (“reasonable cause”) that supports charges being brought against the organization (Proceed to Step 3).

OR Investigation provides information that does not support charge(s) being brought against the organization. Honor Board Process ends.

3. The Office of the Dean of Students meets with organization to deliver letter/packet to organization of alleged violation(s); offer for a Pre-hearing meeting will be made, but is not required.

4. Organization returns response form within three business days. The Office of the Dean of Students or Honor Board Chairperson schedules hearing and sends hearing notice. If organization does request a pre-hearing meeting, an official in the Office of the Dean of Students or Honor Board Chairperson schedules the meeting to be held at least three business days prior to the hearing to review the hearing process, script, confirm case materials, and any witnesses. This meeting does not serve to replace the actual hearing and no resolution will be provided during this meeting.

5. Organization appears before Honor Board to determine responsibility and/or sanctions

6. Resolution through Honor Board Process

- a. Organization found In Violation by Honor Board (proceed to Step 7).
- b. Organization found Not in Violation of all charges. The Honor Board process ends.

7. The Office of the Dean of Students will consider the recommendations of the decisional authority, may make appropriate modifications to the letter and will then render a decision and inform the student organization (and party bringing the complaint if applicable by law or College policy) of the final determination, generally within two business days of receipt of the recommendations, subject to extension, in the discretion of the Division of Student Affairs (Executive Vice President for Student Affairs), for good cause shown. Notification will be made in writing and will be delivered by email to the student organization leadership's College-issued email account(s). Once emailed, such notice will be presumptively delivered. In cases of sexual misconduct and other crimes of violence, notice of the outcome will be delivered to all parties simultaneously, meaning without substantial delay between the notifications to each.

8. A student organization has the right to appeal to the Executive Vice President for Student Affairs within five days of receipt of outcome letter (See Appeal section of the Student Handbook).

#### **D. Sanctions**

The following conduct sanctions may be imposed upon student organizations when they have been found in violation of the Student Codes. All sanctions may be imposed individually or in combination. Conduct sanctions are imposed for the purpose of holding student organizations accountable for their actions and the actions of their guest(s), whether on campus or at any organizational event. Failure to satisfactorily complete a conduct sanction may result in more severe sanctions. More than one sanction may be imposed for any single violation.

1. Reprimand: An official statement to the student organization explaining that it has violated a College policy, Code, or regulation. Any further misconduct could result in additional disciplinary action.
2. Restitution: When an organization has damaged or destroyed College or personally owned property the organization may be required to make restitution, or receive additional educational sanctions.
3. Restriction of Privileges: Restrictions placed upon a student organization which limits College privileges for a specified period of time. These limitations may include, but are not limited to, the following:
  - a. Denial to represent the College in any capacity.
  - b. Denial to maintain an office or other assigned space on College property.
  - c. Denial to receive or retain College funds.
  - d. Denial to participate in intramural sports.
  - e. Denial to sponsor, co-sponsor and/or participate in any social event or other activity.
  - f. Denial to sponsor any speaker or guest on campus.
  - g. Denial of rush or membership recruitment activities.
  - h. Denial of having alcohol at organizational events.

- i. Denial of the use of College vehicles.
  - j. Denial of the use of College facilities.
  - k. Denial of advertising on campus for organizational activities.
  - l. Denial of soliciting and/or selling any items on campus.
4. **Conduct Probation:** A specified period of review, observation and/or restrictions during which a student organization is under official warning that its misconduct was very serious. Subsequent violations of College rules, regulations, codes or policies could result in more severe sanctions, including suspension or dismissal of recognition. During the probationary period, a student organization is deemed “not in good standing” with the College and may be subject to specific limitations upon its behavior or College privileges.
5. **Suspension of Organizational Recognition:** The denial of privileges of a recognized organization for a designated period of time, which will be no less than one semester. Any organization whose recognition is suspended must:
- a. Cease all organizational activities.
  - b. Vacate any appointed or elected office with that organization’s governing body for the duration of the organization’s period of suspension.
  - c. Surrender balances of all organizational funds granted by Student Government.
  - d. Vacate office or housing space assigned by the College from the date of the notice of suspension. Space vacated due to suspension may be reassigned to other eligible College organizations. In the case of housing, individual members will be reassigned provided space is available. There will be no individual College Housing contract cancellations.
6. **Dismissal of Organizational Recognition:** Permanently excludes the organization from the College without any recourse to reapply for recognition. Any organization whose recognition is permanently revoked must:
- a. Cease all organizational activities.
  - b. Vacate any appointed or elected office.
  - c. Surrender balances of all organizational funds granted by Student Government.
  - d. Vacate office or housing space assigned by the College from the date of the notice of dismissal. Space vacated due to dismissal may be reassigned to other eligible College organizations. In the case of housing, individual members will be reassigned provided space is available. There will be no individual College Housing contract cancellations.
7. **Other sanctions –** Additional or alternative sanctions may be created and designed as deemed appropriate to the offense with the approval of the Office of the Dean of Students.
8. **Interim Suspension of Organizational Recognition:** An interim suspension may be imposed, by the Dean of Students or the Executive Vice President for Student Affairs or their designee prior to the beginning of the administrative process. The interim suspension may be imposed in cases where:

- a. The alleged action of the student organization may pose a threat to the well-being of the College or any of its members, or to preserve College property;
- b. The student organization poses a threat of disruption or interference with the normal operations of the College.

During any interim suspension, the organization shall be required to discontinue with all organizational activities. The organization will be denied access to all College activities and privileges for which the organization might be eligible. In certain circumstances, organizational leadership may be restricted from communication with the organizational membership or students may be required to vacate organizational housing units.

Prior to imposing an interim suspension, every effort will be made to give the student organization an opportunity to respond to the charge(s). Following the imposition of an interim suspension, the opportunity for an administrative hearing as described above will be provided as expeditiously as possible, generally five business days after the interim suspension unless the student organization waives the time deadline or there are extenuating circumstances or other good cause shown.

A decision reached by the Dean of Students or designee about an interim suspension may be appealed by the student organization to the Executive Vice President for Student Affairs within two working days of the transmittal of the decision. Such appeals shall be in writing and shall cite the name of the case; the grounds for the appeal and the relief requested. The conditions of the interim action shall be imposed while any appeal is under review.

A student or organization that fails to complete or comply with any sanctions may be subject to additional measures from the Office of the Dean of Students.

## **Definitions**

The term “College” means College of Charleston.

The term “Student” is defined as any person who is admitted, enrolled or registered for study at College of Charleston for any academic period, irrespective of whether they are on campus or not. Persons who are not officially enrolled for a particular term, but who have a continuing student relationship with the College are considered students. A person shall be considered a student during any period, which follows the end of either the spring or fall semester, which the student has completed, including Maymester or summer, until the last day for registration for the following semester. A person shall be considered a student during any period while the student is under suspension from the institution or when the person is attending or participating in any activity preparatory to the beginning of school including, but not limited to, the Bridge Program, Spectra, or I-Charleston. A student may also include an individual in either a credit, non-credit, degree seeking or non- degree seeking classification.

The term “Honor System” means the Honor Code and the Student Code of Conduct (which includes but is not limited to the Alcohol, Drug, and Sexual Misconduct policies).

The term “Codes” means the Honor Code and the Student Code of Conduct.

The term “Policy” means any published policy of the College or any of its divisions.

The term “Regulation” means any published regulation or rule of the college or any of its divisions.

The term “College Official” includes any person employed by the College and any person serving the College in an official capacity.

The term “Member of the College Community” includes any person who is a student, College official, trustee, faculty, staff, or volunteer, or any other person serving the College in an official capacity. The Executive Vice President for Student Affairs shall determine a person’s status in a particular situation.

The term “College Premises” includes all land, buildings, facilities, and other property in the possession of or owned, rented, used, or controlled by the College.

The term “Organization” means any registered student organization, who has been accepted and officially recognized by the College through the Student Government Association or the Graduate Student Association.

The terms “shall” and “will” are used in the imperative sense.

The term “may” is used in the permissive sense.

The term “Business Day” means a day when the College is open for normal business, regardless of whether classes are in session (e.g., the day preceding Thanksgiving). In determining any deadlines as set forth in the codes, references to a number of “days” prior to or after occurrence of an event shall not include the day of the event.

The term “Day” means a calendar day.

The term “Complainant” means any person filing a complaint of suspected misconduct under these codes.

The term “Respondent” means a student or organization against whom a complaint has been filed under these codes.

The term “Health” means physical or mental well-being.

For the purposes of the Honor System, the term “Residence Hall” means any hall, house or any other living unit owned or leased by the College for the principal purpose of providing student housing.

For the purposes of the Honor System, the term “Possession” means having actual knowledge of a substance or property and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.

For example,

- a. Those in a room where a controlled or prohibited substance is present would be presumed to be in possession of the substance absent compelling evidence to the contrary or
- b. A bong found on a desk during a health and safety inspection would be presumed to be the possession of the student to whom the desk belongs, absent compelling evidence to the contrary.

The term “Group” means a number of persons who are associated with the College and each other, but who have not registered, or are not required to register, as a student organization (e.g. athletic teams, musical or theatrical ensembles, academic or administrative units, clubs).

## **5. The Honor Code – Academic Integrity**





The Honor Code of the College of Charleston specifically forbids:

**1. Lying:** knowingly furnishing false information, orally or in writing, including but not limited to deceit or efforts to deceive relating to academic work, to information legitimately sought by an official or employee of the College, and to testimony before individuals authorized to inquire or investigate conduct; lying also includes the fraudulent use of identification cards and fabrication of data, endnotes, footnotes and other information related to academic work.

**2. Cheating:** the actual giving or receiving of unauthorized, dishonest assistance that might give one student an unfair advantage over another in the performance of any assigned, graded academic work, inside or outside of the classroom, and by any means whatsoever, including but not limited to fraud, duress, deception, theft, talking, making signs, gestures, copying, electronic messaging, photography, unauthorized reuse of previously graded work, unauthorized dual submission, unauthorized collaboration and unauthorized use or possession of study aids, memoranda, books, data, or other information. The term cheating includes engaging in any behavior related to graded academic work specifically prohibited by an instructor in the course syllabus or class discussion.

**3. Attempted cheating:** a willful act designed to accomplish cheating, but falling short of that goal.

**4. Stealing:** the unauthorized taking or appropriating of property from the College or from another member of the college community. Note also that stealing includes unauthorized copying of and unauthorized access to computer software.

**5. Attempted stealing:** a willful act designed to accomplish stealing, but falling short of that goal.

**6. Plagiarism:**

**6.1.** The verbatim repetition, without acknowledgement, of the writings of another author. All significant phrases, clauses, or passages, taken directly from source material must be enclosed in quotation marks and acknowledged in the text itself and/or in footnotes/endnotes.

**6.2.** Borrowing without acknowledging the source.

**6.3.** Paraphrasing the thoughts of another writer without acknowledgement.

**6.4.** Allowing any other person or organization to prepare work which one then submits as his/her own.

## 7. Penalties (Sanctions) for Violations of the Honor Code

### 7.1. XXF – Transcript Notation (See Appendix A for full description.)

- A. The status indicator and grade of XXF means failure due to academic dishonesty. If a student is found responsible for an act of “serious” academic dishonesty, the Registrar’s Office will insert the XXF grade for that course after notice from the Dean of Students. The XXF remains on the student’s official transcript for a minimum of 2 years. After 2 years, the student can petition the Honor Board for removal of the XX. The F grade will remain on the transcript.
- B. Honor Board, other decisional authority or instructors, with assistance from the Dean of Students if requested, will assess whether the behavior of the student falls into one of three classes:

**Class 1** – act involves significant premeditation; conspiracy and/or intent to deceive, e.g., purchasing a research paper.

**Penalties:** XXF and either suspension or expulsion assigned if student found responsible by Honor Board or other decisional authority.

**Class 2** – act involves deliberate failure to comply with assignment directions, some conspiracy and/or intent to deceive, e.g., use of the Internet when prohibited, some fabricated endnotes or data, copying several answers from another student’s test.

**Penalties:** XXF and other sanctions assigned if student found responsible by Honor Board or other decisional authority.

**Class 3** – act mostly due to ignorance, misunderstanding, confusion and/or poor communication between instructor and class, e.g., unintentional violation of the class rules on collaboration or the rules of citation. **Penalties:** The instructor sets the penalty and discusses it with the student. Both the instructor and student sign a form. The form is forwarded to the Office of the Dean of Students. See “Class 3 Report Form” on the Honor System website.

7.2. Other penalties for violations of the Honor Code range up to and include expulsion from the College. Other penalties may be combined with the XXF. Attempted cheating, attempted stealing, and the knowing possession of stolen property shall be subject to the same punishment as the other offenses. Because the potential penalties for an Honor Code violation are extremely serious, all students should be thoroughly familiar with the above definitions and be guided by them.

## 6. Student Sexual Misconduct Policy



# STUDENT SEXUAL MISCONDUCT POLICY<sup>1</sup>

## 1. INTRODUCTION

### 1.1 Purpose of Policy

The purpose of this Policy is to provide students and other members of the College Community a description of how the College will respond when a student is accused of Sexual Misconduct; the procedures that will be followed to investigate and determine culpability; the consequences of such misconduct and the sanctions that will be imposed if there is a finding of culpability; protections that will be afforded to the alleged victim and to the accused; the relationship of this Policy with all other College policies dealing with a similar subject matter; and the demonstration that the College's sexual misconduct programs are, foremost, aimed at prevention and also at enhancing the awareness of resources for and awareness of sexual misconduct.

### 1.2 Policy Statement

It is the Policy of the College of Charleston to respect the rights and the dignity of the individual. Sexual Misconduct, including sexual violence, violates this principle and will not be tolerated. It is a violation of this Policy to discriminate against, harass or abuse any student or applicant for admission to the College based on gender, sexual orientation, gender identity or expression. The College is committed to taking immediate, equitable and effective steps to respond to Sexual Misconduct, to prevent its recurrence, and to address its effects. The Decisional Authority is required to consider suspending or expelling any Student found culpable for Sexual Misconduct.

### 1.3. Application

This Policy applies to all enrolled Students of the College of Charleston and to applicants who have received an offer of admission to the College. We encourage members of the campus community who experience any form of sexual misconduct, as defined in section 3.0 below, to seek help and to report the misconduct. On- and off-campus resources are outlined in sections 3.2 and 3.3 below.

Students are encouraged to report sexual misconduct whether the sexual misconduct occurs on- or off-campus. Resources are available for students no matter where the misconduct occurs. The College of Charleston will take appropriate steps to respond to complaints of sexual misconduct. If alleged misconduct occurs off-campus, the College will take the necessary steps to address any continuing effects of off-campus sexual harassment in the educational setting.

### 1.4 Effect on other Policies

This Policy is intended to and shall be read in a manner that is consistent with the College Policy entitled: **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE.**

## 2. DEFINITIONS

The definitions contained in this Policy will be interpreted and applied by the College in a manner that is consistent with applicable law, professional usage, and conventional understanding within the community. In the event of any alleged conflict in meaning, statutory and legal interpretations shall prevail and be deemed controlling.

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<sup>1</sup> This Policy may also be referred to as the College's *Sexual Assault Policy*, as required by S.C. Code Ann. §59-105-40.

**2.1 “SEXUAL MISCONDUCT”** – shall mean sexual violence and all forms of sexual discrimination, harassment and abuse, as defined in Section 5.0 of the College’s Policy on the *Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse*:

Sexual/gender harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s access to an educational benefit or of an individual’s employment at the College;
- (2) submission to or rejection of such conduct by an individual is used as the basis for academic decisions or decisions concerning educational benefits or employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or other educational benefit or creating an intimidating, hostile, or offensive working, learning or living environment. Additionally, sexual harassment also includes conduct (as described in this paragraph) that is directed at an employee or Student because of his or her sexual orientation or gender identity or expression.

**A single incident of sexual assault may be sufficiently severe or pervasive to interfere unreasonably with one’s educational environment and therefore create a hostile environment.**

Sexually-related conduct creates a hostile environment if it is sufficiently severe or pervasive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

Sexual/gender harassment includes in-person acts and/or behavior via computer, telephone or other electronic medium, including text messages, emails, social media and other forms of electronic communication.

**For scenarios of sexual misconduct, please see Appendix I.**

Sexual misconduct can take various forms. They include, but are not limited to the following items:

**A. Verbal.**

Unwelcome sexual advances or requests for sexual favors based upon gender, sexual orientation, gender identity or gender expression; Verbal harassment, such as sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats; epithets; slurs; negative stereotyping (including “jokes”); Repeated, unwelcome requests for social engagements; Questions or comments about sexual behavior or preference. This can include written communications sent via computers, cell phones, social media, etc.

**B. Non-verbal.**

Display or sexually suggestive objects or pictures, leering, whistling, obscene gestures; graphic material (including communications via computers, cell phones, etc.) that defames or shows hostility or aversion toward an individual or group because of gender, sexual orientation, gender identity, or gender expression.

**C. Acts of sexually-based intimidation.**

To place another person in reasonable fear of bodily harm and/or emotional distress through the use of threatening words, repeated and/or severe aggressive behavior or

other conduct or both, but without displaying a weapon or subjecting the person to physical attack.

**D. Acts of sexually-based coercion.**

Use of explicit or implicit force, threats, unusual pressure or intimidation to make somebody do something against his or her will.

**E. Acts of sexually-based threats.**

An expression of intention to inflict injury, harm or damage.

**F. Stalking.**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person i) fear for their safety or the safety of others; or ii) suffer substantial emotional distress.

**G. Non-consensual sexual contact.**

Any intentional sexual physical contact, with any object, including touching, pinching or brushing the body; that is without consent and/or by force.

**H. Acts of physical aggression, including non-consensual sexual intercourse.**

“Non-consensual sexual intercourse” occurs when a student engages in sexual intercourse, however slight, with another person without that person's consent. “Sexual intercourse” includes, but is not limited to, vaginal or anal penetration by a penis, object, tongue or finger. It also includes oral copulation (mouth to genital contact or genital to mouth contact). Non-consensual sexual intercourse includes the sexual conduct known as sexual assault or rape. Either males or females can be aggressors in sexual assault, and sexual assault can occur in same-sex relationships.<sup>2</sup> For more information, see discussion on consent in section 2.8.

**I. Sexual exploitation.**

Sexual exploitation is taking sexual advantage of another for one’s benefit.

**J. Age.**

Anyone under 16 years of age is not legally capable of giving consent for any sexual contact.

**K. Relationship/Dating Violence.**

The terms relationship and dating violence mean violence is committed by a person –

- i) Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
- ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

**L. Domestic Violence.**

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<sup>2</sup> Kenyon College’s Sexual Misconduct Policy

The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**2.2 "CAMPUS COMMUNITY" or "COLLEGE COMMUNITY"** – shall mean the Students, faculty, and staff of the College, whether part-time, full time or temporary, the College Board of Trustees, visiting faculty, contractors and consultants performing work or performing services on College owned or leased property and all other invitees of the College.

**2.3 "CAMPUS SECURITY AUTHORITY"** – shall mean:

**A.** The campus Department of Public Safety.

**B.** Any individual or individuals who have responsibility for campus security but who are not employed by the Office of Public Safety such as an individual who is responsible for monitoring the various entrances to College facilities.

**C.** Any individual or office specified in the College's statement of campus security policy as an individual or organization to which Students and employees should report criminal offenses. In its current *Annual Security Report* the College has specifically designated the following individuals as examples of Campus Security Authorities: Executive Vice President for Student Affairs, Dean of Students, Director of Fraternity and Sorority Life, Director of Residence Life, Director of Student Leadership Center, Conduct Coordinator for Residence Life, Director of Student Life, Counseling Peer Education Director, Associate Director of Athletics, Assistant Provost for International Education, Director of Multicultural Center, and Housing Area Coordinators.

**D.** An employee of the College who has significant responsibility for Student and campus activities, including, but not limited to, Student housing, Student discipline, and campus conduct proceedings. If such an official is a pastoral or professional counselor, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

**2.4 "CHILD ABUSE OR NEGLECT" or "HARM"** – shall mean, with respect to a person under 18 years of age, conduct occurring when any person responsible for the child's welfare, including, the parent, guardian, or other person:

**A.** Inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

- i)** Is administered by a parent or person in loco parentis;
- ii)** Is perpetrated for the sole purpose of restraining or correcting the child;
- iii)** Is reasonable in manner and moderate in degree;
- iv)** Has not brought about permanent or lasting damage to the child; and
- v)** Is not reckless or grossly negligent behavior by the parents.

**B.** Commits or allows to be committed against the child a sexual offense as defined by the laws the state of South Carolina or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

**C.** Fails to supply the child with adequate food, clothing, shelter, or education as required under South Carolina Code Ann., Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so, and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

**D.** Abandons the child;

**E.** Encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

**F.** Has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

**2.5 “COLLEGE”** – shall mean the College of Charleston.

**2.6 “COLLEGE PROPERTY”** – shall mean real property that is owned or leased by the College.

**2.7 “COMPLAINANT”** – shall mean a person who makes a Complaint, whether written or verbal, of facts that, if true, would constitute a violation of this Policy.

**2.8 “CONSENT”** – shall mean the presence of explicit voluntary and knowing verbal consent or overt action clearly expressing consent. Such signals of consent must be mutual and ongoing. Silence, in and of itself, does not convey consent. “Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity (ATIXA).”

Effective consent is also absent when the activity in question exceeds the scope of effective consent previously given. The fact of a previous relationship or prior consent does not imply current consent.

Consent obtained through fraud or force, whether that force is physical or through threats, intimidation or coercion, is not regarded as effective consent.

It is the responsibility of the initiator (the person who wants to engage in the specific sexual activity) to make sure that s/he has consent from the other person. Use of alcohol or drugs by the respondent shall not diminish one's responsibility to obtain consent.

If the victim is under the age of consent as defined by state law or is declared unable to give consent due to a mental or physical condition, and the respondent either knew that fact or reasonably should have known that fact, the respondent will likely be found responsible for Sexual Misconduct. The legal age of consent in South Carolina is 16 years old.

If the alleged victim is incapacitated and therefore unable to give consent, that is ineffective consent.

**2.9 “DECISIONAL AUTHORITY”** – shall mean the College manager or unit who initially opines on whether the Respondent has violated the Policy and, if so, the nature and extent of the discipline and/or remedial action to be imposed or recommended.

**2.10 “INCAPACITATION”** – shall mean a state where someone cannot make informed, rational judgments and decisions “because they lack the capacity to give knowing consent (e.g., to understand the ‘who, what, when, where, why or how’ of their sexual interaction) (ATIXA).”

Where alcohol is involved, incapacitation is defined with respect to how the alcohol consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make fully informed judgments. Indicators of incapacitation include, but are not limited to, the following: a person who is passed out, experiencing blackouts, disoriented to their surroundings, or asleep or in and out of sleep.

If the victim is unable to give consent due to incapacitation, and the respondent either knew that fact or reasonably should have known that fact, the respondent will likely be found responsible for Sexual Misconduct.

This policy covers a person whose incapacity results from the taking of drugs. Administering drugs for the purpose of initiating sexual activity with another is a violation of this policy.

**2.11 “PROGRAM OR ACTIVITY”** – shall mean any education program or activity required by the College of a Student that is not operated wholly by the College, or any program or activity that the College facilitates, permits, or considers as part of, or equivalent to, an education program or activity operated by the College, including (but not limited to) participation in educational consortia and cooperative employment and Student-teaching assignments. Such Programs and Activities include College-managed study abroad programs or trips and external sponsorships.

**2.12 “PROGRAM DIRECTOR”** – shall mean a member of the College faculty or other employee of the College who is responsible for managing or overseeing a College Program or Activity.

**2.13 “RESPONDENT”** – shall mean the person(s) named in a Complaint who is accused of a violation of this Policy or who would be found to have violated the Policy if the material facts alleged in a Complaint are determined to be more likely true than not true.

**2.14 “Student” or “Students”** – shall mean all persons who are enrolled at the College and those individuals who have received an offer of admission at the College and meet one or more of the other elements listed in Section 3.2 of the Student Handbook.

**2.15 “Title IX”** – shall mean Title IX of the *Education Act Amendments of 1972* that provides, with limited exception, that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...” (20 U.S.C. §1681)(see Appendix 2 for complete text).

**2.16 “TITLE IX COORDINATOR”** -- shall mean the College employee(s) who is (are) responsible for coordinating the College’s compliance with Title IX. A Title IX coordinator’s responsibilities include overseeing all Complaints of sex discrimination and identifying and addressing any patterns or systemic problems that arise during the review of such Complaints.

### **3. RESOURCES**

#### **3.1 Where to Seek Immediate Assistance, 24/7**



In addition to reporting requirements under Sections 7.6, 7.7 and 7.8, a Student who is or who knows of another Student who may be the victim of any form of Sexual Misconduct involving violence, the threat of violence, or circumstances under which the victim was incapable of giving consent (because the victim was mentally or physically impaired or under the age of 18), or physically impaired (because of alcohol or drugs), is directed to seek assistance as soon as possible under the circumstances. Assistance can be obtained 24 hours a day, seven days a week from:

- A. College of Charleston, Department of Public Safety – **843-953-5611**
- B. City of Charleston Police Department - **911**
- C. College of Charleston, Office of Victim Services: The 24-hour emergency team response number is **843.724.2273**

### **3.2 On Campus Resources Available to Students**

#### **A. Office of Victim Services**

Emergency #: 843.953.2273 (24-hour emergency team response number)

Non-Emergency #: 843.953.2273

Location – Lightsey Center rooms 101 A, B, and C

<http://victimservices.cofc.edu/>

- i) Purpose — The Office of Victim Services (OVS), is a program that works specifically with College Students who may become a victim of a violent or potentially violent crime or a Policy violation. It does not matter where the victimization occurs, on or off campus, or whether the Student elects to file an official police report or not. OVS services are available to any current Student. This program is designed to prevent re-victimization and provides comprehensive victim assistance at one convenient location.
- ii) Types of Assistance Provided — The OVS victim assistance specialists are available to:
  - Coordinate immediate medical intervention and initial support
  - Explain the reporting process and assist the Student, if he/she chooses, in filing a report with the appropriate law enforcement agency
  - Accompany and/or act on behalf of the victim, as needed
  - Explain the victim's rights, responsibilities and options
  - Assist in arranging meetings or initiating direct contact with individuals involved in on-campus disciplinary actions or
  - Serve as the spokesperson for the Student within the College Community so that the victim's privacy and dignity are maintained in all aspects of intervention and assistance and, as necessary, to serve as liaison with individuals off campus
  - Work with the Student to reasonably appropriate, accommodate possible disruptions to the Student's class attendance, class work, academic schedule, and housing by initiating necessary changes that may result from the victimization
  - Assist in locating appropriate on-campus and community resources to meet the Student's specific ongoing needs

- Work with appropriate personnel within the court system to provide information relevant to the victim's circumstances and/or direct assistance to the victim
- Provide access to legal information. This program is designed to prevent re-victimization and provides comprehensive victim assistance at one convenient location.

**B. Department of Public Safety**

Emergency #: 843.953.5611  
 Non-Emergency #: 843.953.5609  
 Location – 89 St. Philip Street  
<http://publicsafety.cofc.edu/>

- i) Purpose – The Department of Public Safety is available to provide emergency assistance, to accept and address criminal Complaints, and to investigate allegations of criminal sexual misconduct.
- ii) Services provided by the Department of Public Safety include, but are not limited to:
  - Students can report occurrences of sexual misconduct and/or can file a criminal Complaint.
  - Attends to student's immediate safety concerns.
  - Takes steps to conduct criminal investigations.

**C. Dean of Students**

Main Office #: 843.953.5522  
 Location – Stern Center, 3<sup>rd</sup> floor  
<http://deanofstudents.cofc.edu/>

- i) Purpose – The Dean of Students is available to address student concerns, including allegations of sexual misconduct.
- ii) Services provided by the Dean of Students include, but are not limited to:
  - Students can report occurrences of sexual misconduct and/or can file a campus Complaint.
  - Explains the student's rights and options.
  - Assists with academic needs and can arrange appropriate interim measures (e.g., changing class schedule or housing, issuing no contact directives). Takes steps to prevent retaliation.

**D. Title IX Coordinator / Director of Office of Equal Opportunity Programs**

Main Office #: 843.953.5754  
 Email: eop@cofc.edu  
 Location – Robert Scott Small Building, Room 115  
<http://eop.cofc.edu/index.php>

- i) Purpose – The Title IX Coordinator carries out investigations and compliance-related responsibilities for Title IX.

- ii) Services provided by the Title IX Coordinator include, but are not limited to:
  - Students can report occurrences of sexual misconduct and/or can file a Complaint.
  - Explains student's rights and options; can assist with appropriate interim measures; takes steps to prevent retaliation.
  - Investigates allegations.

#### **E. Counseling Center**

Main Office #: 843.953.5640

After Hours #: 843.953.5611 (Public Safety)

Location – Robert Scott Small Building, 3<sup>rd</sup> floor

<http://counseling.cofc.edu/>

- i) Purpose – The professionals in the Counseling Center are available to help Students, free of charge, and on a regular or an emergency basis.
- ii) Types of Assistance Provided: The Counseling Center provides counseling for individuals who have been victimized; who are suffering the mental health after-effects of a victimization; who have been accused of Sexual Misconduct and who need assistance with family and a variety of relationship concerns. The Counseling Center can also help direct Students to appropriate community resources, both on and off campus, which might better meet their needs. Services include, but are not limited to:
  - Assists students who have experienced sexual misconduct with personal counseling/support.
  - Provides a list of counselors in the Charleston for survivors seeking off campus counseling assistance. Confidential per SC Code Ann. §19-11-95.
  - <http://deanofstudents.cofc.edu/sexual-misconduct-resources/index.php>

#### **F. Student Health Services**

Main Office #: 843.953.5520

Hours: 8:30 a.m. to 5:00 p.m., Monday through Friday

Email: [healthservices@cofc.edu](mailto:healthservices@cofc.edu)

Location - 181 Calhoun Street

<http://studenthealth.cofc.edu/>

- i) Purpose – Student Health Services is staffed by physicians, nurse practitioners, physician assistants, and registered nurses and is available to address the health needs of Students only.
- ii) Types of Assistance Provided – In addition to customary and routine healthcare matters, Student Health Services also provides information about sexual health and sexual safety and serves as a resource for Students to acquire information about sexuality. Services include, but are not limited to:

- Available to address the health needs of students and can provide appropriate referrals.
- Not able to collect evidence after a sexual assault but can provide a referral.

**G. Residence Hall Directors and Resident Assistants**

Main Office #: 843.953.5523

Location of Main Office – 67 George Street

Hours of Main Office – 8:30 a.m. to 5:00 p.m., Monday through Friday

- i) Purpose – Residence Hall Directors and Resident Assistants are available to provide support to students on a variety of issues, including allegations of sexual misconduct. Resident Hall Directors and Resident Assistants can provide appropriate referrals to students.
  - ii) Each Residence Hall and House has an assigned Residence Hall Director. Go to the front desk of your assigned hall and ask for the Residence Hall Director or the Residence Hall Director On-Call.
- H. Student victims of Sexual Misconduct who are participating in a **Program or Activity that is taking place outside of Charleston**, South Carolina (including overseas programs and external internships conducted at business firms or other establishments) may contact local law enforcement authorities; the College of Charleston, Office of Victim Services (the 24-hour emergency team response number is **843.953.2273**); the Program Director for the particular Program or Activity; or the Dean of Students or the Title IX Coordinator who may each be reached during work hours at **843.953.5522** or, can be reached during non-working hours by calling the College of Charleston, Department of Public Safety at **843.953.5611**.**

**3.3 Off-Campus Resources Available to Students**

**A. Charleston Police Department**

Phone Number — 911

Address — 180 Lockwood Blvd. Charleston, SC 29403

- i) Students can file criminal complaints with the City of Charleston Police Department for assaults that occur off campus.

**B. Medical University of South Carolina**

**MUSC SANE (Sexual Assault Nurse Practitioner) MUSC Emergency Room**

Phone Number – 843.792.1414

Address — 171 Ashley Avenue Charleston, SC 29425

- i) Types of Assistance Provided –
  - Forensically trained nurses on call for the MUSC Emergency Room 24/7 to assist and collect evidence after an acute sexual assault (within 120 hours/5 days).
  - Office of Victim Services (843.953.2273) can assist with arranging a SAFE exam.

- No cost for a forensic examination for sexual assault, regardless of their involvement with law enforcement, when certain conditions are met. See the State Office for Victims' Services website (<http://www.sova.sc.gov/>).

**C. MUSC Institute of Psychiatry**

Phone Number — 843.792.9888 or 1.800.922.5250  
 Address — 67 President Street, Charleston, SC 29425

**D. People Against Rape**

Phone Number — 24/7 - 843.745.0144  
 Address — 259 Meeting St., Charleston, SC 29401  
<http://www.peopleagainstrape.org/>

- i) Types of Assistance Provided –
- 24-hour crisis hotline
  - Crisis intervention
  - Medical and legal appointment accompaniment
  - Support and follow-up via healing process
  - Support groups for victims and their families
  - Individual counseling and therapy referrals

**E. United States Department of Education**

Phone Number — 1.800.872.5327

**F. More Information about Resources**

<http://deanofstudents.cofc.edu/sexual-misconduct-resources/index.php>

**4. WHO ACCEPTS COMPLAINTS**

**4.1.** For Respondents who are Other Than Students – When a person identifies an assailant as a faculty member or an administrator as one who has engaged in Sexual Misconduct the Complaint shall be referred in accordance with Section 2.0 of the **OPERATING PROCEDURES FOR PROCESSING INITIAL COMPLAINTS AGAINST FACULTY AND ADMINISTRATORS AND STAFF** that is attached to and made a part of the College's policy entitled: **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE**

**4.2.** For Respondents who are Students –When a person identifies a student as a person who has engaged in Sexual Misconduct, the allegations may be received by the following offices:

- A. Title IX Coordinator/Director of the Office of Equal Opportunity Programs
- B. The Dean of Students
- C. The Campus Police or other law enforcement (criminal complaints only)

College officials who receive such reports shall immediately refer the matter to the Title IX Coordinator and the Dean of Students for processing and shall not disclose the allegations to anyone else without the prior consent of the Dean of Students, the Title IX Coordinator, or the General Counsel.

**4.3. Inquiries** – Inquiries concerning the application of Title IX to any circumstance may be addressed to the College’s Title IX Coordinator at:

**Director, Office of Equal Opportunity Programs**

Main Office #: 843.953.5754  
Fax #: 843.953.1843  
Email - eop@cofc.edu  
Office of Equal Opportunity Programs  
College of Charleston 66 George Street Charleston, SC 29424  
Office Location - Robert Scott Small Building, Room 115, 175 Calhoun Street  
Charleston, SC 29401

**OR**

**The Department of Education, Office of Civil Rights**

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**5. REPORTING**

**5.1 Requests for Confidentiality**

The College recognizes that confidentiality is important. Information gathered during an investigation of alleged Sexual Misconduct will be maintained as confidential to the extent reasonably possible and permitted under law. If the Complainant requests confidentiality or asks that the Complaint not be pursued, the College will take all reasonable steps to investigate and respond to the Complaint consistent with the request for confidentiality or request not to pursue an investigation. If a Complainant insists that his or her name or other identifiable information not be disclosed to the Respondent, the College will inform the Complainant that its ability to respond may be limited. The College will also inform the Complainant that Title IX prohibits retaliation, and that College officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. Finally, as indicated in Section 5.2, the Complainant will be advised of the circumstances under which his/her request for confidentiality or non-pursuit of a matter may be declined.

**5.2 Reasons Why Confidentiality May Not Be Appropriate**

- A.** Confidentiality – The College will weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the Complainant’s age; whether there have been other harassment Complaints about the same individual; and the Respondent’s rights to receive information about the allegations, if the information is maintained by the College as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99. The College will inform the Complainant if it cannot ensure confidentiality. In all cases when discrimination or harassment is found, however, the College will take steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of situations when confidentiality will not be maintained include circumstances when the College is required by law to disclose information (i.e., in response to legal process such as a subpoena or when the victim is under 18 years of age) or when disclosure is required by the College’s outweighing interest to protect the rights and safety of others. If a Student is unsure of someone’s duties

and ability to maintain confidentiality, the Student should ask them about confidentiality before discussing a matter.

- B. Investigations** – In circumstances when a report of Sexual Misconduct is made, but the Complainant does not wish to pursue the matter, the College reserves the right to investigate the report and take appropriate action under this Policy. The College is likely to make a decision to pursue such a matter if it determines, in the exercise of its discretion, that: (i) the allegations, if true, give reason to believe that the Complainant or other members of the College Community may be at continued risk of victimization and/or that the College may be put at risk of legal liability; and (ii) the Complainant is credible.
- C. Results** – If an investigation reveals that discriminatory harassment has occurred, the College will take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. The College will pursue this course of action regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination.

### **5.3 Initial Meetings**

During an initial meeting, the Office of Equal Opportunity Programs will describe the options and resources available to the reporting party and ask how she/he wishes to proceed, namely, by formal resolution or, in limited circumstances, by informal resolution (i.e. facilitated discussion or mediation with the Respondent). The purpose of that meeting shall be to: (a) discuss this Sexual Misconduct Policy; (b) review the availability of assistance for the Complainant such as the Office of Victim Services, the Counseling Center, and Student Health Services; (c) discuss the need for interim interventions and support services for the Complainant and Respondent, as provided for in section 8.0; (d) give notice that retaliation will not be tolerated; and (e) provide a general understanding of the investigation and hearing processes and the affiliated timeline.

### **5.4 Immediate Preliminary Investigation**

In order to make evaluations under this Section and to decide if interim action is needed as provided for in Section 8.0, the Title IX Coordinator or the Dean of Students, or her/his designee, may conduct an immediate preliminary investigation into the alleged Sexual Misconduct. If one or more material elements of the Complaint are credible, the matter shall be processed further in accordance with this Policy, including the imposition of interim actions as may be appropriate pursuant to Section 8.0. If there is no credible basis to believe any material element of the Complaint, the Complainant shall be advised of the same and shall have the right to appeal the decision to the Executive Vice President for Student Affairs. Such an appeal shall be filed within 5 working days of notification by the investigator and the Executive Vice President shall have an additional 10 working days from the receipt of the appeal to either dismiss the matter or to remand it back to the investigator for further processing under this Policy. These deadlines may be extended, at the sole discretion of the Executive Vice President for Student Affairs, or her/his designee, for good cause shown.

## **6. FEDERAL REPORTING OBLIGATIONS**

### **6.1 Requirements**

As a condition for participating in certain Federal financial assistance programs for student loans and grants, Federal law requires that the College do a number of things to protect the safety of students and employees. One such requirement deals with the reporting of crime statistics, and another deals with security-related notifications for students and employees.

## 6.2 Crime Statistics

The College collects, classifies and counts certain types of crimes occurring on or near the College campus and reports such data to the federal government each year. These statistics cover the most recent calendar year, and the 2 preceding calendar years for which data are available. The following criminal offenses, that are first reported to “Campus Security Authorities” or local police agencies, are reported to the Government: (a) murder; (b) sex offenses, forcible or nonforcible; (c) relationship violence; (d) domestic violence; (e) stalking; (f) robbery; (g) aggravated assault; (h) burglary; (i) motor vehicle theft; (j) manslaughter; (k) arson; and (l) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession (“Clery Act Crimes”). With crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, gender identity, ethnicity, or disability of the victim that are reported to Campus Security Authorities or local police agencies, such data is also collected and reported according to category of prejudice. **When reporting these statistics, the College does not provide the federal government with the identity of the victims of these crimes.**

- A. Each year the College will publish an annual security report containing safety- and security-related policy statements and crime statistics and will make such report available to all current Students and employees, as well as, the public. The reports for the most recent three years can be found at:  
<http://studentaffairs.cofc.edu/annual-security/>

## 6.3 Timely Warnings

- A. Continuing Threats – To provide the College Community with information necessary to make informed decisions about their safety, the College will issue a timely warning for any Clery Act crime that represents an ongoing threat to the safety of students or employees. The College will issue such a notice in a manner that is timely and will aid in the prevention of similar crimes, if such crimes that are –
  - i) Clery Act Crimes (see section 6.2 of this Policy);
  - ii) Reported to a Campus Security Authority; and
  - iii) Considered by the Chief of the College Police Department to represent an ongoing threat to students and employees.
- B. Alerts and Warnings – Depending primarily on the proximity of the crime to the campus the College will issue either a “Cougar Alert” (for emergencies occurring on College property and contiguous areas), or a “Timely Warning” (for a Clery Act crime that takes place on College property). The information contained in such a notice will include all material information that would promote safety, such as the topic of the alert, a description of the perpetrator, location, time and date of the crime(s), and other information on what to do to avoid danger or to address the ongoing threat. The decision to issue a Clery Act warning is made by the Chief of Campus Police based on a threat assessment conducted by that Department. **The identity of the victim will not be stated in an Alert or Notice.**
- C. Exceptions– Clery Act crimes reported to a pastoral, health professional or professional counselor need not be reported to a Campus Security Authority.

## 7. INVESTIGATIVE AND OTHER PROCEDURES

### 7.1 Right to Pursue Administrative Internal Charges during a Criminal Investigation or Prosecution



Generally, the investigation of a student for alleged Sexual Misconduct will not be postponed if the Complainant and/or Respondent has/have been charged with a crime arising out of an event related to the Complaint. In such a circumstance, the Office of Legal Affairs shall be notified by the Dean of Students and/or the Title IX Coordinator, or their designee, of the criminal matter and the Dean, in collaboration with the Title IX Coordinator will decide, on a case-by-case basis, whether exceptional circumstances exist to warrant delaying the investigation and/or hearing of the matter. The College will respond to and cooperate with law enforcement authorities in such investigations and encourages students who have been victims of sexual assaults to report those matters to law enforcement authorities as soon as practicable.

## **7.2 Standards for Culpability**

A preponderance of the evidence is the standard adopted by this Policy to determine if a student has engaged in Sexual Misconduct. A preponderance of the evidence means that credible information shows it is “more likely than not” that the Respondent violated this policy. Because the standard of evidence for the conviction of a crime (“beyond a reasonable doubt”) is different from the standard used to determine a violation of this Policy (“a preponderance of the evidence”), the outcome of a police investigation or criminal trial is not determinative of whether alleged Sexual Misconduct violates this Policy. Therefore, conduct may constitute Sexual Misconduct under this Policy even if law enforcement authorities lack sufficient evidence of a crime and decline to prosecute.

## **7.3 Right to Pursue Internal College Action**

Regardless of whether a Complainant elects to file a criminal complaint or initiate a civil law suit, the Complainant may pursue internal College procedures to investigate allegations of Sexual Misconduct and receive appropriate remedial actions and remedies by the College that may be warranted under the circumstances.

## **7.4 Applicable Investigative Procedures**

In Complaints of Sexual Misconduct when the alleged wrongdoer (Respondent) is other than a student, the matter shall be investigated and resolved in accordance with the College policy entitled: **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE**. In Complaints when the Respondent is a student, the matter and the shall be investigated and resolved in accordance with this Policy and the College’s procedures for resolving violations of the **STUDENT CODE OF CONDUCT**.

## **7.5 Basic Requirements of All Internal Investigatory Processes and Hearings**

Throughout any College investigation of an alleged violation of this Policy, including at any hearing, the Complainant and the Respondent will have equal rights with respect to calling witnesses, presenting evidence, timely reviewing evidence, and having an attorney or other support person in attendance at the proceedings for purposes other than addressing the Board or the Hearing Officer. Under no circumstances will one Party be permitted to directly cross examine another Party. Throughout the process both the Complainant and the Respondent are to be treated with dignity and respect and both shall be informed in writing of the outcome of a campus proceeding. The College will maintain documentation of all proceedings which may include written findings of facts, transcripts, or audio recordings. Such records shall be maintained for at least one year after all appeals have been finally decided, or the right to appeal has been exhausted. These procedures shall neither expand nor reduce a private right of action under existing laws.

## **7.6 Reporting Sexual Harassment/Abuse When the Student is the Alleged Wrongful Actor**

The College will accept complaints of Sexual Misconduct from any member of the College Community or from any other person who believes that a violation of this Policy may have occurred on College Property, or during the conduct of a College Program or Activity regardless of the location of that Program or Activity, or on other than College Property if there is any allegation that the off-campus misconduct may result in sexual misconduct on College Property. There is no time limit to invoking the protections and processes available under this Policy. Nevertheless, students are encouraged to report alleged Sexual Misconduct immediately in order to maximize the College's ability to obtain evidence and conduct a prompt, thorough, impartial and reliable investigation. Once the College becomes aware of Sexual Misconduct it will take immediate steps to end the harassment, prevent its recurrence, and to address its effects.

### **7.7 Duty to Report**

Any member of the College Community who reasonably believes that s/he has experienced or witnessed any form of sexual misconduct, harassment or abuse proscribed by this Policy is expected to report the situation immediately to one of the persons listed in the Section 4.0. A member of the College Community, including students, other than confidential resources, who witnesses but fails to report such a situation, may be subject to the immediate consideration of disciplinary or other remedial action if the failure to report has placed a member of the College Community at risk of harm or the College at risk of legal liability. The nature and extent of the action taken, if any, will depend on the following factors: (a) the severity of the circumstances observed; (b) the position/status of the person who observed the incident; (c) the position/status of the observed victim and observed violator; and (d) the consequences of the failure to report or the failure to report in a timely manner.

### **7.8 Additional Duty in Reporting Child Abuse**

South Carolina law requires certain persons to report Child Neglect or Abuse as it affects Students and others younger than age 18 even when it occurs outside the College.

Among other designated persons, South Carolina law requires that schoolteachers, counselors, healthcare clinicians, substance abuse treatment staff, childcare workers in any day care center, police or law enforcement officers, and computer technicians, who have reasonable cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by Abuse or Neglect, as defined by state law, are to immediately report it to the local Department of Social Services or other proper law enforcement agency.

A faculty or staff member who suspects or has any concern regarding Child Abuse or Neglect may report this information promptly to his/her Department Head, Director of the Office of Equal Opportunity Programs, the Dean of Students, the Campus Police or other law enforcement authority, the Provost, or the General Counsel. College officials who receive such reports shall consult with the Office of Legal Affairs and the College's Chief of Police who will determine the College's duty under the circumstances and, if determined appropriate, will assist in contacting the proper external authorities.

A faculty member or member of the administration who has reason to suspect abuse or neglect and fails to report it is subject to prosecution; however, the person making the report based on valid suspicion and concern is protected by law from both civil and criminal retaliation.

### **7.9 Effect on the Graduating Respondents**

When the accused Respondent is a degree candidate who is anticipated to graduate within the academic year, the College will not allow an impending graduation to unduly delay its resolution of a Complaint under this Policy. The conferral of a degree may, therefore, be delayed, if appropriate under the circumstances, until a Sexual Misconduct charge is resolved.

### **7.10 Conditional Amnesty for Alcohol and Other Drugs**

In deference to its compelling interest to end Sexual Misconduct, the College has elected not to pursue any related alcohol and other drugs use/possession violations against a Student who claims to be a victim of Sexual Misconduct or against Students named as a Respondent, or Students who are witnesses or reporters, as may be appropriate under the circumstances. Educational options will be explored but no conduct proceedings or record will result, should conditional amnesty be granted.

### **7.11 Notification and Coordination with Campus Title IX Coordinator**

- A.** A. Upon the filing of a Complaint with the Office of Equal Opportunity Programs, the Title IX Coordinator, or his/her designee, will determine whether or not there is a reasonable basis to pursue the allegations. The Title IX Coordinator may conduct the immediate preliminary investigation (described in Section 5.3) and any other investigation herself/himself or may appoint one or more investigators to conduct such investigations (hereinafter the “Investigator”).
- B.** The Title IX Coordinator, or his/her designee, shall communicate regularly with the Department of Public Safety and provide information regarding Title IX requirements.
- C.** The Title IX Coordinator, or the Investigator appointed by the Coordinator, shall review all evidence in a sexual harassment or sexual violence case brought before the College’s Honor Board or Hearing Officer to determine whether the Complainant is entitled to a remedy under Title IX that was not available through the Honor Board/Officer.

## **8. ASSESSMENT FOR IMMEDIATE INTERIM ACTION**

### **8.1 Determinations**

Whenever there is a Complaint of alleged Sexual Misconduct, the Dean of Students and the Title IX Coordinator, or their designee, will undertake an immediate preliminary investigation (as described in Section 5.3) and, if appropriate, take interim action to support and protect the Complainant and/or the Respondent.

### **8.2 Types of Interim Actions Available**

Interim actions include, but are not limited to:

- Orders of “no contact”
- Providing an escort to ensure that the Complainant can move safely between classes and activities
- Moving the Complainant or Respondent to a different residence hall
- Providing counseling services
- Providing medical services
- Providing academic support services, such as tutoring
- A ban from specific buildings or areas of the campus
- Adjustments to academic schedules
- Interim suspension and ban from campus
- Any other action that the College believes is reasonable and appropriate under the circumstances

A violation of the interim actions by the Complainant or the Respondent will constitute a related offense that may result in the imposition of disciplinary action.

## **9. MEDIATION**

### **9.1 Informal Resolution**

Except as provided for in Section 9.6, mediation is the preferred way to resolve most disputes between members of the College Community. In order for mediation to take place on any Complaint, however, it must be mutually acceptable to both the Respondent and the Complainant. During the mediation, the Investigator, or his/her designee, meets individually with each Party and with each collectively with both Parties, as appropriate. Understanding the sensitivity surrounding allegations of sexual misconduct, a mediation may not be appropriate in such cases (see also section 9.6 below). Either the Complainant or the Respondent may refuse mediation or, once commenced, end mediation at any time. No adverse inference is to be drawn from any such decision to accept or reject mediation. If a mediated compromise is reached between the Parties, it must be approved by the Title IX Coordinator, or his/her designee. The Title IX Coordinator will consult with the Executive Vice President, and others as appropriate, and shall seek legal advice from the General Counsel to resolve or discuss legal issues.

### **9.2 Non-Disclosure**

In order to promote honest, direct communication, information disclosed during Informal Resolutions shall remain confidential, except when disclosure may be required by law or is necessary to discharge a legal or ethical responsibility of the College.

### **9.3 Mediated Agreements**

All mediated agreements shall be reduced to writing and a copy shall be given to both the Complainant and the Respondent. A copy of the agreement shall also be maintained in the Office of the Dean of Students.

### **9.4 Consequences of a Breach of the Agreement**

If there is a breach of the mediated agreement by either Parties the College may, in the exercise of its reasonable discretion, discipline the breaching Parties and/or declare the agreement null and void and of no force or effect and reinstate the Complaint.

### **9.5 Time Limitations**

If a negotiated agreement cannot be reached within 30 days from the first mediation session, the matter shall be referred for formal investigation under Section 10.0.

### **9.6 Inappropriate Circumstances for Informal Resolution**

The College will not agree to any informal resolution, despite the wishes of the Parties, when it has reason to believe that:

- A.** Any violence has taken place;
- B.** The Complainant and the Respondent are so diametrically adverse in positions or have such conflicting views that resolution by mediation seems unlikely;
- C.** There is an unreasonable risk of violence or intimidation by one Parties against the other;
- D.** The Respondent has been charged with a crime arising out of the event giving rise to the Complaint; or
- E.** For other good cause shown, in the best interest of the Parties, as determined in the discretion of the Investigator, and/or Title IX Coordinator.

### **9.7 No Informal Resolution or Unsuccessful Informal Resolutions**

If informal resolution is not feasible or appropriate under the circumstances, or if not successful within a reasonable period of time (as provided for in Section 9.5), a formal investigation will commence.

## **10. FORMAL INVESTIGATION**

### **10.1 Commencement**

The Investigator shall first identify all provisions of this Policy that may have been violated if the allegations made by the Complainant prove more likely true than not true. Only those allegations that would, if true, constitute a violation of this Policy should be formally investigated; and only evidence that tends to prove or disprove such allegations shall be considered relevant to the investigation. If a complaint, on its face, does not credibly allege a policy violation, the Investigator shall seek more information from the Complaining party or the Office of Equal Opportunity Programs shall dismiss the complaint but may explore informal resolution of concerns raised and/or offer support services.

### **10.2 Time Estimates for Investigation**

The College will conduct a fair, impartial investigation in a timely manner designed to provide all parties with resolution. We strive to complete investigations within 60 business days. This timeframe may be extended for good cause, which may exist, if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for College breaks, closures, or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, the parties' reasonable requests for extensions, or for other legitimate reasons.

### **10.3 Notice**

Except as provided in this Section 10.1, the Title IX Coordinator, or his/her designee, is to notify the Respondent, in writing, that allegations have been made against him/her and the nature of the allegations. This Policy shall be cited, and the Respondent shall be informed that retaliation in any form is strictly prohibited. The Respondent shall also be notified that s/he will have an opportunity to address the allegations and to submit evidence on his/her own behalf. In exceptional cases, notification of the Respondent may be delayed if the Title IX Coordinator or his/her designee determines that such notification may put the Complainant or a witness at risk or impede the investigation.

- A.** If the matter is to be heard and decided by the Honor Board or by a single Hearing Officer, the Dean of Students, or the Title IX Coordinator as the case may be, shall submit to the Honor Board or Hearing Officer the Preliminary Report of Investigation that summarizes the allegations, the defenses asserted, and the material facts that would tend to prove or disprove the allegations. Such Preliminary Report of Investigation shall be used by the Board/Officer to prepare for the hearing and to acquaint themselves with the relevant issues to be decided.

### **10.4 Decisional Authority**

- A.** Hearing Board – For complaints of sexual misconduct, the Honor Board shall be made up of three faculty/staff who have received training on the policy and procedures regarding Complaints of Sexual Misconduct. The Honor Board shall be

considered the Decisional Authority, subject to such reviews by the Executive Vice President for Student Affairs as provided for in Section 17.0.

- B. Hearing Officer** – A Hearing Officer may only be used in lieu of Honor’s Board if both the Complainant and the Respondent agree to the use of a Hearing Officer. For complaints that are heard by a Hearing Officer, that Officer shall be considered the Decisional Authority, subject to such reviews by the Executive Vice President for Student Affairs as provided for in Section 17.0.
- C. Authority of the Decisional Authority** – The Decisional Authority may: (i) sustain all or some of the charges and determine the culpability of any Parties; (ii) impose or recommend the imposition of sanctions; (iii) find one or more of the charges not sustained by the evidence and dismiss such charges; and/or (iv) remand the matter for more investigation by the appropriate Investigator.

### **10.5 Evidence and the Role of Legal Counsel**

The following principles shall apply with respect to any investigation or hearing:

- A. Fact Gathering** – To the extent reasonably practicable under the circumstances, there shall be interviews of the Complainant, the Respondent and other witnesses, the examination of written statements from the Parties, the review of all relevant documents, and the consideration of any other evidence that would tend to prove or disprove the material factual allegations. Executive Vice Presidents are to take reasonable measures to assure that the Investigator and the Decisional Authority have access to witnesses, documents, and such other evidence as may be reasonably necessary under the circumstances to discover and consider relevant facts. Interviewers shall make notes of all interviews conducted as part of the investigation if not otherwise recorded in a transcript of a hearing.
- B. Legal Counsel** – Witnesses, including the Complainant and the Respondent, may have legal counsel present at interviews or at a hearing, but counsel may not participate in the interview or hearing (that is, answer questions for, or ask questions on behalf of, their clients or make statements) and may be asked to leave the interview site if disruptive or causing an unreasonable delay in the conduct of the interview or hearing. Prior to any such interview with counsel in attendance, the appropriate official shall notify the General Counsel and afford the General Counsel the opportunity to attend the interview or proceedings.
- C. No Inference** – A negative inference may not be drawn by the Complainant’s or Respondent’s decision not to provide a statement or give an interview. In such event, the matter will be decided without the benefit of such participation.
- D. Consequences for Interference** – A member of the College Community who interferes with an investigation or hearing conducted under this Policy shall be subject to disciplinary action up to and including termination or expulsion, depending on the frequency or seriousness of the offense.
- E. Opportunity to Respond** – The Respondent must be given a meaningful opportunity, at a meaningful time, to respond to the allegations in the Complaint and present relevant evidence on their behalf during the investigation.

## **11. CHARGE**

### **11.1 Issuance of a Charge**

Upon completion of the Preliminary Report of Investigation, the Report shall be forwarded to the Office of the Dean of Students. The Dean shall forward no complaint for a hearing unless there is reasonable cause to believe the Student Sexual Misconduct Policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense. This determination is generally made within 10 business days but can be extended for good cause. Once a determination has been made that reasonable cause exists for the Office of the Dean of Students to refer a complaint for a hearing, a charge notice will be given to the parties. Once referred for a hearing, the matter shall proceed, as further described below, to a (a) pre-hearing meeting with the Decisional Authority; (b) the exchange of evidence; (c) the hearing; and (d) finalization of the final Report of Investigation.

## **12. HEARING**

### **12.1 Pre-Hearing**

The Dean of Students, or their designee, will schedule a pre-hearing meeting prior to the hearing date. At the meeting the Dean of Students, or his/her designee, will review the hearing procedures with the Parties, separately or jointly. The Dean of Students, or his/her designee will also review the Complaint of alleged Sexual Misconduct (and related misconduct, if applicable), and review the Parties' respective lists of proposed witnesses to assist them in eliminating duplicative or non-relevant statements or other information.

### **12.2 Exchange of Information**

The Parties will provide the Chair or Officer with a list of witnesses they wish the College to call, and copies of documents and a description of any other information they propose to enter into the record and present at the hearing. Unless for good cause shown, the witness lists, documents and other information must be submitted at least five business days prior to the hearing. In the absence of good cause (such as impeachment of a newly asserted allegation), as determined by the Chair or Officer in the exercise of his or her sole discretion, the Parties may not introduce witnesses, documents or other information at the hearing that were previously undisclosed.

### **12.3 Modification of the Proceedings**

The College reserves the right, acting through the Chair of the Honor Board or Hearing Officer, to add to or modify the alleged violations of this Policy and to add witnesses to the witness lists at the pre-hearing meeting and/or at the hearing in order to conform to the evidence, provided that, both the Complainant and the Respondent have an equitable opportunity at a meaningful time to respond to such additions or modifications.

### **12.4 Notification of Any Special Arrangements for Hearing**

Absent a showing of good cause, special needs regarding the hearing room set-up shall be communicated to the Chair of the Honor Board/Hearing Officer and the Dean of Students at least five working days before the scheduled hearing. After review, the Dean will ask the Decisional Authority, as appropriate, to accommodate concerns for the personal safety, well-being, and/or apprehensions of the Complainant, Respondent, and/or other witnesses during the hearing. Among other accommodations this may include using a visual screen, or by permitting participation by telephone, videophone, Skype®, audio tape, written statement, and/or other means appropriate to the circumstances that do not violate principles of fundamental fairness for all concerned.

### **12.5 Objections to Members of the Honor Board**



A Party desiring to challenge the participation of any Honor Board member for cause (such as a conflict of interest) must notify the Board Chair and the Dean of Students, in writing, within three calendar days of receipt of the notice of the hearing date, stating the specific reasons for the objection. The Chair will determine whether the challenge has merit and may make changes in the Board's composition if such a challenge is warranted under the circumstances.

#### **12.6 Persons Admitted to Hearing; Role of Advisors**

Both the Respondent and the Complainant may be accompanied at any time during the Complaint resolution process by an advisor. Advisors may not be called as a witness by the Party using that advisor and may not participate in the interview or hearing as a representative of that Party (that is, answer questions for, or ask questions on behalf of, their advisee or make statements for the advisee). Advisors may be asked to leave the interview site if disruptive or causing an unreasonable delay in the conduct of the interview or hearing. An attorney may act as an advisor, subject to the limitations stated in Section 10.5. A member of the public shall not be admitted to the Hearing as a spectator unless: (a) all Parties first agree; or (b) the spectator is the parent or legal guardian of a Party and that Party is under 18 years of age.

#### **12.7 Examination of Evidence**

The hearing will not follow a courtroom model and formal rules of evidence will not be observed. The Chair or Hearing Officer will determine the order of the witnesses and resolve any questions of procedure or relevancy arising during the hearing.

#### **12.8 Operating Procedures**

The Executive Vice President for Student Affairs or his/her designee shall adopt such operating procedures for the hearing as maybe appropriate, provided that, such operating procedures are not in conflict with any provision of this Policy or any other College Policy and are available to all students.

#### **12.9 Post Finding**

If the Decisional Authority determines that the Respondent Student is responsible for Sexual Misconduct, the Complainant may present the Decisional Authority with a written statement recommending sanctions and remedies, and a description of how the actions of the Respondent have impacted the Complainant's educational and personal goals. The Respondent will be provided an opportunity to respond to the Impact Statement. The Decisional Authority is not bound by these statements in determining sanctions.

### **13. FINAL REPORT OF INVESTIGATION AND DETERMINATION**

#### **13.1 Issuance of a Final Report of Investigation and Determination (the "Report")**

Regardless of whether a Complaint is resolved by a Hearing Officer or by the Honor Board, a Final Report of Investigation shall be completed. The content of the Report shall be principally confined to the matters listed in subsections (a) through (f) of this Section 13.1. No legal conclusions are to be presented in the Report as to the applicability of any law, or whether any law was violated; except that, the Report must state that retaliation is a violation of both law and College Policy. The Final Report shall contain at least the following information:

- A.** The allegations;
- B.** The applicable policy or policies involved;
- C.** The evidence considered;

- D. A determination as to whether the Policy has been violated, and if so, the sanctions to be imposed; and
- E. Proposed remedies for the Complainant, if appropriate.

### **13.2 The Record**

The Final Report and all its exhibits and referenced materials, including the Preliminary Report of Investigation, and the electronic transcript of the hearing (if such a hearing was held) shall be the official record of the investigation.

### **13.3 Maintenance of the Record**

After the investigation has been completed and the determination of the Decisional Authority has been rendered, the official record of the investigation, the preliminary Report of Investigation, charge determination and the determination of the Decisional Authority, where applicable, shall be maintained in the Office of the Dean of Students. These materials shall be available to: (a) the Complainant and the Respondent, with such redactions as may be required under law; (b) the investigator, the Decisional Authority, and the Office of Legal Affairs; and (c) such third Parties who may have a legal right to access such materials, in whole or in part, as determined by the General Counsel.

### **13.4 Time Estimates for a Decision**

The Hearing Officer or Honor Board, as applicable, will conduct a fair, impartial hearing in a timely manner designed to provide all parties with resolution. We strive to issue a decision within 30 business days from the date of the end of the hearing. This timeframe may be extended for good cause, which may exist, if additional time is necessary to ensure the integrity and completeness of the process, to account for College breaks, closures, or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.

## **14. SANCTIONS AND EFFECTIVE DATE**

### **14.1 Types of Sanctions and Guidelines**

The Decisional Authority is required to consider suspending or expelling any student found culpable for Sexual Misconduct; however, the Decisional Authority may impose any other sanction that it finds to be fair and proportionate to the violation(s) and the attending circumstances. Other sanctions may include removal from campus housing, deferred suspension, mandatory referral to counseling, and/or disciplinary service. Matters that may be considered when deciding on the appropriate sanctions, include –

- A. The record of past violations of any College Policy, the Honor Code, or government rules, regulations or laws, as well as the nature and severity of such past violations;
- B. The acknowledgement of wrongdoing by and the commitment of the Respondent to conform his/her conduct to acceptable standards in the future;
- C. Whether alcohol or controlled substances were involved in the incident;
- D. Whether violence was involved in the incident; and
- E. If the Respondent Student poses a continuing risk to the Complainant and/or the College Community.

### **14.2 Actions by the Honor Board**

Determination and Sanction decisions made by the Honor Board must be by majority vote of all members of the Board, except that a sanction of expulsion shall be by a unanimous vote of the entire Board. In the event that the Board cannot agree on a sanction after a finding of culpability, the sanction decision shall be made by the Dean of Students.

### **14.3 Timing of Sanctions**

Sanctions imposed by a Decisional Authority are not effective until any pending appeal of the finding and/or sanctions is finally resolved by the Executive Vice President for Student Affairs. However, if advisable to protect the safety of the Complainant or the College Community, the Decisional Authority may recommend to the Executive Vice President for Student Affairs that any suspension (or suspension preliminary to an expulsion) be effective immediately pending the exhaustion of appeal rights or a decision on appeal.

## **15. REMEDIES FOR THE COMPLAINANT**

**15.1** Depending on the findings of the Decisional Authority, remedies for the Complainant may include, but are not limited to, one or more of the following:

- A.** Providing an escort to ensure that the Complainant can move safely between classes and activities;
- B.** Ensuring that the Complainant and the Respondent do not attend the same classes;
- C.** Moving the Complainant or Respondent to a different residence hall;
- D.** Providing counseling services;
- E.** Providing medical services;
- F.** Providing academic support services, such as tutoring;
- G.** Arranging for the Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- H.** Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined.

## **16. NOTIFICATION OF OUTCOME**

### **16.1 Timing**

Within five working days of a decision by a Decisional Authority on a Complaint, the Office of the Dean of Students will issue two documents to both the Respondent and the Complainant: a determination letter and a memorandum opinion letter. This timeframe may be extended for good cause. The determination letter will contain the following information: the name of the Respondent Student; whether the Respondent was found in violation or not in violation for specific violations of the Sexual Misconduct Policy and the sanctions, if any, imposed. The memorandum opinion letter will contain all of the information in the determination letter in addition to a summary of the Decisional Authority's rationale for its decision, as well as, a notice of appeal rights. The determination letter, the memorandum opinion letter and the record of proceedings are education records within the meaning of the Family Education Rights and Privacy Act (20 U.S.C. §1232g, 34 C.F.R. Part 99) and may not be disclosed except when disclosure is authorized or required by law or College Policy.

## **17. APPEALS**

### **17.1 Who May File**

The Complainant and the Respondent may each file an appeal. Appeals are to contain the information described in Section 17.2 and shall be filed with the Executive Vice President for Student Affairs in one of two ways:

1. By Certified Mail addressed to the Executive Vice President for Student Affairs with a copy to the Dean of Students, 66 George Street, Stern Student Center, College of Charleston, Charleston, SC 29424 or;
2. By email with proof of sending to the Executive Vice President for Student Affairs' email address with a copy to the Dean of Students at their email address.

The Dean will then notify and provide a copy of the appeal to the other Party to the proceeding. The non-appealing Party shall have five working days from receipt of the appeal to state their position on the appeal with the Executive Vice President for Student Affairs with a copy to the Dean of Students.

### **17.2 Grounds for Appeal**

A decision reached or a sanction imposed by a Decisional Authority may be appealed within five (5) working days of the transmittal of the decision to the Party who is appealing. Such appeals shall be in writing and shall cite the name of the case; the grounds for the appeal and the relief requested. The only grounds that will justify changing or overruling a decision by the official or Honor Board are the following:

- A. There was no reasonable basis in the record for the decision rendered or the sanction imposed;
- B. There was a substantive mistake of procedure that likely influenced the outcome of the proceeding; or
- C. New evidence, sufficient to alter a decision was not brought out in the original hearing, because such evidence was either unavailable or unknown at that time after diligent inquiry by the person appealing.

If the appeal is not timely or substantively eligible, the original finding and sanction(s) will stand and the decision is final. Deviations from designated procedures will not be a basis for sustaining an appeal unless they affect the finding of a material fact or they could have otherwise affected the outcome. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents.

The Executive Vice President can elect to call an advisory Appellate Board. The Appellate Board will generally consist of three persons, none of whom participated in the original hearing in any capacity. The Appellate Board serves in an advisory capacity to the Executive Vice President for Student Affairs and is not a decisional authority. Its recommendations are non-binding. The Executive Vice President may use an Appellate Board in any capacity they deem necessary to best benefit the conduct system and the parties involved.

### **17.3 Estimated Timeframe for Appeal Decisions**

The Executive Vice President will make every effort to reach a determination on the appeal within ten (10) working days from the receipt of all applicable appeal documents (i.e. receipt of any responsive document from the non-appealing party). At this stage in the process, the Executive Vice President for Student Affairs' response time may be modified if circumstances dictate. The decision of the Executive Vice President is final.

## **18. RETALIATION**

The College prohibits adverse treatment of employees or Students for exercising their rights under this Policy. Any good faith report of discrimination and/or harassment, experienced or observed, should be made without fear of retaliation by the College. **RETALIATION AGAINST ANY EMPLOYEE OR STUDENT FOR FILING A COMPLAINT OR PARTICIPATING IN AN INVESTIGATION IN GOOD FAITH IS STRICTLY PROHIBITED BY LAW AND THIS POLICY. VIOLATORS WILL BE SUBJECT TO THE IMMEDIATE CONSIDERATION OF DISCIPLINARY AND/OR REMEDIAL ACTION THAT COULD INCLUDE SEPARATION FROM THE COLLEGE.**

**18.1** Intentionally making a false report or providing false or materially misleading information during an investigation also constitute grounds for discipline and/or remedial action.

## **19. TRAINING AND EDUCATION**

### **19.1 Training**

It is the responsibility of the Executive Vice President for Student Affairs to ensure that all persons within the Division of Student Affairs are appropriately and periodically trained on this Policy.

### **19.2 Development of Materials and Implementation of Policy**

The Title IX Coordinator, in collaboration with the Dean of Students, and other appropriate campus partners, will develop education materials on sexual harassment and violence that will be distributed to students during orientation and at other events throughout the year. Education materials will be widely disseminated throughout the College. Education material will include topics such as:

- A.** What constitutes sexual harassment or violence;
- B.** What to do if a student has been the victim of sexual harassment or violence;
- C.** Contact information for counseling and victim services on and off school grounds;
- D.** How to file a complaint with the College;
- E.** How to contact the school's Title IX Coordinator or the Dean of Students; and
- F.** What the College will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken.

### **19.3 Committee on Sexual Misconduct**

The Executive Vice President for Student Affairs shall establish a Student Sexual Misconduct Committee. Members of the Committee shall be the Dean of Students, the Title IX Coordinator & Director of the Office of Equal Opportunity Programs, and such other faculty, staff and students as the Executive Vice President shall decide. The Committee shall identify strategies for ensuring that students:

- A.** Know the College's prohibition against sex discrimination, including sexual harassment and violence;
- B.** Recognize sex discrimination, sexual harassment, and sexual violence when they occur;

- C. Understand how and to whom to report any incidents, including any incident that may take place during a Program or Activity conducted overseas or on other than College Property;
- D. Know the connection between alcohol and drug abuse and sexual harassment or violence; and
- E. Feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence.

The Committee shall also consider other steps that clearly communicate that the College does not tolerate sexual harassment and violence and will respond to incidents and to student who report such incidents. In addition, the Committee may recommend such changes to this Policy as it believes appropriate to ensure that the procedures contained herein for resolving Complaints are prompt and equitable.

**20. RESPONSIBILITY FOR POLICY MAINTENANCE**

The Title IX Coordinator, upon consultation with the Dean of Students and the General Counsel, shall be responsible for the periodic review and maintenance of this Policy. Such reviews shall take place no less frequently than once during each three-year period and shall be provided to the President’s Executive Team within seven calendar days of completion.

**21. AMENDMENTS**

This Policy and Procedure may be amended at any time in accordance with the Colleges *Campus Wide Policy Making Procedures*.

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**APPENDIX 1: SCENARIOS OF SEXUAL MISCONDUCT**

**A. Verbal Sexual Misconduct**

A Student repeatedly sends sexually oriented jokes around on an email list they created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live. <sup>1</sup>

An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.<sup>2</sup>

**B. Non-Verbal Sexual Misconduct**

Explicit sexual pictures are displayed in a professor’s office, on the exterior of a residence hall door or on a computer monitor in a public space.

Posting photos of an individual naked without their consent to Facebook, Twitter, a blog, etc. Attaching a caption with a person’s name to a sexually explicit photo and sharing that photo and caption through a form of social media.

**C. Coercion**

One student tells another student that they will kill themselves unless the second student complies with the first student’s sexual demands.

**D. Stalking**

A male student notices that a female student follows him to his classes regularly; she has also tried to enter his residence hall building improperly; she appears at locations he regularly frequents; and she is seen often observing him from a distance. Cyberstalking – using the internet and other electronic means to stalk an individual. A person, for example, states in a posting that he is monitoring the other person and has gathered information to use to threaten, libel and harass.

**E. Non-Consensual Sexual Contact**

Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts. Making another touch you or themselves with or on any of these body parts. Any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.<sup>3</sup>

**F. Acts of Physical Aggression (including non-consensual sexual intercourse)**

Someone putting their finger, tongue, mouth, penis or an object in or on your vagina, when you don't want them to or cannot consent. Someone forcing you to perform oral sex or forcing you to receive oral sex. Someone forcing you to masturbate them.

**G. Acts of sexual exploitation**

Inducing or attempting to induce incapacitation with the intent to rape, sexually assault another Student; non-consensual video or audio taping of sexual activity; allowing others to observe a personal act of consensual sex without knowledge or consent of the partner; engaging in voyeurism (e.g., Peeping Tom activity); distributing intimate or sexual information about another person without their knowledge or consent; knowingly transmitting an STI or HIV to another Student; prostituting another Student (monetary gain, privilege or power from the sexual activities of another Student); exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; sexually-based stalking and/or coercion may also be forms of sexual exploitation.

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<sup>1 & 2</sup> ATIXA, 8

## APPENDIX 2:

- A.** Prohibition against discrimination; exceptions. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

Classes of educational institutions subject to prohibition. In regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

- i.** Educational institutions commencing planned change in admissions. in regard to admissions to educational institutions, this section shall not apply (A) for one year from the date of enactment of this Act [enacted June 23, 1972], nor for six years after such date in the case of an educational institution which has begun the process of changing from being an institution which admits only Students of one sex to being an institution which admits Students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education or for seven years from the date an educational institution begins the process of changing from being an institution which admits only Students of only one sex to being an institution which admits Students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education, whichever is the later;
- B.** Educational institutions of religious organizations with contrary religious tenets. this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;
- C.** Educational institutions training individuals for military services or merchant marine. this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;
- D.** Public educational institutions with traditional and continuing admissions policy. in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only Students of one sex;

  - ii)** Social fraternities or sororities; voluntary youth service organizations. this section shall not apply to membership practices— of a social fraternity or social sorority which is exempt from taxation under *section 501(a) of the Internal Revenue Code of 1954* [1986] [26 *USCS § 501(a)*], the active membership of which consists primarily of Students in attendance at an institution of higher education, or
  - iii)** of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;
- E.** Boy or Girl conferences. this section shall not apply to--

  - i)** Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State



- conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
- ii) Any program or activity of any secondary school or educational institution specifically for—
  - iii) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
  - iv) The selection of Students to attend any such conference;
- F.** Father-son or mother-daughter activities at educational institutions. this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for Students of one sex, opportunities for reasonably comparable activities shall be provided for Students of the other sex; and
- G.** Institution of higher education scholarship awards in "beauty" pageants. this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.
- H.** Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance. Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.
- I.** "Educational institution" defined. For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.



## 7. Bullying and Incivility

Bullying is prohibited under the Code of Conduct and as such can be grounds for disciplinary action, up to and including suspension or expulsion. As defined in the Code, bullying is repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt or diminish another person physically or mentally (that is not speech or conduct otherwise protected by the First Amendment). Bullying involves unwanted behavior among persons and can be interwoven with a real or perceived power imbalance. Bullying fosters or instigates an adverse and counterproductive environment, so as to interfere with or undermine learning, instruction, living environment, participation in a College-sponsored activity, and/or College operations.

Occasional differences of opinion or disagreements and conflicts concerning living arrangements, group assignments or workplace relationships usually do not constitute bullying. It is not bullying behavior for a supervisor to note a student employee's poor job performance and potential consequences within the framework of that department and College policies and procedures, or for a professor or academic program director to advise a student of unsatisfactory academic work and the potential for course failure or dismissal from the program if uncorrected.

All types of bullying can be anonymous. The perpetrator(s) can purposely withhold or disguise their identity. Bullying can also be conducted through use of the internet or other electronic means. This form of bullying is often called cyberbullying.

An individual who believes a student has engaged in bullying behavior should report the behavior to the Office of the Dean of Students, 843.953.5522. Students who believe that a staff or faculty member has engaged in bullying behavior towards them may follow the procedures listed under the Student Grievance/Complaint Procedures.

If the bullying of students is based on gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans' status, genetic information, or disability, or other legally-protected classifications it can also be reported to the Office of Equal Opportunity Programs at 843.953-5754. The Office of the Institutional Ombudsperson can provide guidance for determining whether behavior meets the definition of bullying, [ombuds@cofc.edu](mailto:ombuds@cofc.edu) or 843.953.2235

## 8. Parental Notification and Alcohol and Drug Violations



1. Achieving autonomy and acceptance of one's personal responsibility are student development goals promoted throughout every facet of collegiate life. Such goals are promoted within the Family Rights and Privacy Act (FERPA). In 1998, however, amendments to FERPA gave colleges and universities the option to notify parents or guardians of a student's violation of any federal, state, or local law, or an institutional disciplinary policy relating to the use or possession of alcohol or a controlled substance. The

amendment clearly recognizes the cooperative partnership colleges have with parents and guardians that moves beyond enrollment to those times when intervention is a practical response to prevent the loss of a student's personal and collegiate goals.

2. In support of our mutual investment in the success of each student and the preservation of a climate conducive to living and learning, an official of the College will notify parents or guardians when a student under the age of 21 at the time of disclosure regarding the College's determination that the student violated federal, state or local law or College policy governing the use or possession of alcohol or a controlled substance.

## 9. Alcohol Policies

### 1. Residence Life and Campus Housing

**1.1.** Approximately 85 percent of our residence hall population is not of legal age to purchase or drink alcoholic beverages. Accordingly, the following restrictions apply: a limited amount of beer and wine is allowed in residence halls and houses for students over 21. Where allowed, beer and wine must be in the private possession and control of the owner. All persons consuming alcohol must be of legal drinking age and are responsible for their behavior and actions. NO KEGS, LIQUOR OR CAFFEINATED ALCOHOLIC BEVERAGES are allowed in the residence hall system at any time.

Residential students are strongly encouraged to know the pertinent rules and procedures as listed in Residence Life Policies and Community Standards.

**2. Alcohol-Related Violations (possession, use, public intoxication, possession of multiple empty alcohol containers, etc.). The College of Charleston will impose on students the following sanctions and other sanctions for proven violations of its alcohol policies.**

#### **Responses from incidents that originate within the Residence Halls, On Campus or Off Campus.**

**2.1. First Violation** (Resolution by Residence Life staff/Student Affairs official) Sanctions may include, but are not limited to:

- A. Receive a probation period or be placed on residence life probation for a set amount of time if a residential student and incident occurs within the residential system;
- B. Have a parental/guardian notification letter sent concerning the violation;
- C. Participate in an alcohol risk reduction program and/or assessment at the Counseling Center. Fees will be charged; and/or
- D. Educational activities.

Failure to complete first offense sanctions may result in a fine (\$150.00 or more) and other sanctions.

**2.2. Second Violation** (Resolution by Residence Life and Housing staff/Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

- A. Be placed on probation, residence life probation or deferred disciplinary suspension (one more violation and student is suspended from enrollment) and possibly moved

within or removed from residence life housing for a minimum of one semester, depending on the specific circumstances;

If a student is removed from residence life housing for disciplinary reasons full payment of the contract is due if a residential student and incident occurs within the residential system;

**B.** Have a parental/guardian notification letter sent concerning the violation;

**C.** Participate in an alcohol risk reduction program and/or assessment at the Counseling Center or through an off-campus provider. Fees will be charged.

Failure to complete second offense sanctions may result in a fine (\$200.00 or more) and other sanctions unless student is on deferred suspension.

**2.3. Third Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

**A.** Be removed from residence life housing with full payment of the contract due if a residential student and incident occurs within the residential system;

**B.** Be placed on disciplinary suspension from the College for a minimum of one semester;

**C.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program; and

**D.** Have a parental/guardian notification letter sent concerning the violation.

### **3. Noise Violations and other Related Disruptive Behaviors –Responses for Off-Campus Incidences**

**3.1. First Violation** (Resolution by Student Affairs official) Sanctions may include, but are not limited to:

**A.** Receiving a warning or probationary period; and

**B.** Educational and restorative activity.

**3.2. Second Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

**A.** Be placed on probation or deferred disciplinary suspension for a minimum of one semester;

**B.** Have a parental/guardian notification letter sent concerning the violation if appropriate;

**C.** Educational and restorative activity;

**D.** Denial of on-campus housing and other privileges; and

E. Complete a pre-approved substance abuse/risk reduction program or assessment at the Counseling Center or an off-campus provider. Fees will be charged.

Failure to complete second offense sanctions may result in a fine (\$200 or more) and other sanctions unless student is on deferred suspension.

**3.3. Third Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

- A. Be placed on disciplinary suspension from the College for a minimum of one semester;
- B. Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program; and
- C. Have a parental/guardian notification letter sent concerning the violation if appropriate.

#### **4. South Carolina Scholarships – Hope, Life, Palmetto – and Violations of State Alcohol and Drug Laws**

Students who have been adjudicated delinquent or have been convicted or pled guilty or nolo contendere to any South Carolina alcohol or other drug-related misdemeanor offense more than once are ineligible for the scholarship for one academic year after the adjudication, conviction, or plea occurred. The student will lose eligibility the next academic year immediately following conviction and will lose the scholarship for the fall and spring terms.

## **10. Good Samaritan / Medical Amnesty Policy**



### **1. SUMMARY OF POLICY**

This policy provides that any student who is in need of medical care during an alcohol or other drug-related emergency (as defined in Section 3.2 and from here forward shortened to AOD—alcohol and other drugs),

and who receives or actively seeks out such care in a timely fashion, may do so without fear of being subjected to Student Conduct action.

This policy only applies to College policies as outlined in the Student Code of Conduct. This policy does not impact any legal or judicial charges or proceedings.

This policy is intended for one-time use only by an individual student and is not intended to apply to students with repeat incidents of violations of our AOD policies.

## **2. PURPOSE**

The purpose of the Good Samaritan/Medical Amnesty Policy is to encourage a student to seek assistance when that student is in need of medical attention or when that student knows of another student in need of medical care due to an AOD emergency (an “AOD- Related Medical Emergency”). Those who receive medical attention for their abuse of alcohol and/or other drugs will also receive education concerning their own habits so that they may make healthy decisions in the future.

## **3. DEFINITIONS**

3.1 Conditional Amnesty – Students who report an AOD-Related Medical Emergency in accordance with this Policy will not be subjected to formal student conduct action. As a condition for this courtesy, however, the student or students involved will be required to undertake a series of affirmative measures to redress any damages they may have caused and to receive one or more interventions to assist them in correcting unacceptable behavior.

Conditional amnesty granted under this Policy does not negate the laws and ordinances enforced by local, state, and federal law enforcement authorities. Nor will it excuse violations of other College policies. If any policy or law violation beyond alcohol and/or drug consumption and abuse are committed, conditional amnesty will not apply. Such other violations may include, but are not limited to, disorderly conduct, threats of harm to others, hazing, property damage, sexual Harassment/Abuse, alcohol and/or drug distribution, assault, and/or other crimes. Students who have been charged with such other violations in direct relation to the incident in which they pursue amnesty will not qualify for amnesty. Moreover, any organization providing alcohol and/or other drugs to students during an event or gathering at which multiple students become ill will not qualify for amnesty.

This Policy will only apply in cases under the jurisdiction of Residence Life and the Office of the Dean of Students.

3.2 AOD-Related Medical Emergency – AOD-Related Medical Emergencies include alcohol overdose and alcohol poisoning and/or drug overdose and drug poisoning that warrant immediate medical attention to protect the health of the student or others. Signs of AOD-induced distress may include, but are not limited to, one or more of the following:

- A. Unresponsiveness to shouting and vigorous shaking;
- B. Skin that is pale, clammy, bluish, or blotchy;
- C. Depressed respiration lapses in breathing;
- D. Mental confusion, memory problems, unusual behavior, stupor, unconsciousness, or coma;
- E. Dizziness, fainting or sudden changes in blood pressure;
- F. Rapid heartbeat, seizures, convulsions, or rigid spasms; or
- G. Vomiting while asleep or unconscious coupled with failure to wake.

3.3 Medical Attention – In order for a student to qualify for conditional amnesty, he/she must receive or actively seek out medical attention. This may include a range of efforts evidencing an unequivocal intention to receive medical help, such as a voluntary examination by College of Charleston First



Responders/EMS, contacting local EMS, or seeking transportation to or visiting a hospital for more intensive care. It also includes asking for the assistance of Student Health Services. A student will qualify for conditional amnesty only if the student makes no effort to resist the help of the College, local emergency staff, or healthcare clinicians. Medical intervention must be sought at the time of the observed conditions that give rise to a reasonable suspicion of alcohol and other illegal drug use.

3.4 Helper – A helper is any student or student organization who seeks help for a student suffering from an AOD overdose or poisoning. Although helpers are appreciated and encouraged to take action if they see a student in need, their amnesty is also conditional. Helpers that are found to have committed other violations of law or College policies such as hazing (see Section 3.1 above) are held accountable for their actions. They will not be eligible for amnesty and may receive student conduct sanctioning as a result of their infractions. Amnesty for individual helpers only applies to College policy and not to local, state, or federal law enforcement processes. If the amnesty incident is connected to a hazing incident, the student organization will be charged following student conduct procedures.

#### **4. PROCEDURES**

4.1 Assignment of a Conduct Officer – In the event that an AOD-Related Medical Emergency should arise, the Office of Student Affairs {EC1} (the “Office”) will be notified. Thereafter, a Conduct Officer will be assigned by the Office to the parties involved. The Conduct Officer may be a Residence Life Official or a Student Affairs official. Each student will be sent a written notice that he/she must meet with the assigned Conduct Officer for a conversation.

4.2 Decision – The assigned Conduct Officer(s) will make the decision of whether the concerned student(s) qualifies for conditional amnesty under this Policy after giving full consideration to the circumstances of the case.

4.3 Assignment of Amnesty Conditions – Should the student(s) qualify for conditional amnesty, the Conduct Officer(s) will evaluate the case and surrounding circumstances in order to assign appropriate conditions as alternatives to sanctioning. These conditions will be educational or therapeutic in nature, designed to benefit the student and improve his/her future decision making. These conditions will most likely include mandatory sessions with a professional in the Counseling Center and possible parental notification. All service fees for assigned substance abuse counseling will be waived if the student qualifies for conditional amnesty.

4.4 Failure to Complete Conditions – If the student fails to agree to the amnesty conditions, or fails to satisfactorily complete the assigned conditions deemed necessary by his/her Conduct Officer, conditional amnesty will not be given, and any amnesty previously given shall be revoked. Student conduct charges will be filed. Thereafter, the case will be turned over to the Office of Residential Student Rights and Responsibilities of the Department of Residence Life or the Office of the Dean of Students where it will be subject to conduct processes. This will most likely result in the creation of a formal conduct record of the incident in question and, if culpability is found, may require the imposition of student conduct sanctions.

4.5 Documentation and Record Keeping – If a student qualifies for conditional amnesty, documentation or evaluation of the case will not be placed in any student conduct record. A record, however, will exist in the Division of Student Affairs that the incident transpired, but this record is not normally reportable to outside employers, agencies or other higher education institutions without the permission of the student. However, some background checks for local, state and/or Federal employment may require full disclosure and release of student records, in which case, the record of the incident may be reported. In addition, the College may be served with a subpoena or other legal process that requires that the College produce the record. In such cases, the College will comply with all applicable provisions of law. In addition to the foregoing, the record will exist in the Division of Student Affairs to track the student’s behavior should there be another incident of a similar nature.

4.6 Amnesty for Multiple AOD - Related Medical Emergencies

A. For those needing assistance – This policy is intended for one-time use only by any individual student. It is intended to serve as a wake-up call and a way for students to improve their decision-making skills as well as to learn healthy habits of living. Amnesty, under this Policy, is not considered a right. It should be viewed as an opportunity and is not to be abused by those who break rules of conduct on repeated occasions. Accordingly, any student needing medical attention for an AOD-Related Emergency on more than one occasion may not receive amnesty even if all other terms and conditions of this Policy are met. The granting of any form of amnesty remains a matter of discretion with the Division of Student Affairs.

B. For Helpers – Helpers, or those who seek help for the endangered student, are not limited to only one use of the Good Samaritan/Medical Amnesty Policy. It is expected that members of the College of Charleston community will always make an effort to help a fellow student that is in need even if they have been using alcohol and/or other drugs themselves. Notwithstanding the foregoing, if a Conduct Officer has reasonable suspicions that the Good Samaritan/Medical Amnesty Policy is being abused in any way, he/she may hold in abeyance the amnesty to a helper until an investigation of the incident is completed.

### **5. Future Revisions**

This Good Samaritan/Medical Amnesty Policy can be revised at any time in accordance with the College's Campus Wide Policy Making Procedures.

## **11. Procedures for the Use of Alcohol on Campus or During College Sponsored Events**



### **1. PURPOSE**



These Procedures describe the process that will be used by the College to review requests for allowing alcoholic beverages to be available during events that are either held on College Property or are sponsored by the College (each individually referred to as “an “Event”. When the term “Event” is used in these Procedures it means any College gathering where alcohol will be available). The Procedures are not intended to change the existing substantive policies dealing with the permitted uses of alcohol on campus or on College owned or rented property (“College Property”). Those policies are recited in the *Employee Drug and Alcohol Abuse Policy* (for faculty and other employees) and in the *Compass* and other publications directed to students (for students and student organizations).

### **1.1 Events include gatherings that are --**

- A. Sponsored by the College or an approved College organization to take place on or off College Property;
- B. Advertised or promoted using the name and/or resources of the College;
- C. Held off College Property, but using student fees or other College resources to finance the Event; or
- D. Held on College Property by third-parties.

## **2. IDENTIFICATION AND RANKING OF RISKS**

### **2.1 Categories**

The purposes for an Event can be diverse and may include such matters as raising funds for the College, enhancing the College’s public image, hosting Alumni gatherings or other cultural, social or professional meetings, or merely providing a meeting place or performance space for third-parties not affiliated with the College. In general, however, these Procedures recognize three different types of entities that may host an Event. The types of entities that may host an Event are categorized as follows:

- A. Affiliate or Third-Party Sponsored Events: These Events could be hosted by the College Foundation, the College Alumni Association or non-affiliated third-parties such as a business, a non-profit organization or other legal entity.
- B. Student Sponsored Events: These Event would include those sponsored by an approved student organization, such as a sorority or a fraternity, as well as, any other approved group or organization of students.
- C. College Employee or College Sponsored Events: These Events would be hosted by the President, Board of Trustees, the Faculty Senate, a School or a department, a College manager, or any recognized academic or employee unit or organization.

### **2.2 Risk Assessment**

When determining the risk of alcohol abuse associated with an Event, College reviewing authorities will consider at least the following factors:

- A. the location of the Event;

- B. the number of underage students or other underage persons who are expected to be in attendance as guests;
- C. the number of underage persons who will have access to the Event by, for example, working as servers or volunteers;
- D. the sponsor of the Event;
- E. the history of the Event and of the conduct of participants during the Event;
- F. the estimated number of total guests to attend the Event;
- G. the primary purpose of the Event; and
- H. the publicity surrounding the Event and/or the public perception of the Event.

### **2.3 Standards**

The considerations and standards used by the College to review an application for an Event shall include the following:

- A. The College will not approve an Event if, in the exercise of its sole discretion, it has determined that holding the Event will present an unreasonable risk to the health or safety of the College community and/or to the property of the College, or that the Event will be conducted in a way that would portray the College or the members of the College Community in a false light or otherwise subject it or them to public ridicule or disgrace.
- B. The higher the risk assessment, the more stringent shall be the requirements of the *Alcohol Management Plan* (see 3.3).

## **3. APPROVAL PROCESS**

**3.1.** All sponsors of Events must complete and submit the appropriate approval form to the College office having management responsibility of the College site. Sponsors of Affiliate or Third-Party Sponsored Events, Student Sponsored Events, or College Employee or College Sponsored Events utilizing College owned or rented property shall complete the form entitled Event Planning and Notification.

**3.2.** If any alcohol will be available at a student sponsored Event, there shall be a conclusive presumption that underage students will be in attendance.

**3.3.** An Alcohol Management Plan attached to the Form described in section 3.1 shall be required for every Event where alcohol will be served. Depending on the risk assessment made pursuant to Section 2.2, the alcohol management plan shall address the following issues with the specificity needed to adequately address the perceived risk:

- A. how the organization will prevent underage persons from having access to alcohol;

- B. the type and amount of alcohol that will be available at the Event;
- C. the type and amount of food that will be served;
- D. the starting time and ending time of the Event;
- E. the Event security that will be provided by the organization members themselves;
- F. the number of police requested from College Public Safety, or if the Event is to be held off campus, a description of the security available; and
- G. if a Student Sponsored Event, appropriate acknowledgement that Public Safety will contact the Student Affairs staff member on-call if a police action is required or similar serious or exigent circumstance arises.

**3.4.** In addition to any other Form that may be required to rent or use a College facility or to rent or use a site not located on College Property (if any), the Event Planning and Notification Form, described in Section.3.1, where alcohol will be available must be pre-approved by the Department of Public Safety before the Event may be held. In addition to the requirements of the preceding sentence,

- A. all Forms for Student Sponsored Events, including those prepared by recognized student organizations, must also be pre-approved by the Office of Student Life, The Graduate School or Office of Fraternity and Sorority Life, as appropriate; and
- B. all Forms for other than student Events where alcohol will be available shall also be pre-approved by the College's Director of Events or Sponsoring Department.

#### **4. ON CAMPUS ALCOHOL SERVICE PROVIDERS**

Notwithstanding any other provision of these Procedures to the contrary, the College's Director of Events is authorized to review the licensure of any alcohol service provider that is named for a particular Event. The Director shall also issue such guidance as may be appropriate, from time to time, to promote the safe use of alcohol during approved Events including, but not limited to, the training of alcohol servers. The Director will act for the Office of the President in all such matters.

***ADVERTISING AND SANCTIONS. THIS SECTION IS SEPARATE FROM THE ABOVE POLICY AND APPLIES ONLY TO STUDENT ORGANIZATIONS.***

##### **1. ADVERTISING OF STUDENT ORGANIZATION-SPONSORED EVENTS WHERE ALCOHOLIC BEVERAGES WILL BE CONSUMED.**

1. Advertising of student organization-sponsored events where alcoholic beverages will be consumed must be consistent with the educational philosophy of the College of Charleston and follow these conditions:
  - A. Advertisement for any event where alcoholic beverages are being served must note the availability of non-alcoholic beverages and food as prominently as the alcoholic beverages.
  - B. The message conveyed in the event promotion must not encourage the use of alcohol.

- C. Publicity must not convey that consumption of alcohol is the purpose or reason for the event.
- D. Promotion must not refer to the amount/quantity of alcohol to be present
- E. Advertisements for events must not portray drinking as a solution to personal or academic problems or as necessary for social, sexual, or academic success.
- F. Alcoholic beverages must not be provided as awards, door prizes, or giveaways to individuals or campus organizations.

## 2. SANCTIONS

2.1. Violations of these policies on or off-campus will be subject to the following responses for student organizations:

### A. First Violation - Sanctions may include, but not limited to:

- i. Group is on social/event suspension for minimum of one month. The exact time period is to be determined by the Director of Student Life or Director of Fraternity and Sorority Life.
- ii. Group executive board must schedule and attend a meeting with the Campus Substance Abuse Prevention Coordinator to develop a risk reduction plan.
- iii. Social/event suspension remains in place until meeting and plan are completed.
- iv. Failure to comply with sanctions for the first offense may result in sanctioning as imposed under a second violation.

### B. Second Violation - Sanctions may include, but not limited to:

- i. Loss of campus privileges including access to the organization account for a minimum of three months, excluding summer months.
- ii. Entire organization must attend a 6-hour alcohol risk reduction seminar (deadline to be set by the disciplinary administrator).
- iii. Must pay a \$500.00 fine to the Office of Student Life or Fraternity and Sorority Life or plan an alcohol-free social event for the entire student body on a weekend.
- iv. Letter of notification to be sent to the national organization, sponsoring agency or academic department.
- v. Failure to comply with sanctions for the second offense may result in sanctioning as imposed under a third violation.

### C. Third Violation

- i. The sanction for a third violation is suspension of recognition by the College for a time period consistent with the level of infraction up to a permanent suspension from the College of Charleston campus. This will be determined by the Director of Student Life or Director of Fraternity and Sorority Life in conjunction with the Dean of Students and/or Executive Vice President for Student Affairs.

## 12. Student Tailgate Policy

### 1. SUMMARY OF POLICY

In an effort to continue to develop student life at the College of Charleston and promote an increased sense of institutional pride and school spirit, this policy has been created for use of the space and facilities adjacent to the Carolina First Arena for student tailgates and events held prior to athletic contests.

### 1.1 PURPOSE

The purpose of the Student Tailgate Policy is to assist student organizations and/or on-campus departments in the coordination of tailgates and activities and ensure that existing institutional policies related to event planning and risk management are appropriately applied.

### 1.2. DEFINITIONS

- A. **Facilities** – the facilities that will be available for use for student tailgates will include the area adjacent to the student entrance to the Carolina First Arena and the Practice Gym.
- B. **Reservable Space** – the facilities included in this policy are to be considered reservable space. Use of the space for tailgates activities must be scheduled in advance through the Director of Operations for Athletics.
- C. **Sponsoring Organization** – recognized student organization or on-campus department hosting the event.
- D. **Amplified Sound** – use of a public address system and/or speakers to broadcast information or music

### 1.3. PROCEDURES

- A. **Limitations of use** – tailgates and pre-game activities must be limited to the area adjacent to the student entrance to the Carolina First Arena and the Practice Gym. Reservation of the space is limited to recognized student organizations and on-campus departments for student-only events. Individual tailgating will not be permitted.
- B. **Reservation/ Preparation of Space** – sponsoring organizations must reserve the facilities no less than one week prior to the date of the proposed event. Reservations will be coordinated by the Director of Operations for Athletics. Athletics will provide and install the floor covering in the Practice Gym prior to the scheduled event. In the event that no activity is scheduled, the Practice Gym will not be available for pre-game activities and will remain locked.
  - I. **Occupancy** – Attendance at events in the facilities will be limited to occupancy rates established by the Fire Marshal.
  - II. **Responsibilities of Sponsoring Organizations** – student organizations or on-campus departments hosting the event are responsible for providing all staffing and equipment for the proposed activity (this includes security personnel, sound equipment, tables, trash cans, recycling bins, etc.) as well as set-up and clean-up related to the activity.
  - III. **Entry/Exit** – A valid College of Charleston student identification card will be required to enter the event or activity. Individuals that leave the

area prior to the end of the scheduled activity will be denied re-entry and will be ineligible for access to the athletic contest. All student participants will be required to enter the Carolina First Arena through the designated student entrance.

- IV. Use of Alcohol** – The College of Charleston’s alcohol policy shall regulate any use of alcohol at pre-game activities within the facilities. The Authorization to Host a Student Event form must be completed and submitted to the Office of Student Life for review no less than two weeks (fourteen business days) prior to the date of the proposed event. Individuals determined to be inebriated or unable to care for themselves will be denied entry to the activity and/or to the athletic contest.
- V. Duration of Tailgates/Activities** – Pre-game activities will be limited to two (2) hours. Activities must end 15 minutes prior to the start of the scheduled athletic contest.
- VI. Use of Amplified Sound** – Due to the proximity of the facilities to local business and residences, amplified sound must be limited to the Practice Gym.
- VII. Open Flames/Personal Grills** – No open flames or personal grills may be used.
- VIII. Damages** – Sponsoring organizations are responsible for all costs associated with any damage and/or repairs that result from the scheduled activity.

#### 1.4. FUTURE REVISION

This Student Tailgate Policy can be revised at any time in accordance with the College’s *Campus Wide Policy Making Procedures*.

### 13. Drug Policy



#### 1. Introduction

The College of Charleston is concerned with both the welfare of the College community and the academic and personal development of each student. The College strives to create a healthy environment where the illegal and/or improper use of drugs does not interfere with learning, performance, or development. Abuse of drugs disrupts this environment and places at risk the lives and well-being of the members of the College community, as well as the potential for students to contribute to society. It is important for all members of the college community to take responsibility for preventing the illegal and/or improper use of drugs from negatively affecting the community's learning environment and the academic, physical, and emotional well-being of its students. Since there are numerous means by which the use of drugs may adversely affect both students and the College community, it is important that the College issue to all students a clear statement of policy concerning the illegal and/or improper use of drugs.

**1.1.** This policy is intended to accomplish the following:

- A.** To promote a healthy and safe learning environment.
- B.** To demonstrate the commitment of the College to the provision of:
- C.** Education and prevention services designed to help prevent illegal and/or improper use of drugs.
- D.** Early intervention and referral services related to the illegal and/or improper use of drugs.
- E.** To encourage and facilitate the use of treatment and support services by those students who seek or are in need of assistance.
- F.** To define expectations for student behavior with respect to the illegal and/or improper use of drugs.
- G.** To identify appropriate disciplinary procedures for those students who engage in illegal and/or improper drug-related behaviors.

**2. Education, Prevention, Intervention, and Treatment**

**2.1.** The College's first obligation in dealing with drug problems is to educate the College community. This obligation is addressed by a variety of prevention and education programs which are offered, including formal and informal classes, lectures, discussions, and activities that address both drug-abuse prevention and drug-related problems. Students are encouraged to participate in the numerous campus organizations and activities which promote drug-free experiences. The College is proud to have a Collegiate Recovery Program. A list of student organizations is available in the Stern Student Center and at [www.studentlife@cofc.edu](mailto:www.studentlife@cofc.edu). Current information about the risks and statistics related to drug use is available to students. Educational efforts also address personal intervention skills to help members of the College community to better respond to students demonstrating problems related to the use of drugs. As drug abuse is a societal issue, the College will also conduct research and offer expertise in this area as a public service.

**2.2.** A second responsibility of the College is to promote an atmosphere where students who have a problem with drug use will have the opportunity to seek help. Each student seeking assistance will be provided an opportunity for an individual diagnostic assessment and will be offered information on, or referral to appropriate services which address the improper use of drugs, including the misuse of prescription or over-the-counter drugs.

2.3. Available services may include educational activities, structured groups, counseling, and self-help groups. Some of these services are offered on campus at no cost to the student, such as the Collegiate Recovery Program. The cost of off-campus services is the responsibility of the student.

- A. Students may receive assessment, counseling, and educational services from the Counseling Center, (Robert Scott Small Building, 3<sup>rd</sup> floor, 953-5640), or from off-campus treatment providers.
- B. This policy is not intended to create obligations or restrictions which may interfere with the confidential nature of counseling, clinical, or therapeutic relationships. Confidentiality will be maintained in accordance with state and federal laws.

### 3. Violations

3.1. This policy prohibits, on or off campus:

- A. The unlawful manufacture, intent to distribute, distribution, dispensation, trafficking, possession, attempted purchase, or use of illegal drugs or controlled substances\*, including prescription medications and/or use of non-anabolic steroids.
- B. The possession or sale of drug paraphernalia (such as roach clips, water bongs, home-made bongs, glass pipes, cocaine spoons).
- C. The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, attempted purchase or use of imitation (“look alike”) or synthetic substances including but not limited to substances such as K2, Spice, Bath Salts, etc.
- D. The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, or use of psychoactive plant which produces hallucinogenic effects including but not limited to substances such as Salvia.

\* The term “controlled substances” when used in this policy shall refer to those drugs and substances whose possession, sale, or delivery results in criminal sanctions under South Carolina law.

3.2. As citizens, students have responsibility for knowing of and complying with the provisions of state law referenced above. Any student who violates any of these laws is subject to prosecution and punishment by the civil authorities as well as to disciplinary procedures conducted by the College which may precede criminal or civil proceedings. It is not “double jeopardy” for both the civil authorities and the College to proceed to sanction a person for the same specified conduct.

### 4. Sanctions

**The College of Charleston will impose on students the following sanctions and other sanctions for proven violations of its drug policies.**

The College considers any violation of the drug policy to be a serious offense. The College will respond to all reported violations of this policy in accordance with the disciplinary procedures published in the *Student Handbook*. Residential students will be referred to the Office of the Dean of Students for resolution. The sanctions imposed by the College for students found responsible for drug-related violations follow:



#### **4.1. Distribution, dispensation, trafficking, or manufacturing illegal drugs and/or controlled substances**

**A.** Prior to hearing -- Because acts such as the manufacturing, distributing, dispensing and trafficking of illegal drugs and controlled substances are threats and dangers to both the health and safety of the community, when there is reason to believe, based on available facts, that the student represents an immediate threat to the safety, health, or welfare of herself/himself, other persons, or property, the College may immediately suspend alleged offenders prior to a hearing, in accordance with policies as published in the *Student Handbook*.

**B.** Following the hearing – For students found responsible for manufacturing, distribution, dispensing, or trafficking of illegal drugs (including marijuana) and/or controlled substances, the College’s response will likely be:

**i)** At a minimum disciplinary suspension for two years or more and at a maximum expulsion in accordance with disciplinary procedures as published in the *Student Handbook*.

**ii)** Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.

**iii)** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.

**iv)** Have a parental/guardian notification letter sent concerning the violation.

#### **4.2. Possession with intent to distribute**

For students found responsible for possession with intent to distribute illegal drugs (including marijuana) and/or controlled substances, the College’s response will likely be:

**A.** At a minimum disciplinary suspension for one year and at a maximum disciplinary suspension for two years or more in accordance with disciplinary procedures as published in the *Student Handbook*.

**B.** Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.

**C.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.

**D.** Have a parental/guardian notification letter sent concerning the violation.

#### **4.3. Possession and/or use of illegal drugs and illegal possession and/or use of controlled substances**

For students found responsible for the possession/use of illegal drugs (including marijuana weighing one ounce or more) and/or illegal possession/use of controlled substances (including the illegal possession/use of prescription medications and certain synthetic drugs), the College’s response will likely be:

**A.** Placed on disciplinary suspension from the College.

**B.** Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.

**C.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.

**D.** Have a parental/guardian notification letter sent concerning the violation.

**4.4. Possession and/or use of marijuana –weighing under one ounce –**

For students found responsible for *only* the possession and/or use of marijuana, for a **first** offense the College’s response will likely be:

**A.** Placed on deferred disciplinary suspension from the College for not less than one semester. Deferred suspension means that the disciplinary suspension is held in abeyance as long as all other sanctions are completed by stated deadlines, all illegal substance screens/tests are negative, and there are no other violations.

**B.** Participate in a drug and alcohol risk reduction program and/or assessment at the Counseling Center. Fees will be charged.

**C.** Participate in periodic drug and alcohol testing at the student’s expense for not less than one semester.

**D.** Educational activities.

**E.** Have a parental/guardian notification letter sent concerning the violation.

**4.5. Possession and/or use of marijuana –weighing one ounce or less—**

For students found responsible for *only* the possession and/or use of marijuana, for a **second** offense the College’s response will likely be:

**A.** Removal from residence life housing with full payment of the contract due, if a residential student and incident occurred within the residential system.

**B.** Placed on disciplinary suspension from the College.

**C.** Have re-admission to the College dependent on successful completion of a pre-approved substance abuse counseling program.

**D.** Have a parental/guardian notification letter sent concerning the violation.

**4.6. Possession and/or sale of drug paraphernalia --**

For students found in violation for the possession and/or sale of drug paraphernalia, the College’s response will be:

**A.** Determined on a case-by- case basis in accordance with disciplinary procedures as published in the *Student Handbook*.

**4.7. The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, or use of imitation (“look alike”) or synthetic substances including but not limited to substances such as K2, Spice, etc., the College’s response will be:**

A. Determined on a case-by- case basis in accordance with disciplinary procedures as published in the *Student Handbook*.

**4.8. The manufacture, intent to distribute, distribution, dispensation, trafficking, possession, or use of psychoactive plant which produces hallucinogenic effects including but not limited to substances such as Salvia, the College’s response will be:**

A. Determined on a case-by- case basis in accordance with disciplinary procedures as published in the *Student Handbook*.

**4.9. Eligibility for Financial Aid**

Students found in violation of the drug laws jeopardize their ability to receive federal financial aid, College of Charleston scholarships and South Carolina Scholarships for which they might otherwise be eligible. Students can regain their eligibility to receive federal financial aid. Please contact the Office of Financial Aid and Veterans Affairs for further information.

**4.10. Drug-Free Workplace Policy**

The Federal Drug-Free Workplace Act of 1988 prohibits the unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs in the workplace and provides for sanctions against faculty, staff, and the student employees, permanent or temporary, who violate this policy. Pursuant to federal and state law, the policy also requires grant or contract employees to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction. Any student employee who violates the drug-free workplace policy is subject to prosecution and punishment by civil authorities, as well as to disciplinary procedures by the College and may also be terminated from his or her position of employment by the supervising department.

**14. Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse Policy - Abridged**



(See full policy and also the related policy “Operating Procedures for Processing Initial Complaints Against Faculty and Administrators and Staff” in Appendices C and D.)

It is the Policy of the College of Charleston to promote and protect a learning and living environment where civil discourse, respect for the individual and appreciation for the diversity of human experiences are valued as compelling academic interests. Accordingly, it is a violation of this Policy for any member of the college community to discriminate or harass students or employees, or applicants for admission to

the College or applicants for any College employment position, based on gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans' status, genetic information, or disability, as proscribed by law and as further described below. In addition, discrimination against members or potential members of the United States uniformed services, as proscribed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), is also prohibited under this Policy. Retaliation against any person arising from the good faith reporting of a suspected violation of this Policy, or for participating in an investigation of discrimination under this Policy, is strictly prohibited.

Sexual harassment can occur in a variety of contexts. In relationships of unequal power, it contains an element of coercion, as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. In relationships among equals, sexual harassment may have a harmful effect upon a colleague's ability to study or work in the academic setting.

## 15. Consensual Relations Policy

1. "Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the student suspect...In their relationships with students, members of the faculty are expected to be aware of their professional responsibilities are to avoid apparent or actual conflict of interest, favoritism, or bias. When a sexual relationship exists, effective steps should be taken to ensure unbiased evaluation or supervision of the student." [AAUP Policy cited by AAUP Staff counsel in *Sexual Harassment in the Academy: Some Suggestions for Faculty Policies and Procedures*, October 2002.]

2. Similar concerns exist when sexual relations occur between students and staff members in supervisory, evaluative, or trust positions.

3. Accordingly, the College of Charleston adopts the following policy regarding consensual relationships between students and faculty or staff:

All sexual relationships between students and faculty/staff are strongly discouraged. Further, no faculty or staff member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or whose work is being supervised, evaluated, or otherwise impacted by the faculty or staff members.

## 16. Rights of Students under the Family Educational Rights and Privacy Act and Annual Notice



### 1. Introduction

The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, is a Federal law that protects the privacy of student education records. In accordance with regulations issued under FERPA, the College of Charleston of Charleston provides an annual notification to our enrolled students of their rights under FERPA.

## **2. Rights of Students**

The Family Educational Rights and Privacy Act (FERPA) affords eligible students certain rights with respect to their education records. (An “eligible student” under FERPA is a student who is 18 years of age or older or who attends a postsecondary institution at any age.) These rights include:

### **2.1. The right to inspect and review**

The right to inspect and review ([http://registrar.cofc.edu/pdf/Inspect\\_Record.pdf](http://registrar.cofc.edu/pdf/Inspect_Record.pdf)) the student’s education records within 45 days of the day the College of Charleston receives a request for access to those records. Students should submit to the registrar, dean, head of the academic department, or other appropriate school official, written requests ([http://registrar.cofc.edu/pdf/Inspect\\_Record.pdf](http://registrar.cofc.edu/pdf/Inspect_Record.pdf)) that identify the record(s) the student wishes to inspect. The College of Charleston official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the College of Charleston official to whom the request was submitted, that official will advise the student of the appropriate official to receive the request.

### **2.2. The right to request an amendment**

The right to request an amendment ([http://registrar.cofc.edu/pdf/Amend\\_Record.pdf](http://registrar.cofc.edu/pdf/Amend_Record.pdf)) to the student’s education records that the student believes is inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA.

- A student who wishes to ask the College of Charleston to amend a record should write to the College of Charleston official responsible for the record, clearly identify the part of the record the student wants changed and specify why it should be changed.
- If the College of Charleston decides not to amend the record as requested by the student, the College of Charleston will notify the student in writing of the decision and the student’s right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.
- If, as a result of the hearing, the College of Charleston decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the College of Charleston will so advise the student and the student may place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the College of Charleston.

### **2.3. The right to provide written consent**

The right to provide written consent

(<http://registrar.cofc.edu/pdf/FERPA%20Consent%20Form%20OLA%205.25.16.pdf>) before the College of Charleston discloses personally identifiable information (PII) from the student’s education records, except to the extent that FERPA authorizes disclosure without student consent.

FERPA requires that a student provide written consent for a disclosure of personally identifiable information from education records unless the circumstances meet one of the exceptions to the “prior written consent” rule that is specified in the law or its implementing regulations. Under those exceptions, as implemented by the College of Charleston, the College of Charleston may disclose information from a student’s education records **without the student’s written consent**, to the following parties or under the following conditions:

- School officials whom the College of Charleston has determined to have legitimate educational interests. A school official is a person employed by the College of Charleston in an administrative, supervisory, academic or research, teaching, or support staff position (including

law enforcement unit personnel and health staff); a contractor, consultant, volunteer or other party to whom the College of Charleston has outsourced institutional services or functions for which the College of Charleston would otherwise use its own employees to perform (for example, legal advice, debt collection, transcript distribution, enrollment verification, citizenship verification, fundraising and alumni communications, development, information technology services, such as web-based and e-mail services); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or a student assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review or have access to an education record in order to fulfill his or her professional responsibility.

- Officials of another institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled, so long as the disclosure is for purposes related to the student's enrollment or transfer.
- Authorized representatives of the Comptroller General of the United States, Attorney General of the United States, Secretary of the U.S. Department of Education, and state and local educational authorities.
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes to determine eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; or enforce the terms and conditions of the aid.
- State and local officials or authorities, pursuant to State statutes, if the reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released.
- Organizations conducting studies for, or on behalf of, the College of Charleston to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction.
- Accrediting organizations to carry out their accrediting functions.
- Parents (includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian) of a dependent student (as defined in section 152 of the Internal Revenue Code of 1986). (effective fall semester 2009)
- In compliance with a judicial order or lawfully issued subpoena.
- In connection with a health or safety emergency.
- Information that the College of Charleston has designated as "directory information" unless the student has requested such directory information be withheld.
- The final results of a disciplinary proceeding conducted by the College of Charleston to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense with respect to that alleged crime or offense regardless of whether the College of Charleston concluded a violation was committed.
- The final results of a disciplinary proceeding conducted by the College of Charleston to the general public upon concluding that the student committed a crime of violence or non-forcible sex offense and that the student has committed a violation of the College of Charleston's rules or policies.

- A parent of a student under the age of 21 at the time of disclosure regarding the College of Charleston’s determination that the student violated federal, state or local law or College of Charleston policy governing the use or possession of alcohol or a controlled substance.
- Information provided to the College of Charleston pursuant to federal law and guidelines concerning sex offenders and others required to register pursuant to federal law.
- De-identified records and information.
- Parent of a student who is not an “eligible student” under FERPA, or to the student.

**2.4. The right to file a complaint with the U.S. Department of Education** concerning alleged failures by the College of Charleston to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-5901.

### **3. Notice of Designating Directory Information**

FERPA requires the College of Charleston, with certain exceptions (see section 3 above), to obtain the student’s written consent prior to the disclosure of personally identifiable information from the student’s education records. However, the College of Charleston may disclose appropriately designated “directory information” without the student’s written consent, unless the student has advised the College of Charleston to the contrary in accordance with the College of Charleston procedures for “opting-out” of the release of directory information. FERPA defines “directory information” as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. The College of Charleston hereby designates the following student information as “directory information”:

- Student name
- Mailing Address
- College of Charleston-issued e-mail address
- Image/photograph of student (includes images from College of Charleston yearbooks, CofC publications and other official CofC marketing media only)
- Major field(s) of study
- Class standing/Grade level (e.g. sophomore, junior, etc.)
- Dates of attendance
- Degree(s) received
- Awards and honors received
- Enrollment status (e.g. undergraduate, graduate, full-time or part-time)

If a student does not want the College of Charleston to release part or all of his or her directory information, the student must submit an Opt-Out form (<http://registrar.cofc.edu/pdf/FERPA%20Opt%20Out%20OLA%205.25.16.pdf>) to the College of Charleston Registrar’s office or complete the online request in Banner Self-Service in MyCharleston on or before the tenth class day of the fall and spring semesters, or the fifth class day in the summer term in order for it to be applicable to that semester/term and for subsequent periods of time. Directory information of a student who has opted-out from the release of directory information, in accordance with this policy/procedure for opting out, will remain flagged until the student requests that the flag be removed by completing and submitting the Revocation of Consent and Authorization section of the Opt-Out form to the College of Charleston Registrar. If directory information is released prior to the Registrar receiving the opt-out form, the College of Charleston may not be able to stop the disclosure of directory information.



The College of Charleston disclaims any and all liability that may arise or be alleged as a result of honoring a student's instructions that directory information be withheld, or for the inadvertent disclosure of such information.

#### **4. College of Charleston Contact**

For additional information or for questions concerning the College of Charleston's FERPA policy and procedures, please contact the College of Charleston Office of the Registrar, 160 Calhoun Street, Lightsey Center, Room 281, Charleston, SC 29424, (843.953.5668), [registrar@cofc.edu](mailto:registrar@cofc.edu).

### **17. Students of Concern Committee & Involuntary Withdrawal Policy**



#### **1.0 PURPOSE**

**1.1** The Student of Concern Committee ("SOC" or "Committee") is a campus resource established to receive, collect, consider, and when it deems appropriate, act upon information on behavior of concern exhibited by a student or group of students. The College of Charleston ("College") has established a Student Code of Conduct to facilitate the maintenance of a safe college environment conducive to the pursuit of academic achievement by all its students. The SOC objective is to support this purpose through investigation, reasoned analysis, and the provision of supportive intervention services, when needed, to our students.

**1.2** The Committee, operated within the division of Student Affairs, is formed under a delegation of authority from the College President to the Executive Vice President for Student Affairs, who functions as the Appointing Authority for the SOC. The SOC is chaired by the Dean of Students.

#### **2.0 POLICY STATEMENT**

**2.1** The SOC works to maintain a safe College environment that is conducive to academic achievement while balancing its concern for individual students. In pursuit of this purpose, the Committee's mandate is to use reasonable discretion, based on a record of relevant materials, in order to make informed decisions that are in the best interest of the student involved and the entire College Community. This broad mandate allows the Committee to develop personalized plans of action, after considering a full range of suitable options, and selecting that one it believes is best tailored to the circumstances of a particular case. Action plans may fall across a wide continuum in relation to the progressive level of concern the Committee might have regarding a student's or students' behavior, safety, and the welfare of others. Plans developed may range from simply maintaining a confidential record of the reported behavior or, in severe circumstances, may progress to an involuntary withdrawal of a student from the College or a referral to a disciplinary panel. The majority of action plans developed will fall between these extremes. Throughout the evaluation process the Committee will attempt, in accordance with legal restrictions and College privacy policies, to keep all involved students appropriately informed of the actions of the Committee.



**2.2** The Committee acts in compliance with College of Charleston Privacy Policy and all relevant provisions of state and federal law including, but not limited to, the federal Family Educational Rights and Privacy Act of 1974 (FERPA). The SOC does not release or share protected student information to any member of the College community unless the recipient has a legitimate interest for the use of that protected information to perform a service or carryout a responsibility within that person’s scope of employment.

**3.0 APPLICABILITY**

The Students of Concern Committee is in place to support all departments and individuals on campus. This policy applies to all undergraduate and graduate students of the College.

**4.0 MEMBERSHIP AND DECISIONAL AUTHORITY**

**4.1** The Committee, under the leadership of the Dean of Students or designee as Chair, will work to reach a fully informed consensus among its members when making its decisions, recommendations, and formulating individual plans of action. SOC decisions represent the exercise of discretion and judgment based on the collective expertise, knowledge, and experience of the SOC members, the relevant facts of the situation under consideration, and the behavior of the student at issue. Each individual on the Committee, or their meeting designee, strives to contribute to the group’s collective decision-making process by bringing to the task their professional training, experience, and perspective from years of working with college students. The SOC is made up of the following individuals from various areas of the College:

Dean of Students & Associate Dean	Office of the Dean of Students
Case Manager	Office of the Dean of Students
Director	Counseling Center
Director	Student Health Services
Medical Director	Student Health Services
Director	Center for Academic Performance and Persistence
Director	Residence Life
Chief or Designee	Public Safety
Faculty Member*	Faculty

*\*Appointed by Speaker of the Faculty, approved by the EVP for Student Affairs*

**4.2** In addition to drawing on the knowledge of the group members, the Committee may utilize the opinions and reports from other College personnel or outside independent professionals, such as licensed mental and/or medical healthcare providers, in an effort to obtain a better understanding of an individual situation. Examples of members of the College community that the Committee may seek out for interviews or reports include roommates, close friends, past and current teachers, coaches, trainers, counselors, RAs, RHDs, and disability services personnel. Legal advice may be solicited from the College’s Senior Vice President for Legal Affairs.

**4.3** At times the SOC may request to review current or past medical or psychological records or care providers’ reports as part of its evaluation process. The Committee may ask for independent and/or on-campus medical or psychological assessment by licensed professionals in an effort to obtain the most complete information on which to base its decisions. The SOC may consider ongoing or interim reports by such professionals as an essential monitoring aspect of the individual action plans the Committee develops.

**4.4** The Committee will also determine on a case by case basis who within the College community or external to it, needs to be given information in order to better protect the health and safety of the individual student, the College Community, and/or others. When appropriate, the SOC will inform the individual involved of the Committee’s intent to notify those people as a condition of an individual action plan.

**4.5** A Committee member must abstain from making a decision on an individual case if that member has an actual or apparent conflict of interest, such as a prior professional relationship with the student. The full circumstances of any such conflict must be reported by the Committee member to the Chair of the Committee. In the event of a disagreement over the management of any apparent or actual conflict, a majority of the disinterested members of the Committee will finally decide the matter in a manner most appropriate to the particular situation.

## **5.0 MEETINGS OF THE STUDENTS OF CONCERN COMMITTEE**

**5.1** During fall and spring semesters when classes are in session, the Students of Concern Committee will meet weekly, or as otherwise determined by the SOC Committee Chair, to discuss new cases, existing cases, and other general topics related to SOC operations and best practices.

**5.2** During summer sessions and when students are not in session during the fall and spring semesters, the SOC Committee Chair will schedule meetings as needed to discuss case activity as needed and/or general topics related to SOC operations and best practices.

## **6.0 REFERRALS**

**6.1** All referrals to the Students of Concern Committee are received by the Dean of Students, Case Manager, or the designee(s) of either. The SOC accepts referrals by phone, by email or electronic/online referral form, or in person from any individual or group of individuals who has “concern” about a College of Charleston student, as further described in Section 7.1 of this Policy.

**6.2** Because access to the Committee is widely available, the Committee may receive information from time to time that is better processed and acted upon by another campus official(s) who has the specific authority to address and resolve the particular matter. In such instances the SOC may forward supplied information to what it deems to be the most appropriate group with the authority to address the situation. In that event, the SOC will not render a decision on the matter. For instance, the SOC might decide that an individual action plan is simply to allow the Dean of Students to act on the situation without further Committee involvement. In other cases the Committee’s sole action might be to refer the matter on to the disciplinary panel or the honor board.

**6.3** Campus resources available to students and/or their family and friends include: The Center for Disability Services; the Counseling Center; Office for Victim Services; Student Health Service; The Center for Student Learning (Tutoring and Skills Lab); Academic Advising and Planning Center; and the Center for Academic Performance and Persistence. These campus resources provide supportive services to assist students in achieving academic and personal success. These resources may be sought voluntarily by a student, or the SOC may compel a referred student to utilize these resources as part of a proposed action plan, as further described in Section 7.3 of this Policy.

## **7.0 PROCEDURES**

**7.1** A referral to the Students of Concern Committee is received by the Dean of Students, Case Manager, or the designee of either. To meet criteria for an SOC intervention, the information received about an individual student must reasonably suggest that:

- (a) The conduct of the student presents a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary services; **or**
- (b) The conduct may be a violation of the Student Code of Conduct and/or such conduct may hamper the student’s ability to achieve essential academic requirements or meet expected standards of conduct; **or**

- (c) The conduct in question may be evidence of a health condition

**7.2** In the event that information received includes a stated or implied threat to someone in the campus community, the Dean of Students, Case Manager, or a designee of either, before or after consultation with the SOC or a subgroup of the SOC, will pursue urgent mitigation of the known threat by notifying the Department of Public Safety.

**7.3** If the information reasonably suggests that the individual student meets the criteria above (7.1 (A) or (B)), the individual student will be afforded the opportunity to meet with the Dean of Students, Case Manager, or a designee of either, and express his or her point of view on the appropriateness and desirability of SOC intervention. The SOC shall conduct an individualized and objective assessment of the student's ability to participate safely in the College's programs. Based on the information gleaned from this assessment and from the referral source, the information from the meeting with the student, and, if applicable, information from other sources, the Dean of Students, Case Manager, or designee, acting on behalf of the Students of Concern Committee, will consult with the SOC or a subgroup of the SOC and propose a plan of action and/or remedial measures in writing for the student. The proposed plan will be shared with the entire SOC at the next regular meeting. SOC will grant approval of the plan or suggest modifications that will be promptly relayed to the student.

**7.4** In a situation where the individual student meets the criteria above in Section 7.1, but is not available or not willing to meet with the Dean of Students, Case Manager, or a designee, then a proposed plan of action and/or remedial measures will, after consultation with the SOC or a subgroup of the SOC, be assigned to the student, in writing. This course of action may occur in situations in which a student has been transported to a medical facility due to behavior that reasonably appeared to present a significant risk to the health or safety of others. The proposed plan will be shared with the entire SOC at the next regular meeting. SOC may either grant approval or disapproval of the plan or suggest modifications to the plan that will be promptly relayed to the student.

**7.5** If, after meeting with the Dean of Students, Case Manager, or designee, the student declines to accept the proposed remedial measure(s), the student may request to have a hearing with SOC members.

- (a) In that event, the Dean will promptly arrange for the student to appear before a subgroup of Committee members. The Dean will advise the student of the matters that will be discussed at and considered by the subgroup. This hearing is private and closed to the public
- (b) The student has the option to appear at this hearing with his or her healthcare provider, if the student so desires. The provider will be afforded the opportunity to provide relevant information in support of the student's position. In the event that the provider cannot be present, the Committee will accept a written statement from the provider.
- (c) The purpose of such a hearing is to assist the Committee in its evaluation of the individual's behavior and situation. This is NOT a disciplinary hearing. The subgroup will work to establish a thorough understanding of what has occurred and will formulate a recommendation that will take the form of an individualized plan of action based on the subgroup's interpretation of past behavior, as well as, the current situation and all relevant circumstances.
- (d) The designated subgroup will then report to the full Committee, will supply a record of the hearing for the full Committee to review, and will make a recommendation to the Committee. If the Committee believes the recommendation is supported by the record, the Committee will adopt the recommendation. Alternatively, the Committee may remand the matter to the subgroup for more investigation, modify the recommendation, or reject it altogether; however, the Committee must state a reasonable basis for taking such an action and that action must be based on the record.
- (e) The involved student must be timely informed of the Committee's determination and of the student's appeal rights (see **APPEALS**, Section 12.0 below).

**7.6** In a situation when the individual student accepts the proposed remedial measure(s) comprising the plan but then fails to follow through with the measure(s), the SOC may apply additional measures that may include, but are not limited to:

- (a) Extended or expanded remedial measures,
- (b) A temporary hold on the student's registration until measures are completed, to be placed by the Dean of Students or designee,
- (c) A notice to the student that he/she has failed to follow-through with the proposed measures and that this will be considered in any future action plan should the student continue to exhibit behavior(s) of concern,
- (d) Involuntary removal from student resident housing,<sup>4</sup>
- (e) an order issued by the Executive Vice President of Student Affairs, or other appropriate authority, limiting access to College property; and/or
- (f) Involuntary withdrawal<sup>5</sup> from the College.

**7.7** In cases where Public Safety is not already fully informed, the Dean of Students, Case Manager, or designee, before or after consultation with the SOC or a subgroup of the SOC, will inform campus Public Safety of incidents or on-going situations that may warrant law enforcement intervention and/or community notice, or that may prompt Public Safety to request a convening of the Emergency Management Team. Such situations may include but are not limited to:

- (a) Threat to the campus and greater community;
- (b) Threat to specific individual(s) in the campus community;
- (c) Report that a residential student is missing for more than 24-hours; and
- (d) Suspicion of firearms or other deadly weapons on campus.

**7.8** **Willful** failure of a student to respond or acknowledge the action plan proposed by the SOC shall not affect the validity of, or delay any decision made under this policy.<sup>6</sup>

**7.9** While the SOC will make a good faith attempt to monitor an action plan, it is the sole responsibility of the student to follow the plan and to comply with all of its terms and conditions including, but not limited to, seeking medical care, following medical advice, and honestly reporting the student's physical and mental condition to her/his healthcare provider(s). **The SOC is not a substitute for a student's personal healthcare provider;** nor should the SOC be considered a personal "caregiver." SOC intervention does not relieve a student of his/her personal responsibility under the code of conduct and other applicable policies.

## **8.0 STANDARDS**

**8.1** The SOC will propose a remedial action plan of action based on the collective judgment and belief of a majority of disinterested members after following the above procedures that it is more likely than not:

- (1) That the recommended plan, if followed, will have a positive effect on the student meeting his/her College responsibilities; and
- (2) The plan presents a reasonable option under the circumstances for achieving that purpose without imposing an undue hardship on the College or unacceptable risk of harm to others in the greater College Community.

**8.2** The Committee, with the assistance of other College resources, as needed, will conduct an assessment to determine if the student is a qualified individual with a disability and whether a reasonable accommodation will allow that student meet his/her essential academic, technical and College community responsibilities while maintaining a safe college environment for all students. This determination will involve an interactive process of give-and-take with the student.

## **9.0 ALTERNATIVE HOUSING WHILE ENROLLED**

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<sup>4</sup> See **Section 9.0 ALTERNATIVE HOUSING WHILE ENROLLED**

<sup>5</sup> See **Section 10.0 INVOLUNTARY WITHDRAWAL**

<sup>6</sup> Language adapted from University of Florida, Regulation 6C1-4.035 Involuntary Medical Withdrawal.

**9.1** In the circumstance that a resident student cannot safely remain in his/her current housing situation, the College will make a reasonable effort to find alternate campus housing that would be appropriate under the circumstances.

**9.2** In the circumstance that a resident student is not suspended or withdrawn, but cannot safely remain in College housing, the College may require the student to leave campus housing while enrolled. The College, in addition, may restrict the student from entering College housing to prevent a significant risk that the student may harm him/herself or others.

## **10.0 INVOLUNTARY WITHDRAWAL<sup>7</sup>**

**10.1** Involuntary withdrawal from enrollment, as a proposed plan of action by the SOC, is invoked only in extraordinary circumstances, when a student is unable or unwilling to request a voluntary leave of absence or withdrawal, and such a leave or withdrawal may be necessary because the student's conduct poses a significant risk to the health or safety of others or where the student's behavior unduly disrupts the College's learning and living environment. This may include, but is not limited to, such situations involving an unresolved, ongoing, inability to learn or function in a communal setting; and serious threats, gestures or indications of harm to others. Involuntary withdrawal is not a disciplinary action. It is a remedial action taken to assist and protect individuals.

**10.2** Notwithstanding any other provision of this Policy, the Dean of Students maintains the authority to impose an immediate interim suspension at any time, if deemed immediately necessary to protect the student or others. Interim suspension procedures are outlined in the *Student Handbook*.

**10.3** A student proposed for involuntary withdrawal shall be afforded:

- (a) The opportunity to meet with the Dean of Students, Case Manager, or designee of either to express his/her point of view on the involuntary withdrawal,
- (b) Written notice of the College's decision to act under this policy, stating the reasons for the action, and
- (c) The opportunity to appeal. See **APPEALS**, Section 12.0.

**10.4** Willful failure of a student to respond or acknowledge a proposed involuntary withdrawal shall not affect the validity of, or delay any decision regarding that withdrawal made under this policy.

**10.5** A student who is involuntarily withdrawn shall have a registration hold placed on his or her record and will be subject to conditions for re-enrollment.<sup>8</sup> Re-enrollment may be contingent on satisfying conditions outlined by the Office of the Dean of Students and, if applicable, other offices on campus for the purpose of seeing that a student has demonstrated his/her ability to function safely and autonomously prior to returning to campus.

**10.6** In the event that a student is subject to an involuntary withdrawal, and absent exceptional circumstances that, in the sole opinion of the Dean of Students, would establish a clear inequity, the student may pursue re-enrollment to the College only after the lapse of at least two full semesters, not including the semester during which the student was subject to the withdrawal (for this purpose, the 10-week summer session is considered one semester).

## **11.0 RE-ENROLLMENT AFTER A VOLUNTARY OR INVOLUNTARY SEPARATION<sup>9</sup>**

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<sup>7</sup> Language from 10.2, 10.3, and 10.4 adapted from University of Florida, Regulation 6C1-4.036 Involuntary Medical Withdrawal.

<sup>8</sup> See **Section 11.0 RE-ENROLLMENT AFTER A VOLUNTARY OR INVOLUNTARY SEPARATION**.

<sup>9</sup> As stated in the College of Charleston's Undergraduate Catalog, Withdrawal from the College: "If a student discontinues enrollment from the College of Charleston, whether voluntarily or not, re-entry for

**11.1** In the event of a voluntary separation (e.g., withdrawal or leave of absence), the College may require a student who withdrew for one or more reasons stated in Section 10.1 to demonstrate that he/she no longer continues to be subject to such conditions as a requirement for re-enrollment at the College. Conditions for the student's return will be outlined to the student by the Office of the Dean of Students, after discussion with the student, if practicable under the circumstances, at the time of the withdrawal or leave. The SOC or a subgroup of the SOC will be consulted for the purpose of evaluating the student's adherence to re-enrollment requirements. The re-enrollment decision will be shared with the entire SOC at its next regular meeting. SOC will grant approval or disapproval of the decision or suggest additional stipulations that will promptly be relayed to the student.

**11.2** For students who have voluntarily separated from the College for a behavioral concern, as described in Section 10.1, the Committee typically expects to review a period of at least three months of successful, autonomous functioning and amelioration of symptoms prior to the student's return. The Committee will consider a separation of shorter duration if the student and/or the student's provider is (are) able to demonstrate significant improvement in functioning since the time of the withdrawal.

**11.3** In a situation when the individual student is not recommended for re-enrollment by the SOC or a subgroup of the SOC (on the basis of inadequate treatment, lack of recovery progress, or demonstration of autonomous functioning), but where there is no evidence that the student poses a threat to others or is incapable of adhering to expected standards of conduct at the College, the student may still re-enroll at the College, with additional remedial measures applied by the SOC. These may include, but are not limited to:

- (a) Extended or expanded remedial measures,
- (b) A temporary hold on the student's registration until measures are completed, to be placed by the Dean of Students or designee,
- (c) A notice to the student that he/she has failed to follow-through with the proposed measures and that this will be considered in future action plan crafting should the student continue to exhibit behavior of concern, and/or
- (d) Involuntary removal from housing.

**11.5** A student applying to the College after voluntary or involuntary separation for a reason stated in Section 10.1, must satisfy all academic requirements, in addition to, the requirements put in place by the Dean of Students and/or SOC, if any, at the time of separation from the College. .

**11.6** Once the student has satisfied all re-enrollment conditions, the student will be notified, in writing by the Dean of Students, Case Manager, or a designee of either. Additional requirements of suggested recommendations may accompany the re-entry approval notification. The Student may contest these additional requirements, as per the processes outlined in **APPEALS**, Section 12.

**11.7** In the event that a student is denied re-entry, the processes outlined in **APPEALS**, Section 12.0, are available to the student.

## **12.0 APPEALS**

**12.1** A student has the right to file a written appeal challenging any SOC decision directly affecting that student. Such an appeal must be directed to the Executive Vice President for the Division of Student Affairs within 5 working days of SOC decision being challenged. The Executive Vice President for Student Affairs is the final level of appeal within the College for any matter brought before the SOC. The appeal must state the action complained of, the basis for the appeal, and the remedy sought.

**12.2** The only grounds for a reversal of the Committee's decision are

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future semesters may be contingent on satisfying conditions outlines by the Division of Student Affairs and the Center for Academic Performance and Persistence.”

- (a) A significant deviation from procedures that affected the outcome of SOC's deliberations;
- (b) New evidence that was not available at the time of the Committee's decision; or
- (c) Discrimination against the student in violation of the College Policy entitled, *Prohibition Of Discrimination and Harassment, Including Sexual Harassment and Abuse*.

### **13.0 RECORDS**

**13.1** The SOC shall maintain such records as may be necessary and appropriate to carry out its responsibilities under this Policy. SOC records will be maintained in such place or places as may be directed by the Dean of Students.

**13.2** At minimum, the Dean of Students shall:

- (a) Ensure that all of its records are stored in a safe place and under lock while not in use;
- (b) Take reasonable precautions to ensure that its records are accessible only as provided for in this Policy; and
- (c) Provide for the destruction of its records in accordance with a records retention policy that is approved by the College Institutional Records Officer.

### **14.0 ASSESSMENT OF SOC OPERATIONS**

**14.1** The Students of Concern Committee will develop relevant assessment criteria to periodically review and evaluate the effectiveness of the College's plans and procedures to assist students of concern. In gathering information relevant for assessment, the Students of Concern Committee shall, among other things:

- (a) Add questions to such surveys distributed to students and employees as may be appropriate in an attempt to detect awareness levels of this Policy held by students and employees; and
- (b) Track annually of the number and type of cases referred to and processed by the Students of Concern Committee.

### **15.0 SOC AND THREAT ASSESSMENT**

**15.1** During SOC review of cases, attention will be made to identifying and characterizing behavior that reasonably appears to indicate an escalation of undesirable behavior patterns. In the event that reported behavior or actions reveals an escalation of disruption or threat to others or property, the Dean of Students, Case Manager, SOC subgroup, or full SOC will adjust the student's plan of action. Special attention will be made to apparent escalation of dangerous, threatening or aggressive behavior.

**15.2** In order to facilitate the threat assessment process, the Dean of Students, Case Manager, SOC subgroup, or full SOC will employ threat assessment tools commonly accepted in the arena of higher education. Such tools provide a framework by which the SOC can better judge an individual's prior and current behavior and develop an appropriate response and action plan.

**15.3** In cases of imminent threat, Public Safety will be notified immediately. See 7.2 and 7.7.

### **16.0 RELATIONSHIP BETWEEN SOC EMERGENCY MANAGEMENT TEAM**

**16.1** The College of Charleston Emergency Management Team (EMT) includes members of the Students of Concern Committee but is a separate entity. The EMT is convened at the request of the Chief of Public Safety.

**16.2** The SOC, a subgroup of the SOC, the Dean of Students, or the Case Manager, or designee, will be available to share information to the EMT in the event that a campus emergency involves a current or former student of concern.

## **17.0 RESPONSIBILITIES UNDER THE CLERY ACT**

Nothing contained in this Policy shall be construed to modify, in any way, the College's responsibility under law (20 U.S.C. § 1092(f)) to make timely reports to the Campus Community on crimes considered to be a threat to students and employees that have been reported to campus security or local law police agencies.

## **18.0 AMENDMENTS**

This Policy may be amended in accordance with the College's *Campus Wide Policy Making Procedures*.

## **19.0 RESPONSIBILITY**

The Dean of Students shall be responsible for the maintenance of this Policy.

## **20.0 EFFECTIVE DATE**

This Policy shall become effective immediately and shall be fully implemented.

## **18. Missing Person Notification Policy and Procedure**



### **1. PURPOSE**

This Policy and Procedure describes the nature and extent of notifications that will be provided in the case of a Residential Student who is determined to be missing for a period of 24 hours or longer by the College Department of Public Safety.

### **1. APPLICABILITY**

This Policy and Procedure applies only to students who are lawfully occupying College provided housing. Such housing may be in a resident hall located on campus or in any other facility that is rented or leased by the College for the purpose of providing residential housing to its students. For purposes of this Policy and Procedure, a "Residential Student" shall be deemed to be a student who is lawfully residing in such a facility.

### **3. POLICY**

#### **3.1 Notice**

At the beginning of each Academic year the Department of Residence Life and Housing shall inform each Residential Student that such student has the option to identify an individual to be



contacted by the College not later than 24 hours after the time that the student is determined missing. In addition to the foregoing, the Department of Residence Life and Housing shall --

- A. Provide each Residential Student a means to register confidential contact information of a person (the "Confidential Contact") in the event that the such student is determined to be missing for a period of more than 24 hours;
- B. Advise each Residential Student who is under 18 years of age, and not an emancipated individual, that the College is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing; and
- C. Inform each Residential Student that the College will notify the appropriate law enforcement agencies not later than 24 hours after the time that the student is determined missing by the College Department of Public Safety.

### **3.2 Emergency Contacts**

If the College Department of Public Safety makes a determination that a Residential Student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the College will initiate the emergency contact procedures in accordance with the student's designation of a Confidential Contact and this Policy and Procedure.

## **3. NOTIFICATION PROCEDURES**

### **4.1 Mandatory Notification of Public Safety**

The Residence Life and Housing Department shall inform the Department of Public Safety immediately upon any reasonable suspicion that a Residential Student is missing. All other members of the College Community shall report to the College Department of Public Safety any student who is missing under circumstances that reasonably appear to be unusual, serious, or troubling.

### **4.2 Actions of Public Safety**

If a Residential Student is deemed to be missing for more than 24 hours by the College Department of Public Safety, that Department shall --

- A. Notify the Executive Vice President for Student Affairs that such student has been missing for more than 24 hours;
- B. Notify the Confidential Contact as rapidly as possible under the circumstances; and
- C. If each Residential Student is under 18 years of age, and not an emancipated individual, immediately contact the custodial parent or legal guardian of such student.

### **4.3 Referral to Outside Authorities.**

In addition to making the notifications under Section 4.2, the Department of Public Safety may also contact such other law enforcement authorities as may be appropriate under the circumstances, provided that, it must contact local, state, and/of federal authorities and the National Crime Information Center of the Department of the Justice in the event that the Residential Student is under the age of 21. Moreover, in any case when (a) there is an indication of a forcible abduction or other crime against the person; or (b) the missing

Residential Student has not designed a Confidential Contact, the Department of Public Safety shall make an immediate referral to one or more appropriate law enforcement authorities.

#### 4.4 On Campus Investigations

The Department of Public Safety shall conduct investigations of missing Residential Students on campus and may use any lawful method to do so.

### 19. Rights of Students with Disabilities under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990



The College of Charleston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990 and its 2008 Amendments. These acts identify that “... no otherwise qualified handicapped individual ... shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance (29 USC Sect. 706).” Regulations implementing Section 504 and ADA establish standards for employment practice, accessibility of facilities, and education programs with which institutions receiving federal funds must comply (34 CFR Part 104).

In accordance with these regulations, a qualified person with a disability who meets the academic and technical standards required to enroll in and participate in the College of Charleston program shall be provided an equal opportunity to obtain a degree in the most integrated setting appropriate to that person’s needs. The College of Charleston makes reasonable accommodations to meet the needs of students with disabling conditions.

The Director of the Center for Disability Services coordinates the provision of accommodations for students with disabilities in compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and its 2008 Amendments, and their implementing regulations. Questions concerning the College’s Policy should be directed to the Director of the Center for Disability Services, College of Charleston, 66 George Street, Charleston, South Carolina, 29424; (843) 953-1431, Fax (843) 953-7731, or email at [SNAP@cofc.edu](mailto:SNAP@cofc.edu). The office is located at 160 Calhoun Street (The Lightsey Center), Suite 104.

Reasonable and specific accommodations are developed with each student based on current documentation from an appropriate qualified professional. All accommodations are individualized, flexible and confidential based on the nature of the disability and the academic environment. Housing accommodations for a disability or medical condition are also coordinated through the Center for Disability Services.

Students who believe that a violation of their rights has occurred may discuss their complaint informally with an administrator in the Center for Disability Services. If the issue is not resolved informally, or the student does not wish to pursue the issue on an informal basis, students served by the Center for

Disability Services may file a formal grievance. (See “Student Grievances”  
<http://policy.cofc.edu/documents/12.6.1.pdf>)

Students who believe that the adjudication of their complaints was not fair may file a complaint directly with the Office of Civil Rights at the following address: Office for Civil Rights, DC Office, US Department of Education, Customer Service Team, 400 Maryland Ave., SW, Washington, D.C. 20202-1100, 800.421.3481, Fax: 202.245.6840, OCR@ed.gov or an

OCR Electronic Complaint Form may be submitted.

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

## 20. English Fluency Policy

Under the provisions of the 1991 English Fluency in Higher Education Act, the South Carolina legislature has mandated that each public institution of higher learning establish a mechanism to “ensure that the instructional faculty whose second language is English possesses adequate proficiency in both the written and spoken English language.” Additionally, the act requires that the institutions “provide students with a grievance procedure regarding an instructor who is not able to write or speak the English language.” A student/faculty ad hoc committee was formed and based upon its recommendation, the following policy is adopted:

One of the primary goals of the College of Charleston is to provide an environment that encourages students to develop an awareness of and a heightened sensitivity towards the individual’s relationship with society within the context of a global perspective. One means to achieve this goal is to foster cultural and ethnic diversity within the academic community. College response has been positive in this regard as evidenced by a steady increase in the population of both international students and faculty in diverse disciplines.

The College also takes great pride in maintaining a faculty who are well prepared in their respective academic areas, and most importantly, demonstrate the ability to communicate this knowledge effectively to their students. In some instances problems can arise for instructors whose primary language is not American English. Effective interaction with students could be severely hampered by insufficient control of English grammar and pronunciation. In most situations, when an instructor speaks with an accent and experiences some difficulty in grammatical usage, students will quickly adjust to the uniqueness of these speech patterns and communication is not affected. Occasionally, however, the most sincere efforts of a well-prepared and scholarly individual will fail because of his or her difficulties with some aspects of the English language.

In 1986, the American Council on the Teaching of Foreign Languages (ACTFL) developed proficiency guidelines addressing performance in speaking and writing abilities in a second language. These guidelines identify stages of proficiency which are intended to allow assessment of what an individual can and cannot do with regard to a particular language skill. In order to ensure that effective communication is not hampered by insufficient control of the pronunciation and grammar of American English, it is recommended that a prospective candidate perform at an advanced level of speaking and writing proficiency.

The following description is provided to assist the faculty in assessing the competency level of English language usage of a candidate.

**For speaking, an advanced level is characterized by the speaker’s ability to:**

- Converse in a clearly participatory fashion.

- Handle with confidence but perhaps not with facility complicated tasks and social situations, such as elaborating, complaining, and apologizing.
- Narrate and describe in the present and past tense with some details, linking sentences together smoothly in paragraph-length discourse.
- Communicate facts and talk casually about topics of current public and personal interest, using general vocabulary. Shortcomings often can be smoothed over by communicative strategies, such as pause fillers, stalling devices, and different rates of speech. Some groping for words may be evident, but paraphrasing and rephrasing because of vocabulary or syntactic limitation is usually quite successful.
- Pronunciation, though perhaps marked, should not impede comprehension of speech.
- An advanced-level speaker can be understood without difficulty by native speakers.

**For writing, an advanced level is characterized by the writer's ability to:**

- Write cohesive summaries and resués, as well as narratives and descriptions of a factual nature, although he or she may still make errors in punctuation, spelling, or the formation of nonalphabetic symbols.
- Demonstrate good control of word formation and the most frequently used grammatical structures, e.g. common word order patterns, conjunctions, and subordinate clauses, but may make frequent errors in producing complex sentences.
- Write with a sense of organization and style approaching English written discourse, but may still resemble literal translations from the native language. Writing is understandable to natives not used to the writing of non-natives.

NOTE: Those students who believe that a faculty member is unable to write or speak English pursuant to the guidelines set forth above may use the section on student grievance/complaint procedures found in the College of Charleston *Student Handbook* to resolve this matter.

## 21. Student Grievance/Complaint Policy and Procedures

### Policy Statement

Disputes may occasionally arise between members of the College of Charleston community over both academic and non-academic matters. While many issues can be resolved at the personal level between the two parties, a formal procedure is available for the resolution of disputes that cannot. The procedure which has been established presents a framework within which disputes may be settled. The formal procedure is not meant to change the character of a dispute but to ensure that all parties are treated fairly and that every attempt is made to arrive at a just resolution of the dispute.

#### 1.0 Informal Resolution of Dispute

Since many disputes can be resolved in an informal manner, students having complaints about academic treatment or non-academic matters at the College are strongly urged to attempt to reconcile any differences informally with the faculty or staff member involved.

(a) Students should meet with the faculty or staff member to discuss their concerns openly, without fear of reprisal and as soon as possible during the academic semester, since ultimately delay may result in no viable resolution to the dispute.

(b) If the student is unable to meet with the faculty or staff member, or if his/her attempt to discuss the issue with the faculty or staff member is not satisfactory, the student should meet with the department chair or program director.

(c) Students should continue attending the class in question throughout this process unless they have been instructed not to by the department chair or program director.

If the student elects not to pursue the matter informally directly with the other party, or if s/he does pursue an informal resolution and the parties cannot resolve their differences, the student may initiate the formal process. That process basically will be the same for academic and non-academic disputes and for disputes involving faculty, administrators, or staff.

## **2.0. Formal Procedures: (See also <http://complaints.cofc.edu/>)**

### **2.1 Student-Faculty Grievances**

**(a) Student Actions:** If the student elects to pursue the formal procedure for academic and non-academic grievances against faculty members, s/he must submit in writing to the faculty member's department chair or program director a written grievance which includes the following:

- The act(s) complained of.
- Facts and evidence in support of the complaint.
- An account of attempts to resolve the complaint informally, if any, and the reason(s) those attempts have failed.
- Suggested resolutions to the problem which are acceptable to the student.

#### **(b) Department Chair/Program Director Actions**

The department chair or program director (in consultation with the department chair where appropriate and where consistent with the reporting lines) will have a maximum of 30 days to review the materials, investigate the complaint, and attempt to bring the parties to an agreed-upon resolution. The department chair or program director will notify the parties of his/her decision in writing.

#### **(c) Dean/Associate Dean Actions**

Should an agreed-upon resolution not be reached at this level, either party may appeal to the dean/associate dean of the school no later than five (5) working days from receipt of the written response from the department chair or program director.

- The dean (or associate dean) of the school will have a maximum of 30 days to investigate the complaint and attempt to bring the parties to an agreed-upon resolution.
- His/her investigation may include interviewing and taking statements from the parties and others, securing documents and evidence from any available sources, and other actions which s/he deems necessary in the circumstances.
- Failing an agreed-upon resolution, s/he shall make a decision resolving the dispute and promptly notify the parties and the faculty member's department chair or program director of his/her decision in writing.

### **2.2 Formal Procedures: Graduate Students Only**

Either party may appeal the decision of the graduate program director by presenting a written notice of appeal to the dean of the graduate school no later than five (5) working days from receipt of the written response from the graduate program director. The dean of graduate school will further investigate the complaint and attempt to bring the parties to an agreed-upon resolution. His/her investigation may include interviewing and taking statements from all parties and others, reviewing documents and evidence previously compiled, securing additional documents and evidence from any available sources, and other

actions which s/he deems necessary in the circumstances. The graduate dean may affirm, reverse, affirm in part, and reverse in part the decision of the graduate program director. The graduate dean will promptly notify the parties, the faculty member's program director and the dean of the school of his/her decision in writing.

### **2.3 Formal Procedures: All Students, Continued**

Either party may appeal the decision of the dean (or associate dean) of the school (in cases involving undergraduates) or the dean of the graduate school (in cases involving graduate students) by presenting a written notice of appeal to the executive vice president for academic affairs/Provost no later than five (5) working days from receipt of the decision by the dean (or associate dean). A copy of the original written grievance and the decisions of the department chair and dean should be attached to the notice of appeal. If the executive vice president for academic affairs determines that the notice of appeal has been filed in a proper and timely manner, s/he will promptly appoint an ad hoc College grievance panel as described below (see "College grievance panel composition") to consider the case. The Provost will notify the parties of the composition of the panel and will instruct the dean (or associate dean) of the school or dean of graduate studies to forward all materials accumulated thus far to the panel chair, who will be designated by the Provost.

The appeal of the decision of the dean (or associate dean) of the school or dean of the graduate school may be on either procedural or substantive grounds and shall constitute a de novo determination of the issues.

**(a) Student Actions:** Within ten (10) working days after submission of the notice of appeal to the executive vice president for academic affairs, the student may submit to the executive vice president any additional evidence, including written statements and other items deemed pertinent to the issues.

**(b) Faculty Actions:** Within ten (10) working days of notification of an appeal, the faculty involved may submit to the executive vice president for academic affairs any additional evidence, including written statements and other items deemed pertinent to the issues.

**(c) Material Presented:** Those materials reviewed or considered by the panel in reaching a decision shall be made available to the parties for their inspection except where confidentiality is required by law.

**(d) Panel Actions:** The panel shall review all materials made available to it. It may also conduct its own investigation and secure further evidence it deems necessary in order to make a decision.

- It may hear live testimony if it wishes or may ask the parties to orally present their sides of the matter; both parties shall be given an opportunity to attend panel sessions called for these two purposes.
- Whenever the parties appear before the panel, they may be accompanied by an advisor or an attorney; such person may only advise and cannot address the panel.
- Those materials reviewed or considered by the panel in reaching a decision shall be made available to the parties for their inspection.

**(e) Panel Decision:** The panel may affirm, reverse, affirm in part, or reverse in part the decision of the dean (or associate dean) of the school or dean of the graduate school or may remand the case to the dean of the graduate school, the dean of the school, or to the faculty member's department chair or program director for a new and final attempt at informal reconciliation which, if the informal reconciliation fails, may not be pursued further. The panel's decision will be sent in writing to the parties, the faculty member's department chair or program director, the

dean of the school or the dean of the graduate school, and the executive vice president for academic affairs.

**(f) Request Review of the Decision:** If not satisfied with the panel's decision, either party may, within three (3) working days of receipt of the decision, request that the executive vice president for academic affairs review the decision. If the Provost decides that extraordinary circumstances exist justifying his/her review of the case, s/he will review all accumulated materials and may take any of the actions which were available to the panel. His/her decision will be final.

Any informal reconciliation which is reached at any level of these procedures will result in the purging of all formal records; all that will remain is a signed document setting forth the agreement.

#### **2.4 Student-Staff or Student-Administrator Grievances**

The same procedure will be followed except that the immediate supervisor of the staff person or administrator involved in the dispute will substitute for the department chair or program director, and the appropriate college vice president will substitute for the dean (or associate dean) of the school or dean of the graduate school. If conflicts of interest arise or the person designated cannot proceed for any reason, it shall be the responsibility of the executive vice president for academic affairs to appoint persons to fulfill the responsibility of the immediate supervisor and the vice president for purposes of these procedures.

### **3.0 College Grievance Panel Composition**

#### **3.1 Grievances filed by undergraduate students**

For grievances filed by undergraduate students, the panel will be composed of:

Two student members of the Honor Board, drawn by lot; and if the dispute is

- (a) Academic – three faculty members of the academic standards committee, drawn by lot.
- (b) Non-academic, involving a faculty member or administrator -- three faculty members of the student affairs and athletics committee, drawn by lot.
- (c) Involves a staff person – three supervising personnel selected by the executive vice president for academic affairs in consultation with the vice president for human resources.

#### **3.2 Grievances filed by graduate students**

For all grievances filed by graduate students, the panel will be composed of:

- (a) Two student members chosen by lot from the graduate student conduct committee. Members of this committee will consist of one student from each graduate program, to be designated by the program director (or the dean of the school of education in the case of graduate education programs).
- (b) Two faculty members selected by lot from the roster of graduate faculty members of the College.
- (c) One member of the supervising staff of the College, selected by lot from the roster of the academic staff by the executive vice president for academic affairs.

As panel members are selected, any designee who is found to be in a conflict of interest in the case will be excused and an alternate will be selected.

These panels will be ad hoc, and a separate panel will be selected for each dispute or set of related disputes.



## 22. Hazing Policy



### Policy Statement

The College of Charleston is dedicated to providing experiences, processes and resources which support the advancement of principled decision making, responsible citizenship and adherence to the Student Code of Conduct. In addition, the Division of Student Affairs is committed to promoting an environment which supports the health and safety, dignity and rights, and respect of all community members. As such, the College of Charleston does not tolerate hazing activities by any members of the community. This policy applies to all members of the College community.

### 1.0 Definitions

#### A. Hazing:

- harassment, ridicule, intimidation,
  - physical exhaustion, abuse, or mental distress,
  - the destruction or removal of public or private property,
  - and/or unreasonably interferes with scholastic or employment activities,
1. Hazing may occur regardless of the participant's willingness to engage in the activity.
  2. This policy applies to conduct that occurs both on and off campus, if the activity is sponsored, conducted, authorized, or recognized by the College, a registered student organization, or a group as defined below in Section C.
  3. Actions and situations that may constitute hazing include, but are not limited to, the following:
    - Required consumption of food, alcohol, or drugs;
    - Physical Abuse (i.e. forced physical exercises/runs/drills/calisthenics, paddling, pushing and tackling) and/or Psychological shocks;
    - Sleep or food deprivation or creation of any unnecessary fatigue;
    - Unreasonable exposure to the weather;
    - Personal servitude;
    - Coercion or extortion;
    - Verbal Abuse;
    - Line-ups and berating;
    - Morally degrading or humiliating games and activities;
    - Quests, treasure hunts, scavenger hunts, road trips or any other such activities where participation of only certain members is required;
    - Kidnapping or abandonment;
    - Engaging in public stunts and buffoonery
    - Wearing of public apparel which is conspicuous and/or not normally in good taste
    - Expectation of participation in activities that are illegal, lewd, or in violation of College policy;
    - Undue interference with academic pursuits;
    - Any activity not consistent with the policies of the organization's governing bodies



B. "Members of the College community" means its faculty, staff, students, volunteers, organizations, groups, vendors, patients, customers, alumni, and visitors.

C. "Organization" and "Group" are defined as follows:

1. "Organization" means a number of persons who are associated with each other and has registered with the College as a student organization.
2. "Group" means a number of persons who are associated with the College and each other, but who have not registered, or are not required to register, as a student organization (e.g. athletic teams, musical or theatrical ensembles, academic or administrative units, clubs).

D. "College Official" means any person (faculty or staff) who is employed by the College, and who performs assigned administrative or professional responsibilities. For the purposes of this policy, the "appropriate" official is defined as follows:

1. Students – Dean of Students or designee;

E. For other Members of the College Community (faculty, staff, volunteers, organizations, groups, vendors, patients, customers, alumni, and visitors) the appropriate official is any of the above College Officials or the College of Charleston Department of Public Safety.

## **2.0 Policy**

A. Hazing in any form is prohibited.

B. It is not a defense to a charge of hazing that:

1. The express or implied consent of the individual was obtained;
2. The conduct or activity was not part of an official organizational or group event or was not otherwise sanctioned or approved by the organization or group; or
3. The conduct or activity was not a condition of membership or affiliation with the organization or group.

C. Any student, faculty, staff, or volunteer Member of the College Community, with knowledge or suspicion of hazing is expected to report the activity to appropriate College Officials or the Department of Public Safety.

1. Other Members of the College Community with knowledge or suspicion of hazing are strongly encouraged to report the activity to the appropriate College Officials or the Department of Public Safety.

D. Retaliating in any manner against any individual who reports hazing or who participate in an investigation of a hazing report is prohibited.

E. Making an intentionally false accusation of hazing is prohibited.

F. All members of the College Community shall cooperate in an investigation of hazing.

G. Responsibility for any violations of this regulation may be attributed to the perpetrators, the organization or group, and/or its members or its officers.

H. Any organization or group may be found responsible for any violations of this regulation upon satisfactory proof ("preponderance of the evidence") that the organization or group did not discourage or did not take reasonable steps to prevent hazing by its members or affiliates.

I. In addition to this policy, NCAA student athletes shall follow the policies and guidelines set forth by the NCAA, Colonial Athletic Association, and College of Charleston Athletics Compliance office.

### **3.0 Procedures Related to the Policy**

#### **3.1 Reporting**

A. Complaints or reports of activities believed to be hazing should be reported immediately to the appropriate College official or to the Department of Public Safety at 843.953.5611 (Emergency line) or 843.953.5609 (non-Emergency Line). Online reporting can also be found at [https://cm.maxient.com/reportingform.php?CollegeofCharleston&layout\\_id=100](https://cm.maxient.com/reportingform.php?CollegeofCharleston&layout_id=100)

B. Any questions concerning the interpretation of this policy or application should be referred to the appropriate College official (see section 1.0. D).

#### **3.2 Rights of those who report**

A. Individuals who have experienced hazing and who truthfully report shall not be individually charged with a violation of this regulation.

B. Individuals who have knowledge of hazing activities, but who did not participate, and truthfully report the organization, team, or group, shall not be individually charged in relation to that particular incident.

C. Any organization, team, or group that seeks assistance in hazing education/prevention and positive new member activities in efforts to prevent hazing from occurring within, even if past behaviors have included hazing, shall not be charged with a past violation of this regulation.

D. Any organization or group that self-reports a hazing behavior to an appropriate College Official or the Department of Public Safety shall be given the opportunity to change those behaviors without immediate threat of being charged with a violation of this regulation. An organization or group that self-reports shall identify those individuals responsible for the hazing behaviors. If evidence is presented in subsequent semesters that hazing behaviors have continued within the organization, that organization may be held responsible for past behaviors.

#### **3.3 Additional requirements for Registered Student Organizations**

A. All elected or appointed student organization presidents or designee shall educate their respective organization members on an annual basis regarding the applicable College policies concerning hazing, including definitions, scope, reporting procedures, process, and potential outcomes.

#### **3.4 Investigation, Adjudication, and Corrective Action**

A. All members of the College Community shall cooperate in an investigation of hazing.

B. Investigations of hazing allegations shall be conducted by appropriate College officials or designee(s) (see section 1.0.D).

C. Adjudication of cases involving named individuals who have participated in hazing activities shall fall under the purview of the Office of the Dean of Students (if violation is egregious enough, or if suspension is possible, adjudication may be sent straight to an Honor Board hearing); Adjudication of organizational hazing activities shall fall under the purview of the respective judicial process, or if recommended, the Office of the Dean of Students.

D. Corrective Action/Accountability Measures

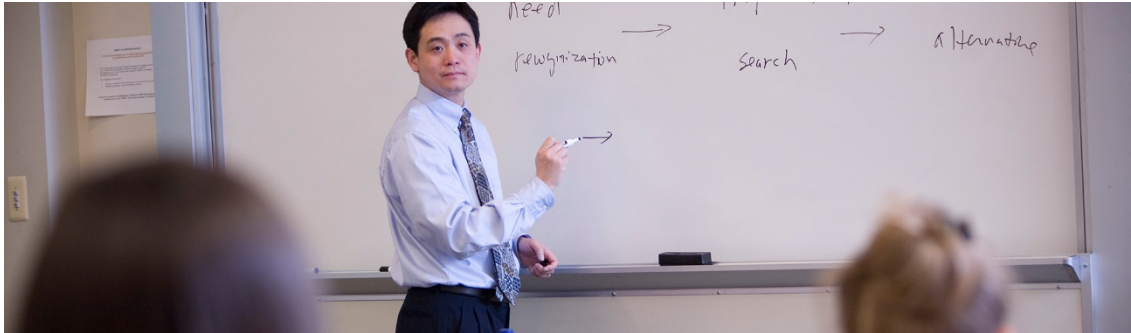
1. Violation of this regulation (by individuals or organizations) may result in accountability measures under the Student Code of Conduct. Visitors refusing to comply may be reported to the Department of Public Safety.

2. Possible sanctions for individual students resulting from a College disciplinary process range from a warning to disciplinary expulsion. Possible sanctions for organizations or groups include suspension or restriction from College property/facilities, or, revocation of Registered Student Organization status, if applicable. Possible sanctions for faculty and staff range from an oral warning to termination of employment.
3. Violations of this policy are subject to referral to appropriate law enforcement or College services, as well as to regional and national affiliated offices, for action or prosecution.

### 3.5 Partnerships

A. Individuals or organizations who are interested in proactively addressing and preventing hazing activities may request trainings, presentations, or program evaluations from the Office of the Dean of Students, Office of Fraternity and Sorority Life, Campus Recreation Services, Office of Student Life, or the Athletics Compliance Office.

## 23. Classroom Code of Conduct – Advisory Only



“Published by the President’s Advisory Committee in cooperation with the Office of the President.”

**1.** While there are many informal situations in which people have neither the desire nor the right to prescribe how others ought to behave, a college classroom requires a higher level of courtesy than many people exercise in ordinary public space. Everyone in a classroom is there for the purpose of learning, and no one should be able to deprive another person of the chance to learn. Expressions of rudeness and even of carelessness degrade the high purpose of learning that should be paramount in a college classroom. Your professor expects that you as a student:

- 1.1 Will be attentive and courteous during class.
- 1.2 Will complete the assigned work according to the course schedule.
- 1.3 Will do all your own work and will not present anyone else’s work as your own.

### 2. Some More Specific Principles of Civil Conduct in a College Classroom:

- 2.1 Do not cut classes, come in late, or leave early. If you ever are late for class, enter in complete silence and do not walk between the class and the professor. Never leave during class unless you absolutely must. Leaving for a short break and then returning is not acceptable. The professor is not a TV set, but is a person addressing the class, and it is rude to leave when someone is addressing you.
- 2.2 Likewise, it is rude and unacceptable to talk with classmates while the professor (or another student who has the floor) is talking.
- 2.3 Turn off cell phones and all other prohibited electronic devices.

- 2.4 Eating or drinking are not acceptable during class.
- 2.5 Wearing a hat that conceals your face is rude because the person who is addressing you cannot see you.
- 2.6 Visible and noisy signs of restlessness are rude as well as disruptive to others. If you cannot sit still or stay awake, you should not be taking a college class. Do not begin packing your book bag or otherwise indicate that you think it is time for class to come to an end; wait for the professor to dismiss class. If the class period has ended but the professor has not finished and you cannot stay any longer, leave in complete silence.
- 2.7 Come to class prepared to work. Bring writing materials and any other necessary instructional material with you, such as your text book, workbook, computer disks, etc. Make necessary financial arrangements so that you can purchase all such material at the beginning of the semester. It is a waste of money to pay for a class and then not buy the books you will be reading. Your professor expects you to obtain all necessary material in order to succeed in the course. Your professor also expects you to prepare for class by completing reading and homework assignments. If you are unprepared for class, this may prevent you from participating in a class activity. Do not present your lack of preparation as a problem for the professor to solve or excuse.
- 2.8 Submit work and take tests on schedule. If you miss a test or fail to turn in work on time, you may not have the opportunity to make it up.
- 2.9 The Honor Code prohibits lying, cheating, plagiarism and stealing; this is, of course, the most basic and most important of all principles of civilized academic behavior. For more information about or to report a violation of the Honor Code, contact the Dean of Students.

## 24. Administrative Regulations



### 1. Class Absences and Student Health Services

Students who have been evaluated by a clinician at Student Health Services and for whom it has been determined that the student should not attend class, will receive an “Absence Memo Request” form to complete. This form will be signed by the licensed clinician and faxed to the Director of Absence Memo. Students who have managed their own illness may complete a separate “Absence Memo Request” which will include a brief description of their medical condition. These forms can be found at the Absence Memo office and online at <http://victimservices.cofc.edu/absence-memo/index.php>. They can be faxed to the Director. Students who have received treatment through other sources should bring that documentation to the Director of Absence Memo (Lightsey Center, Suite 101). The Director will e-mail the student’s instructors regarding the absence. If there is a difficulty, the Director or his/her designee will attempt to reach the student through College of Charleston email. Ultimately, the decision to excuse the student from class can only be made by the faculty.

### 2. Amplified Sound Policy

In an effort to continue to develop Student Life at the College of Charleston and promote an increased sense of community on campus, the Division of Student Affairs has created the following policy for the use of amplified sound on-campus in connection with programs and events held on weekdays during business hours during the upcoming academic year:

- 2.1 Events requiring the use of amplified sound that are scheduled Monday – Friday between the hours of 8 a.m. and 9 p.m. will be held in the Stern Center Gardens.
- 2.2 Space reservations for the Stern Center Garden will be accepted on a first-come, first-serve basis through the Office of Student Life and must be approved in advance by the Director of Student Life.
- 2.3 The Office of Student Life and the Division of Student Affairs will provide information related to any special previously approved events requiring amplified sound in a timely manner to the Provost's Office so that advance notice of events can be distributed to faculty members and academic departments.
- 2.4 The use of amplified sound will not be permitted during the hours of 8 a.m. – 9 p.m. on weekdays in areas immediately adjacent to offices or classrooms facilities (i.e. Maybank Hall, the Cistern, etc.). As always, student organizations will be allowed to host informational tables and programs that do not require amplified sound at these locations.
- 2.5 Requests for exceptions to this policy must be submitted in writing to the Director of Student Life no less than two weeks (fourteen calendar days) prior to the proposed date of the event. A committee comprised of representatives from the student body, faculty and staff of the College of Charleston will convene to review the request and will notify the requestor in writing of the committee's decision. An Event Planning Form must be completed and all prior approvals for the proposed event (space reservation, Public Safety staffing, etc.) must be received before the proposed event is submitted to the committee for review. Contact the Office of Student Life at 843.953.5726 if you have any questions regarding this policy or campus programming.

### **3. Debts**

The maturity of students is reflected in part by the manner in which they meet financial obligations to the community and to the College. Transcripts of students whose accounts are in arrears will not be released to them or to any agency or institution for the benefit of the student. Students cannot graduate from the College and may be refused the privileges of registering for courses if their college accounts are in arrears.

### **4. Delinquent Accounts**

If an account becomes delinquent, the College reserves the right to assign the account to a collection agency. Therefore, the student will be responsible for all collection costs, any additional attorney fees, and court costs.

### **5. Demonstrations**

Demonstrations should be scheduled two weeks in advance with the Executive Vice President for Student Affairs. The information required is a specific location, the beginning time, the ending time, and the name of the sponsoring organization. Demonstrations must be orderly and may not block entrances to buildings or interfere with free flow of pedestrian or vehicular traffic. If an amplification system is used, reasonable volume level will be determined by location and time of day. Failure to comply with these regulations may result in penalties, including loss of demonstration privileges.

## **6. Student Email**

Email is considered an official method for communication at the College of Charleston. Official email communications are intended to meet the academic and administrative needs of the campus community. The College has the right to expect that such communications will be received and read in a timely fashion. To enable this process, the College ensures that all students can be accessed through a standardized, college-issued email account throughout their academic years at the College of Charleston.

Students are expected to check their College of Charleston official email on a frequent and consistent basis in order to remain informed of College-related communications. Checking email on a daily basis is recommended. Students have the responsibility to recognize that certain communications may be time-critical.

## **7. Identification/Debit Cards**

All students are issued identification/debit cards which they should carry at all times. The cards are the means of identifying students for library privileges, student health services, athletic events, the meal plan, social events, check cashing, and other college functions or services open to them as students. Students are expected to present their cards upon request to any college official or employee. Any student whose identification/debit card is lost or destroyed may purchase a new one from the Cougar Card Office. Fraudulent use or transfer of an identification/ debit card is considered a violation of the Honor System.

## **8. Lactation Policy**

The purpose of this policy is to provide nursing mothers who are students with a private place to express break milk. The College has designated lactation rooms on the main campus and at the North campus. Students may contact the Office of Human Relations at 843.953.5512 for room locations and access information.

The College is not responsible for the integrity or security of breast milk stored in any refrigerator on campus. Nursing mothers may use the provided campus refrigerators or may bring personal coolers to store breast milk.

After each use, students using the designated lactation rooms must use care to wipe off all contacted surfaces with the provided sanitation wipes. The College will also ensure that the designated room are regularly cleaned as appropriate by custodial staff.

## **9. College Requirement for Student Contact Information**

All College of Charleston students are required to provide the College accurate and timely information regarding their local and permanent addresses, local and permanent phone numbers, and emergency contact information. Addresses, phone numbers, and emergency contacts are to be updated on a timely basis by students via MyCharleston and Banner Self-Service under Personal Information:

- View Phones
- Update Phones
- View Addresses
- Update Addresses
- View I.C.E. Emergency Contacts
- Update I.C.E. Emergency Contacts

Local address- This needs to be a physical address and not a PO Box. This is where a student lives in the Charleston area while enrolled at the College. The phone number used locally is also required.

Permanent address-The address which a student considers home. Often this is the parent/guardian's address. A phone number is also required.

Emergency contacts should include the person(s) that the College should contact on the student's behalf in the event of an emergency. Name, address, phone, and relationship are required. More than one emergency contact may be listed.

Students under the age of 21\* are also required to provide and update parent/guardian addresses and phone numbers. This can be done as one Parent/Guardian address and Phone number or as Parent 1 and Parent 2. This information is entered under Update Phones and Update Addresses as a type of phone and a type of address.

Please direct inquiries to [Registrar@cofc.edu](mailto:Registrar@cofc.edu) or 843.953.5668.

*\*who are not legally emancipated*

## **10. Signage: Banners, Signs and Posted Material**

### **1.0 Introduction**

The College of Charleston (hereafter, "College") may approve or deny the temporary placement of non-College-sponsored banners, signs or other posted material by individuals or organizations ("Postings") on College property based on time, place and manner considerations and as set forth under the terms of this Policy. The Division of Marketing and Communications, the Division of Student Affairs and the Office of Student Life have authority to approve Postings on College property.

### **2.0 General Posting Requirements**

All Postings must contain the name of the sponsoring individual or organization ("Sponsor"). The content of all Postings must comply with all applicable federal, state and local laws, regulations and all College policies.

Sponsors shall ensure that Postings do not alter or damage College property. Sponsors are responsible for removing Postings in a timely manner on the final date approved for posting or immediately following the date of the publicized event. No Posting may be made in violation of the City of Charleston's Snipe Signage ordinance. Snipe signage is prohibited and includes all types of announcements or other advertising and informational materials attached by any means whatsoever to trees, poles, stakes, fences, buildings or any other public or private property, without permission from the owner or authorized agent of the property. The College shall not be responsible for damage to or theft of Postings affixed to College property.

### **3.0 Request and Approval Process for Postings**

Except as noted below, the Division of Marketing and Communications oversees the request and approval process for Postings on College property. Requests for Postings must include the proposed design, dimensions, posting location(s), posting date and length of duration for display. All requests for Postings should be submitted via email to: [marketing@cofc.edu](mailto:marketing@cofc.edu).

When reviewing requests, the Division of Marketing and Communications will consider factors including but not limited to: hardware or other installation requirements, aesthetic integrity of the campus, the requested time and duration for display, dimensions, campus placement and space availability. Following review of the request, the Division of Marketing and Communications may approve, deny or modify each proposal at its discretion and in compliance with applicable law and College policies. In the event of a denial, an appeal may be made to the Director of Brand Marketing or the Executive Director of Marketing and Communications or his or her designee, who shall have the final decision.

#### **A. Requests for Banners and Signs Affixed with Hardware**

Requests for the temporary placement of banners or signs to be affixed to College property (*e.g.*, light posts or buildings) with hardware must be submitted to the Division of Marketing and Communications at least 30 days before banners and hardware are to be ordered. Such requests may only be made by College-based organizations.



The Sponsor shall pay for any and all costs associated with hardware installation, hanging/removal of banners or signs, including any costs for any damage, repairs or restoration resulting therefrom.

#### **B. Requests for Postings Affixed by Any Other Means**

Requests for the temporary placement of Postings to be affixed to College property by means other than hardware must be submitted to the Division of Marketing and Communications via email to [marketing@cofc.edu](mailto:marketing@cofc.edu) at least 5 days in advance of the proposed posting date under ordinary circumstances where the proposed Posting is foreseeable in advance. In time-sensitive cases, the Division of Marketing and Communications shall reduce the advance approval period.

#### **C. Exceptions**

The requirement for review and approval by the Division of Marketing and Communications shall not apply in the following situations:

- (1) Placement of student activity postings, which are governed by the Division of Student Affairs and Office of Student Life. Student activity Postings must be processed through the posting policies and procedures set forth in the Student Handbook, the Compass and all other applicable College policy;
- (2) Placement of official College-sponsored informational materials, such as faculty, academic and administrative department announcements of official College courses, programs, speakers, seminars, and events;
- (3) Placement of informational material on academic and administrative bulletin boards, which are controlled, managed and maintained by each academic and administrative department; and
- (4) Placement of official notices required by law. The Division of Marketing and Communications retains the discretion to alter the time for making requests for Postings in extraordinary circumstances.

#### **4.0 Additional Requirements**

This Policy does not contemplate every potential situation that may arise with respect to Postings on College property. Accordingly, the College reserves the right in certain situations to impose reasonable restrictions and requirements with respect to time, place and manner of Postings that are not expressly set forth in this Policy.

As noted in the Student Handbook, the Compass, student organizations are requested to use non-adhesive materials to post flyers and banners at any of the locations listed above.

Examples: zip ties, string and fishing line can be used.

Prohibitions:

- The use of paints, stains, acids, tapes, chalk or any other substance that might damage or deface the building is prohibited.
- No person shall affix anything to the walls, doors, ceilings or any painted or non-painted area inside buildings. Only the bulletin boards are to be used for the posting of materials.
- Promotional materials will be removed by CofC Physical Plant on Friday of each week.
- Campus organizations are responsible for removing their outdated postings. Organizations may lose posting privileges if outdated postings are not removed.
- Items may NOT be placed on Stern Student Center Food Court glass.
- Use of sidewalk chalk is not allowed.
- Do not attach promo materials to campus benches.

#### **5.0 Policy Compliance and Enforcement**

The College reserves the right to remove any Postings that do not comply with this Policy. Regarding those divisions and offices outlined in the “Exceptions” section (i.e., student activity postings and faculty/academic-related postings), enforcement is the responsibility of the executive vice president of student affairs’ office and the provost’s office, respectively.

### **25. Tobacco-Free Campus Policy**





The Tobacco-Free Policy <http://policy.cofc.edu/documents/6.1.5.pdf>

## 1.0 Preface

It is the intent of this Tobacco--Free Campus Policy to promote a safe, clean, and healthy environment for College of Charleston (hereafter, "College") employees, students, visitors, and guests.. The Policy shall promote the existence of a tobacco--free environment for our campus community, so that the negative effects of tobacco use are minimized for community members. 1

Reasonable and ongoing efforts shall be made to alert the campus community, including visitors too campus, regarding the status off the College as a tobacco-free campus. Appropriate signage on campus shall describe the Policy.

Effective implementation of this policy depends on the courtesy, cooperation, and respect of all members of the campus community. The College of Charleston promotes a safe, clean and healthy environment on all its property and prohibits smoking inside and at all designated smoke-free entranceways to College facilities.

## 2.0 Definition

Except as otherwise specified in this Policy, "tobacco products" include, but are not limited to, cigarettes; cigars; pipes; chewing tobacco; snuff; electronic cigarettes<sup>2</sup>; water pipes (hookahs); bides; kreteks; and all other technologies or devices allowing for the ingestion, combustion, inhalation, or other use of tobacco.

## 3.0 Statement of Policy

Use of all tobacco products is prohibited in all College-owned or leased buildings; in all buildings on College-owned or leased land; on all College-owned or leased property, including outdoor seating areas; and in all College-owned, leased, and rented vehicles. Use of tobacco products is prohibited in all those places here identified, including but not limited to, offices (including private offices), classrooms, laboratories, stairwells, elevators, restrooms, hallways, porches and piazzas, rooftops, indoor and outdoor athletic facilities, residence halls and historic properties, shuttle buses, shuttle bus stops, parking structures and parking areas on College-owned or College-leased property, sidewalks on College-owned or College-leased property, lobbies and waiting areas, outdoor benches, green spaces on campus, and other common areas.

Use of tobacco products is permitted in personal vehicles parked or being driven on College-owned or leased property, provided that the windows and doors of such personal vehicles are closed (i.e., tobacco products are used in an enclosed vehicle space) and tobacco waste products are stored in the vehicle and disposed of at off-campus locations.

This policy does not restrict or prohibit the lawful possession of tobacco products on the College of Charleston campus.

#### **4.0 Exceptions**

The President of the College (or the President's designee), at his or her sole discretion, may permit limited and appropriate individual exceptions to this policy in support of the requirements of sponsored research related to tobacco, consistent with the mission of the College. Such exceptions must be made in writing and shall be in effect only for the duration of the research study. Smoke produced in the conduct of such sponsored research shall be treated as a contaminant and controlled.

The President of the College (or the President's designee), at his or her sole discretion, may permit limited and appropriate individual exceptions to this policy (e.g., in support of religious or artistic activities), consistent with the obligations of Constitutional law and other applicable laws and regulations. Such exceptions must be made in writing and shall be in effect only for the duration of the activity approved by the President (or the President's designee). Smoke produced in the conduct of such activity shall be treated as a contaminant and controlled.

Use of tobacco products may be permitted on properties the College owns but leases or regarding which the College otherwise conveys an interest (e.g., an easement) to a non-College party, according to the provisions of the applicable lease or agreement, upon a compelling reason, and with the prior written approval of the Executive Vice President for Business Affairs (or her or his designee).

#### **5.0 Sale and Advertisement of Tobacco Products**

The sale, sampling, or advertisement of tobacco products shall be prohibited on the College of Charleston campus and in all College publications.

#### **6.0 Policy Coverage**

This Policy shall be applicable to the College Board of Trustees; faculty and staff of the College, whether part-time, full-time, or temporary; students while attending or employed by the College; contractors and consultants performing work or providing services on College-owned or leased property; individuals and organizations renting, leasing, or otherwise granted permission to use campus facilities; College affiliates; alumni and alumnae, guests, visitors, or invitees of the College; and members of the general public. All members of the campus community and members of the general public shall comply with this policy.

#### **7.0 Policy Violation and Discipline**

Employees of the College may be disciplined for violation of this policy, consistent with the provisions of College Policy 9.1.2. Students of the College may be disciplined for violations of this policy, consistent with the Student Code of Conduct.

Other individuals who violate Policy 6.1.5 and are not covered by the terms of Policy 9.1.2 or the Student Code of Conduct may be warned by the Department for Public Safety. Visitors or members of the general public who refuse to comply with the Policy may be asked to leave campus by the Department of Public Safety.

#### **8.0 Policy Maintenance**

Unless other individuals are designated by the President of the College, the Vice President of Human Resources and the Executive Vice President for Student Affairs shall be responsible for the maintenance of this Policy. Those responsible for the maintenance of the policy shall cause a review of this Policy to be undertaken at least once during each five-year period.

#### **9.0 Operating Procedures**

The President's Executive Team, subject to review and determination by the President of the College, may approve operating procedures to implement this Policy. Such procedures may not be inconsistent

with this Policy nor may they eliminate or expand the scope of the prohibitions already described in the Policy.

### **10.0 Effective Date**

Effective July 1, 2014, the predecessor Policy 6.1.5, "Smoking Policy," as adopted in 2006, is repealed in its entirety and replaced by the new Policy, "Tobacco-Free Campus Policy," also to be designated Policy 6.1.5. The predecessor Policy 6.1.5, "Smoking Policy," shall remain in effect through June 30, 2014. No penalty shall be levied under the terms of the new Policy prior to July 1, 2014

### **11.0 Amendments**

This Policy may be amended consistent with the provisions of the Campus Wide Policy Making Procedures.

#### Notes

1. Effective October 21, 2013, and until December 31, 2015, and as resources permit, the College shall provide cessation programs for all members of the campus community who wish to end their use of tobacco products. Additional information on tobacco cessation programs is available from the South Carolina Department of Health and Environment Control (DHEEC) at 803.545.4467 and at <http://www.scdhec.gov/Health/TobaccoCessation/>

2. Electronic cigarettes use liquid nicotine, which is derived from tobacco plants. Testing by the Food and Drug Administration has found known carcinogens and toxic chemicals in some of the nicotine cartridges for two leading brands of electronic cigarettes.

**SANCTIONS.** THIS SECTION IS NOT PART OF THE POLICY ABOVE AND APPLIES TO STUDENTS ONLY. THE EXPECTATION IS THAT STUDENTS WHO USE A TOBACCO PRODUCT OR ANY OTHER PROHIBITED ITEM BY THIS POLICY ON CAMPUS PROPERTY WILL PROMPTLY AND APPROPRIATELY DISPOSE OF THE PRODUCT OR MOVE OFF CAMPUS PROPERTY WHEN ASKED BY ANY MEMBER OF CAMPUS COMMUNITY. MEMBERS OF THE CAMPUS COMMUNITY SHOULD FORWARD TO THE OFFICE OF THE DEAN OF STUDENTS THE NAME OF ANY STUDENT WHO FAILS TO COMPLY WITH AN APPROPRIATE REQUEST.

**First Violation** (Resolution by Student Affairs official) Sanctions may include, but are not limited to:

A. Receiving a verbal warning.

**Second Violation** (Resolution by Student Affairs official) Sanctions may include, but are not limited to:

A. Receiving a verbal warning and

B. Educational and restorative activity.

**Third Violation** (Resolution by Student Affairs official/Conduct Body) Sanctions may include, but are not limited to:

A. Receiving a written warning and

B. Educational and restorative activity.



ombuds@cofc.edu  
843.953.2235  
Room 305B, Randolph Hall

## **1. The Role of the Ombudsperson**

As an advocate for fairness, the Ombudsperson acts as a confidential listener, a source of information and referral, a person that responds to questions presented by individuals and provides assistance in the resolution of concerns, problems, and informal complaints. The Ombudsperson does not have authority to take disciplinary action or reverse decisions. In addition, the Ombudsperson does not arbitrate, adjudicate, or participate in any internal or external formal proceedings. The Ombudsperson shall consider the rights of all parties involved. The Ombudsperson reports to the President of the College. This role requires neutrality and confidentiality, requirements that are necessary to create trust between the persons involved in a dispute and the Ombudsperson. However, when the Ombudsperson determines there is a threat of imminent harm or is ordered by a court or requested by law to disclose information, confidentiality will be waived.

## **2. Responsibilities of the Ombudsperson**

- 2.1** The primary duty of the Ombudsperson is to listen.
- 2.2** Ensures that all parties are aware of their rights and responsibilities regarding College policies and procedures.
- 2.3** The Ombudsperson does not participate in any internal or external formal proceedings.
- 2.4** Works to facilitate communication and assist parties in reaching mutually acceptable agreement in order to find fair and equitable resolutions to conflicts or concerns.
- 2.5** Apprises the administration of significant trends.

## **APPENDICES**



## Appendix A. Academic Dishonesty and the Operation of the XXF – Transcript Notation Due to Finding of Responsibility for Academic Dishonesty

**Faculty input** – When a faculty member determines a student has committed academic dishonesty, he or she will fill out the appropriate Honor Code Report form. The faculty member has the option of designated whether he/she believes that the offense warrants the grade of XXF.

### Schedule of Sanctions for Violations of Academic Honesty

A. Class 1. The most serious breaches of academic honesty fall into this category, as well as all second or more offenses of any class. Class I violations must be found to involve significant premeditation; conspiracy and/or intent to deceive. See listing of examples at the end of this policy.

Sanction options:

XXF grade and suspension

XXF grade and expulsion

B. Class 2. This class includes acts that are found to involve deliberate failure to comply with assignment(s) directions; some conspiracy and/or intent to deceive. See listing of examples at the end of this policy.

Sanction options:

XXF grade and disciplinary probation

XXF grade and disciplinary probation and/or other educational sanctions

XXF grade and some form of suspension

C. Class 3. This class includes violations due to student confusion; ignorance and or miscommunication or incomplete communication between the instructor or his/her designee and the class. See listing of examples at the end of this policy. The instructor sets the sanction.

### Class 1 and 2 Violations

- A. If the Honor Board sanctions a student with a status indicator and grade of XXF, and this sanction is not appealed by the student, the dean of students and the faculty member notify the Registrar to place a grade of XXF for the applicable course on the student's academic record. The grade XXF shall be recorded on the student's transcript with the notation "failure due to academic dishonesty."
- B. Student appeals of the XXF grade follow the procedure for all other appeals of academic dishonesty sanctions, as outlined in the *Student Handbook*. If the Appellate Board [Authority] denies the right to another hearing, or another hearing is granted and the Honor Board decides to uphold the XXF grade sanction, the dean of students and the faculty member notify the Registrar to assign the XXF grade to the student's academic record.

- C. If grades are due but an academic dishonesty hearing is still in progress, a grade of 'I' shall be applied to the course until the hearing process is complete.
- D. An XXF grade shall maintain a quality point value of 0.0. The grade "XXF" shall be treated in the same way as an "F" for the purposes of Grade Point Average, course repeatability, and determination of academic standing.
- E. The XXF must stay on the transcript for at least two years from the date student is found in violation.
- F. After two years, a student may petition the Honor Board to exchange the XXF for an F. The petition must be in written form and provide the reason for removal of the XXF. Additionally, the petitioner must appear before the Honor Board to explain the request (appearance may be through electronic means if necessary). If the student petitions and a majority of the Honor Board agree to remove the XXF, the Honor Board outlines conditions under which the XXF is removed. The conditions may include giving testimony of dishonesty during freshman orientation or other organized Honor Board events, and/or performing specific tasks aimed at increasing the education of the violator and/or campus on the value of academic integrity. When these conditions are met, the XXF is removed entirely from the transcript, leaving no past evidence of the XXF. A grade of F is recorded in its place.
- G. If a petition to change an XXF grade to an F has been made and denied, another petition may not be made for another year from the date of denial. This stipulation applies after graduation as well.
- H. If the student is/has been found responsible of an additional violation of academic honesty, either in the past or future, the XXF remains. For cases where the XXF was changed to an F and the student is later found responsible of an additional act of academic dishonesty, the XXF grade is restored for the course. In these cases, the XXF remains permanent. The student may not petition for an F in exchange for the XXF in these cases.
- I. A student who has received an XXF in a course and needs to pass the course for a requirement may retake the course. If the student passes the course, the requirement is met, but the original course grade will remain as an XXF unless the XX is removed by an accepted petition for removal.

### **Class 3 Violations**

- A. When a faculty member suspects an Honor Code violation is more of a result of student confusion, ignorance or miscommunication, he/she should arrange a conference with the student as soon as possible to discuss the matter.
- B. Together, the faculty member and student review all materials.
- C. The faculty member designs a response that is discussed with the student, e.g., zero on the assignment, written warning, resubmission of the work, research on relevant topic, etc.
- D. The faculty member and student commit the outcome to a form provided by the Dean of Students.



- E. A written record of the educational response with the signatures of both the faculty member and the student is forwarded to the Dean of Students. The record will remain in the Dean of Students office until the student graduates.
- F. The record of the educational response for this violation will be introduced in subsequent hearings during the sanctioning phase should the same student be found in violation of the Honor Code at a later point in time.
- G. The student has the right to contest the allegation and request that the matter be forwarded immediately to the Dean of Students for adjudication under the procedures outlined in the *Student Handbook*.

**Changes to the operation** of the XXF grade as a sanction option within the Honor System must go through the Faculty Committee on Academic Standards and the Faculty Senate.

**Examples of violations for Classes 1-3.** The lists below are not meant to be comprehensive but illustrative of the types of acts that generally will be before the Honor Board and faculty members.

**Examples of Class 1 violations:**

- All second offences of any class,
- cheating on a test which involves significant premeditation and conspiracy of effort,
- taking a test for someone else, or permitting someone else to take a test or course in one's place,
- intentional plagiarizing, where the majority of the submitted work was written or created by another,
- obtaining, stealing, or buying all or a significant part of an unadministered exam,
- selling, or giving away all or a significant part of an unadministered test,
- bribing, or attempting to bribe any other person to obtain an unadministered test or any information about the test,
- buying, or otherwise acquiring, another's course paper and resubmitting it as one's own work, whether altered or not
- entering a building, office, or computer for the purpose of changing a grade in a grade book, on a test , or on other work for which a grade is given,
- changing, altering, or being an accessory to changing and/or altering a grade in a grade book, on a test, on a "Change of Grade" form, or other official academic college record which relates to grades, and
- entering a building, office, or computer for the purpose of obtaining an un-administered test.

**Examples of Class 2 violations:**

- cheating on an exam which involves some premeditation,

copying from another's test or allowing another student to copy from your test, where some plans were made for such collaboration,

intentional plagiarizing, where a moderate portion of the submitted work was written or created by another,

unauthorized reuse of previously graded work,

intentionally failing to cite information from the correct source,

intentionally listing sources in a bibliography/work cited page that were not used in the paper,

copying, or allowing one to copy, homework assignments that are to be submitted for credit, when unauthorized,

intentionally opening an officially sealed envelope containing an exam, test or other class-related material,

unauthorized and intentional collaboration on an assignment, and

unauthorized and intentional use or possession of a study aid.

**Examples of Class 3 violations:**

record of same offense made on other similar assignments and no feedback provided by the instructor prior to allegation,

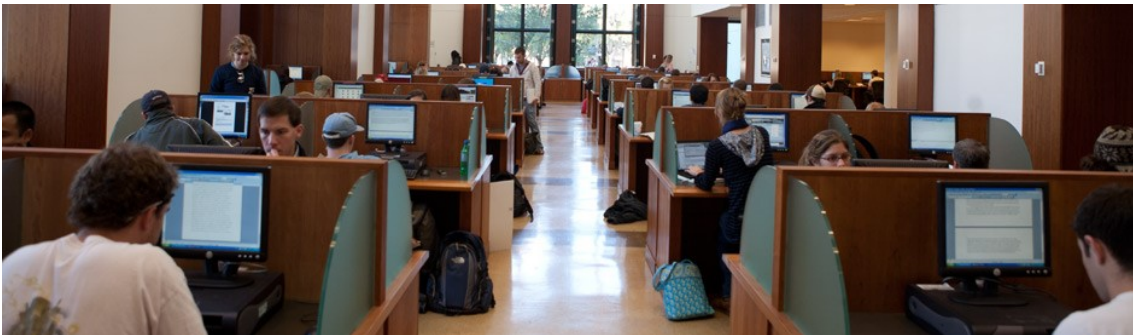
reusing and/or building upon coursework already submitted for another class without permission of the professor,

unintentionally failing to cite information from the correct source,

unintentional violation of the class rules on collaboration, and

unintentional possession of a study aid.

**Appendix B. Peer-to-Peer (P2P) File Sharing**





## 1. PURPOSE OF POLICY

The purpose of this Policy is to detail the College's plans to effectively combat the unauthorized distribution of copyrighted material by Users of the College's Computer Network and Information Technology Resources, without unduly interfering with the legitimate educational and research use of the Network; and to provide for annual disclosures to students on the College's policies and sanctions related to unauthorized peer-to-peer file sharing, as required by the Higher Education Opportunity Act of 2008 (the "HEOA").

Additionally, this Policy is intended to mitigate the College's potential exposure to security risks and liabilities associated with the exploitation of P2P applications to illegally use, distribute and/or store copyrighted materials on the College's Network.

## 2. POLICY STATEMENT

The College is committed to preventing, in so far as practicable, the misuse of the College's Computer Network and other Information Technology Resources, including but not limited to the unauthorized distribution of copyrighted material by Users of its Computer Network. It is the College's intent to maintain the integrity of its Computer Network, without unduly interfering with educational and research use, by utilizing the methods described in Section 6.0 of this Policy. This Policy does not ban legal P2P file sharing through use of the College Network, and the College will continue to support technologies that facilitate legitimate information dissemination and academic collaboration.

## 3. APPLICATION

### 3.1 Individuals.

This Policy applies to all individuals (students, faculty, staff, College volunteers, contractors, consultants and other members of the public) who use the College's Network and/or Information Technology Resources ("Users").

### 3.2 Resources.

This Policy also applies to the College's Network and all other College Information Technology Resources; any other information technology resource made available to the College community through a College vendor sourced network; and other electronic device regardless of ownership when such device is actively using the College Network or is otherwise interfacing with a College Information Technology Resource. The physical location of any computer or other device is irrelevant to whether or not a violation of this Policy exists.

## 4. DEFINITIONS

4.1 The terms below shall have the meaning ascribed next to each:

(a) **College Computer** - Any computer that is owned, leased or rented by the College of Charleston whether such computer is located on or off College premises.

(b) **College Network** - Any part of the College's data, voice or video network physically located on any College owned, leased, or rented property or located on the property of any third party with the permission of that party. This includes devices on such network assigned any routable and nonroutable IP addresses and applies to the College's wireless network and the network serving the College's student residence halls and houses, and any other vendor supplied network made available to the College community.

(c) **Digital Millennium Copyright Act (DMCA)** - A federal law passed in 1998 that revised copyright law for the digital environment to, among other things, define how alleged copyright infringements are to be handled and establish liability limitations for "online service providers."

(d) **DMCA Notice** - DMCA or copyright infringement notices are warnings issued from the copyright holder or a representative of the copyright holder. These copyright

holders have identified computers on the College's Network as having potentially violated the DMCA and issue warnings regarding the particular infringement to the College.

(e) **IT**-The College's Division of Information Technology.

(f) **Information Technology Resources** - The College Network and all College computers and computer components, electronic storage devices, wiring, and electronic transmission devices owned, leased, rented or operated by the College or and all College owned or licensed software.

(g) **Peer-to-Peer (P2P)** - A network environment where participants share their resources (such as files, disk storage, or processing power) directly with their peers without having to go through an intermediary network host or server.

(h) **Peer-to-Peer File Sharing Applications** - Programs or services that use P2P technology to share music, movies, software, or other digitally stored files.

## **5. PROHIBITED ACTIVITY**

### **5.1 Violations.**

It is a violation of this Policy to use the College Network or any Information Technology Resource of the College to distribute, download, upload, stream, scan, store or share any material including software, data, document, sound, music, video, picture, design, graphic, game, or any other electronic file when:

- (a) the file is copyrighted but distribution to the User has not been authorized by the copyright owner;
- (b) the intended use under the relevant circumstances is specified as illegal by any federal or state law, statute, regulation, proclamation, order, or decree;
- (c) when the material is considered by the College to be Protected Information under the College's Privacy Policy and the User is not authorized to access that information or to access that information for the purpose intended; or
- (d) when the User's intent is deployment or introduction of any virus or malware on any Information technology Resource.

### **5.2 Circumvention Prohibited.**

Users of the College's Information Technology Resources shall not attempt to circumvent, bypass, defeat, or disrupt any device, method, or technology implemented by the College for the purpose of implementing this Policy.

## **6. PROCEDURES FOR COMBATING UNAUTHORIZED P2P FILE SHARING**

### **6.1 Technology-Based Deterrents**

(a) **Use of Deterrents.** The Senior Vice President for Information Technology (CIO) will utilize technology-based deterrents to combat the unauthorized distribution, downloading, uploading, streaming, scanning, storage or sharing of copyrighted material by Users of the College's Network, and will periodically confer with the President's Executive Team to ensure that all such technology-based deterrents then employed by the College do not unduly interfere with legitimate educational and research uses of the College's Network.

(b) **Types of Deterrents.** At least one technology-based deterrent must be in use at all times with respect to the College's Network. As determined appropriate from time to time by the CIO, technology-based deterrents may include, but not be limited to, one or more of the following:

- Bandwidth shaping;

- Traffic monitoring;
- Accepting, aggressively pursuing and responding to DMCA notices; and/or
- By using commercial product to reduce or block illegal file sharing.

## **6.2 Directive Authority.**

For the purpose of implementing this Policy, the CIO shall have directive authority over all vendors to the College, including those vendors who supply internet services to student housing, to direct that such vendors use appropriate deterrents to reduce or prevent illegal file sharing and other violations of this Policy. When exercising such directive authority, the CIO shall consult with the appropriate contract administration officer of the College and ensure that all corrective actions are taken in accord with relevant contract documents.

## **7. EDUCATE AND INFORM THE COLLEGE COMMUNITY**

### **7.1 Mechanisms.**

The College shall employ, at a minimum, the mechanisms described in Sections 7.2 and 7.3 for educating and informing the College community about the appropriate and inappropriate uses of copyrighted material.

### **7.2 Institutional Information for Students.**

The College will make readily available to enrolled and prospective students the College's policies and sanctions related to copyright infringement including:

- (i) a statement that explicitly informs its students that the unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject the student to civil and criminal liabilities;
- (ii) a summary of the penalties for violation of Federal copyright laws; and
- (iii) this Policy. The disclosure required by this Section 7.2 shall be made in the following manner:

- (a) Enrolled Students - The Office of the Dean of Students shall be responsible for disseminating annually a notice (of the general nature as set forth in Appendix A to this Policy) to enrolled students regarding the institutional information described in this Section. The methods of dissemination of the Notice may include the College web pages, one-to-one e-mail, orientation presentations, student publications and publication in the Student Handbook and the MyCharleston portal.
- (b) Prospective Students - The Division of Enrollment Management will post or link a copy of the institutional information on the Admissions web portal for review by prospective students.

### **7.3 Educating the Campus Community.**

Other members of the Campus community shall be provided institutional information as follows:

- (a) The Addlestone Library will post and maintain the College's Copyright Guidelines and this Policy on its webpage.
- (b) The Division of Information Technology will publish and maintain a webpage devoted specifically to this Policy and P2P file sharing. Such webpage shall contain a list of FAQs and How-To Guides that instruct the campus community about appropriate and inappropriate uses of P2P applications; a summary of penalties for violation of Federal copyright laws; a summary of the results from the periodic review of the effectiveness of the College's plans to prevent the unauthorized distribution of copyrighted materials by Users of the College's network; and a list of legal alternatives for downloading or otherwise acquiring copyrighted material. The College reserves the right to block the use of any application on the College's Network when it has a

reasonable basis to conclude that such application is being used for improper purposes in violation of this Policy.

(c) The Ask the Cougar query on the College's web site shall be modified, as appropriate, to refer to the webpage described in subsection (b) of this Section 7.3 when queries are made relating to the subject matter covered by this Policy.

#### **7.4 Summary of the Penalties for Violation of Federal Copyright Laws.**

The CIO and the Dean of Students, in consultation with the Office of Legal Affairs and utilizing the Federal Student Aid Handbook, shall annually publish a summary of the penalties for violation of Federal copyright laws (the "Summary"). Dissemination of the Summary shall be as follows:

- (a) The Dean of Students is responsible for including the Summary in the annual Notice to enrolled students;
- (b) The Associate Vice President for Enrollment Management is responsible for including the Summary in institutional information made readily available to prospective students; and
- (c) The CIO is responsible for posting the Summary on the IT web page dedicated specifically for P2P as further described in section 7.3(b).

### **8. ENFORCEMENT**

#### **8.1 Generally**

The College's Network, Computers and other Information Technology Resources are not to be used for any illegal purpose including, but not limited to, illegal file sharing. Accordingly, to preserve network security and reliability, the College reserves the right in all instances, and upon its reasonable suspicion, to block access from and to its network of any IP address associated with illegal activity and/or to disconnect any User from the network who can be traced to illegal activities, including illegal P2P file sharing. An infringing User shall bear legal and financial responsibility for events or activities resulting from or associated with his/her own misuse of P2P applications and any other illegal activity conducted by or through the College's network.

#### **8.2 Students. Faculty and Staff**

In addition to barring access to network resources, a student, faculty or staff member who violates this Policy may also be subject to other appropriate discipline, up to and including termination of employment and/or expulsion. No final adverse action may be taken pursuant to this Section, however, with respect to any employee or student of the College unless such employee or student is afforded a meaningful opportunity to contest the adverse action, as further described in Section 9.0.

#### **8.3 Contractors. Vendors. Consultants. Volunteers and Others.**

Any party external to the College, including but not limited to, College contractors, consultants, or vendors found to have violated this Policy may be held in breach of contract and, in such event, may be subject to such sanctions and damages as may be allowed under the contract and/or applicable law including, but not limited to, ineligibility to be considered a responsible source for subsequent contracting with the College. Other parties who violate this Policy but who do not have a contractual relationship with the College (including volunteers) may be barred from any subsequent use of a College Information Technology Resource.

#### **8.4 Criminal and Civil Liability; Reporting to Government Authorities**

In addition to the actions described in Sections 8.1, 8.2, and 8.3, the unauthorized acquisition or distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject culpable individuals to civil and criminal liabilities. To the extent required by federal or state law, or when the College otherwise deems it to be in its best interest, the College will report certain illegal activities to designated law enforcement agencies without prior warning or notice to the infringing User.

## **9. ENFORCEMENT PROCEDURES FOR HANDLING UNAUTHORIZED P2P FILE SHARING**

### **9.1 Alleged Violations**

Alleged violations of the Digital Millennium Copyright Act (DMCA) shall be received by the IT's Designated Agent for the Receipt of a Claimed Infringement ("Designated Agent"). IT shall respond to all DMCA notices. The receipts of such notices are to be logged in and tracked by IT. Attempts to identify the suspect computer(s) and User(s) will be made by IT staff. In the case of suspected offenders who are students, if successful identification is made, a copy of the notice and name of student(s) identified shall be referred to the Office of the Dean of Students in accordance with Section 9 .2(b). In the case of suspected faculty or staff who are successfully identified, the notice and name of the staff or faculty member(s) and relevant identifying information shall be referred to the employee's supervisor. In circumstances when criminal activity is suspected, the CIO shall consult with the Office of Legal Affairs and the College Department of Public Safety before notifying any party.

### **9.2 Students**

- (a) Generally -- Disciplinary proceedings involving students alleged to have violated this Policy shall be conducted in accordance with those procedures specified in the *Student Handbook*.
- (b) DMCA -- Violations of the DMCA by students shall be resolved as follows:
- (1) Upon receipt of an alleged violation of the DMCA, the Designated Agent shall identify the person associated with the IP address cited in the Claim. If the identified person is a college student, IT shall notify the Office of the Dean of Students and the Office of Legal Affairs. The Office of the Dean of Students will notify the student of the claim. Students who receive such notices must respond to the Dean's notice within the period of time specified by the Dean of Students, but in no event later than 3 school days after the notice of claim is received by the student. Such students shall be requested to acknowledge the notice and state whether they have received their own copy of the DMCA claim. If this is a first offense and the student acknowledges a violation of this Policy by admitting to the claim, he/she will be asked to stipulate in writing that he/she will comply with this Policy in the future. If the Office of the Dean of Students does not receive such an acknowledgement and stipulation within the prescribed time period, or if the student challenges the validity of the claim, the Dean will initiate disciplinary proceedings.
  - (2) A second offense of this Policy will become a part of the student's disciplinary record.
  - (3) A third or fourth violation of this Policy will result in an automatic referral to the Honor Board through the Office of the Dean of Students. Sanctions may include fines and/or a disciplinary probation period or expulsion.
- In any situation listed in (1) through (3) of this subsection, the College may suspend the rights of access to the College's network pursuant to Section 8.1 pending the final disposition of the disciplinary matter.

### **9.3 Faculty/Staff**

Disciplinary proceedings involving faculty alleged to have violated this Policy shall be conducted as provided for in relevant provisions of the Faculty/Administration Manual. Disciplinary proceedings alleging violations of this Policy by staff shall be conducted in

accordance with relevant provisions of controlling law and, to the extent applicable, the College's Code of Conduct and Disciplinary Actions and the College's Grievance Procedure. The College may suspend the rights of access to the College's network pursuant to Section 8.1 pending the final disposition of any employee disciplinary action.

#### **9.4 Subpoena**

The College will timely comply with all valid subpoenas seeking the identity of a person alleged to have misused the College's Information Technology Resources for illegal purposes.

### **10. ASSESSING EFFECTIVENESS**

#### **10.1 Assessment**

Within 60 days after the effective date of this Policy, the Division of Information Technology will develop relevant assessment criteria to periodically review and evaluate the effectiveness of the College's plans to prevent the unauthorized distribution of copyrighted materials by Users of the College's computer network. In gathering information for such assessment, the Division of Information Technology shall, among other things:

- (a) add questions to such surveys distributed to students and employees as may be appropriate in an attempt to detect awareness levels of this Policy held by students and employees;
- (b) review of reports annually reflecting utilization of the College Network for the downloading of large files; and
- (c) track annually of the number of file sharing violations reported to the Division of Information Technology.

#### **10.2 Reporting**

Information gathered by IT pursuant to Section 10.1 shall be provided to the President's Executive Team by the CIO. In addition, the CIO shall publish the results of the assessment conducted pursuant to this Section 10.0 on its webpage relating to this Policy.

### **11. AMENDMENTS**

This Policy may be amended in accordance with the College's Campus Wide Policy Making Procedures.

### **12. RESPONSIBILITY**

The Chief Information Officer of the College and the Dean of Students shall be responsible for the maintenance of this Policy

### **13. EFFECTIVE DATE**

This Policy shall become effective immediately and shall be fully implemented no later than July 1, 2010.

**Appendix C. Prohibition of Discrimination, Harassment Including Sexual Harassment and Abuse**



## **POLICY**

### **PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE<sup>10</sup>**

**Effective: 7/1/1995; Revised: 3/15/2006; Revised: August 27, 2010**

**THIS POLICY ALSO REPEALS AND SUPERSEDES IN ITS ENTIRETY THE POLICY FORMERLY ENTITLED: "REPORTING RESPONSIBILITIES, INVESTIGATION AND COMPLAINT RESOLUTION FOR PROTECTED STATUS DISCRIMINATION AND/OR HARASSMENT/ABUSE".**

**Effective: 7/1/1995; revised: 3/15/2006; repealed: August 27, 2010**

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

#### **1. APPLICABILITY**

This Policy applies to all members of the COLLEGE COMMUNITY while on College owned or leased property.

#### **2. GENERAL POLICY STATEMENT**

It is the Policy of the College of Charleston to promote and protect a learning and living environment where civil discourse, respect for the individual and appreciation for the diversity of human experiences are valued as compelling academic interests. Accordingly, it is a violation of this Policy for any member of the College community to discriminate or harass students or employees, or applicants for admission to the College or applicants for any College employment position, based on gender, sexual orientation, gender identity or expression, age, race, color, religion, national origin, veterans' status, genetic information, or disability, as proscribed by law and as further described below. In addition, discrimination against members or potential members of the United States uniformed services, as proscribed by the Uniformed Services Employment and

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<sup>10</sup> This Policy is based on statutes, rules, regulations of the Federal and State governments, interpretative case law, and on government explanatory source materials. Many of the provisions in this Policy are verbatim or paraphrased expressions of such materials. However, while this Policy is fully consistent with the law, it is not identical to it.

Reemployment Rights Act (USERRA), is also prohibited under this Policy. Retaliation against any person arising from the good faith reporting of a suspected violation of this Policy, or for participating in an investigation of discrimination under this Policy, is strictly prohibited.

### **3. DISPARATE TREATMENT**

Disparate treatment of a member of the college community occurs when a person is singled out and treated less favorably than others similarly situated on the basis of one or more of the discriminatory reasons prohibited by this Policy.

#### **3.1 Age**

It is a violation of this Policy to discriminate against an individual in any aspect of employment because that individual is 40 years old or older, unless a specific statutory or regulatory exception allowing for different treatment applies, as determined by the Office of Legal Affairs. It is also a violation of this Policy to discriminate in any College program or activity on the basis of age, except as may be provided under controlling regulations of the United States Department of Education, as interpreted by the Office of Legal Affairs.

#### **3.2 Disability**

It is the Policy of the College that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the College. Specially, a handicapped person who meets the academic and technical standards requisite to admission or participation in a College education program or activity shall not be denied admission or participation because of his/her disability.

The College will not discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. This includes: (a) any action that has the purpose or effect of limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee; (b) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the College can demonstrate that the accommodation would impose an undue hardship on the operation of its business and activities; or (c) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of the College to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, reinstatement, and payment of sick leave shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other disabilities.

#### **3.3 Equal Pay**

It is a violation of this Policy to discriminate on the basis of sex by paying wages to employees at a rate less than the rate at which the College pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and



which are performed under similar working conditions, except where such payment is made pursuant to: (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex. The College will not, in order to comply with the provisions of this provision, reduce the wage rate of any employee.

### **3.4 Gender Based Discrimination**

It is a violation of this Policy to deny educational benefits or to exclude employment applicants or employees because of pregnancy, childbirth or related medical conditions. Nor shall the College discriminate due to marital or family status with respect to employment opportunities or academic programs and activities.

No person shall, on the basis of sex, sexual orientation, gender identity or expression, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the College or be denied any job opportunity or treated differently with respect to terms, conditions, or privileges of employment.

### **3.5 Genetic Information**

It is a violation of this Policy: (1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or (2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

It is also a violation of this Policy to request, require, or purchase genetic information with respect to an employee or a family member of the employee except if the OLA determines that such a request, requirement, or purchase is in accordance with controlling provisions of law and regulation.

### **3.6 National Origin**

It is a violation of this Policy to discriminate because of an individual's, or his or her ancestor's, place of origin; or because an individual has the physical, cultural or linguistic characteristics of a national origin group. When investigating allegations of national origin discrimination, the College will review such matters as (a) marriage to or association with persons of a national origin group; (b) membership in, or association with an organization identified with or seeking to promote the interests of national origin groups; (c) attendance or participation in schools, churches, temples or mosques, generally used by persons of a national origin group; and (d) whether an individual's name or spouse's name is associated with a national origin group.

### **3.7 Race and Color**

It is a violation of this Policy to discriminate against any employee or applicant for employment because of race or color in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. No employment decisions shall be based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. It is also a violation of this Policy to discriminate against any student or student applicant in regard to any academic program or activity or any educational benefit because of race or color.

Employment and student opportunities cannot be denied because of marriage to or association with an individual of a different race; membership in or association with ethnic based organizations or groups; or attendance or participation in schools or places of worship generally associated with certain minority groups. Discrimination on the basis of an immutable characteristic associated with race, such as skin color, hair texture, or certain facial features, violates this Policy, even though not all members of the race share the same characteristic.

Discrimination based on color is also prohibited by this Policy. Even though race and color clearly overlap, they are not synonymous. Thus, color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person.

### **3.8 Religion**

#### Students:

The College of Charleston community is enriched by students of many faiths that have various religious observances, practices, and beliefs. We value student rights and freedoms, including the right of each student to adhere to individual systems of religion. The College prohibits discrimination against any student because of such student's religious belief or any absence thereof.

The College acknowledges that religious practices differ from tradition to tradition and that the demands of religious observance in some traditions may cause conflicts with student schedules. In affirming this diversity, like many other colleges and universities, the College supports the concept of "reasonable accommodation for religious observance" in regard to class attendance, and the scheduling of examinations and other academic work requirements, unless the accommodation would create an undue hardship on the College.

Faculty are required, as part of their responsibility to students and the College, to ascribe to this Policy and to ensure its fair and full implementation. The accommodation request imposes responsibilities and obligations on both the individual requesting the accommodation and the College. Faculty members are expected to reasonably accommodate individual religious practices. Examples of reasonable accommodations for student absences might include: rescheduling of an exam or giving a make-up exam for the student in question; altering the time of a student's presentation; allowing extra-credit assignments to substitute for missed class work or arranging for an increased flexibility in assignment dates. Regardless of any accommodation that may be granted, students are responsible for satisfying all academic objectives, requirements and prerequisites as defined by the instructor and by the College.

#### Employees:

It is the Policy of the College to accommodate the religious practices of employees and prospective employees. The College will not fail to reasonably accommodate the religious practices of an employee or prospective employee, unless there is finding by the College that the accommodation would result in undue hardship on the conduct of its business.

After an employee or prospective employee notifies the College of his or her need for a religious accommodation, the College has an obligation to reasonably accommodate the individual's religious practices. A refusal to accommodate is justified only when the College determines that an undue hardship would in fact result from each available alternative method of accommodation. A mere assumption that many more people, with

the same religious practices as the person being accommodated, may also need accommodation is not evidence of undue hardship.

Some alternatives for accommodating religious practices might disadvantage the individual with respect to his or her employment opportunities, such as compensation, terms, conditions, or privileges of employment. Therefore, when there is more than one means of accommodation which would not cause undue hardship, the College will offer the alternative which least disadvantages the individual with respect to his or her employment opportunities.

When religious practices conflict with work schedules, the supervisor should consider whether one of the following accommodations is suitable and will not present an undue hardship to the College:

- (i) Voluntary Substitutes and "Swaps;"
- (ii) Flexible Scheduling; or
- (iii) Lateral Transfer and Change of Job Assignments.

### **3.9 Uniformed Services**

It is a violation of this Policy to deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment motivated in whole or in part on the basis that a person is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service of the United States.<sup>11</sup>

## **4. DISPARATE IMPACT**

In addition to discriminatory conduct that is directly targeted to an individual (See **DISPARATE TREATMENT**, Section 3.0), the College will not engage in any employment or academic procedure or practice that, while neutral on its face, will have a disparate impact on persons due to their race, color, religion, gender, national origin, or genetic background unless such a procedure or practice is job related and consistent with business necessity or the educational mission of the College and there is no less discriminatory alternative available.

An employment or academic procedure or practice that has a disparate impact on older workers is not a violation of this Policy if that procedure or practice is based on a reasonable non-age factor (such longevity of employment and benefits accruing under a *bona fide* seniority system or a system of leave accrual).

## **5. SEXUAL HARASSMENT AND HARASSMENT BASED ON LEGALLY PROTECTED STATUS**

### **A. Sexual/Gender Harassment:**

Sexual/gender harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or access to or the enjoyment of an educational benefit; (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or decisions concerning educational benefits affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or other educational benefit or creating an intimidating, hostile, or offensive working, learning or living environment.

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<sup>11</sup> Employers should consult with the Office of Human Resources with respect to the re-employment rights of employees who serve in activity duty with a uniformed service.

Additionally, sexual harassment also includes conduct (as described in this paragraph) that is directed at an employee or student because of his or her sexual orientation or gender identity or expression.

Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

Sexual harassment most often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within the College. Sexual harassment may occur between persons of the same gender.

Because faculty occupy positions of particular influence and control over students, when sexual harassment is alleged by a student against a member of the faculty and when the faculty member asserts a defense based on the consent of the student, the College will accord more weight to the student's version of events.

Examples:

Acts of sexual harassment include the following:

- Unwelcome sexual advances or requests for sexual favors based upon gender, sexual orientation, gender identity or gender expression;
- Unwanted physical contact, including touching, pinching or brushing the body;
- Verbal harassment, such as sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats; epithets; slurs; negative stereotyping (including "jokes");
- Non-verbal conduct, such as display of sexually suggestive objects or pictures, leering, whistling, or obscene gestures; written or graphic material (including communications by computers) that defames or shows hostility or aversion toward an individual or group because of gender, sexual orientation, gender identity, or gender expression.
- Repeated, unwelcome requests for social engagements;
- Questions or comments about sexual behavior or preference; and
- Acts of physical aggression, intimidation, hostility, threats based on gender, sexual orientation, gender identity, or gender expression.

Other Types of Prohibited Harassment:

A member of the COLLEGE COMMUNITY shall not, on the basis of race, color, religion, disability, age, genetic background, service in a uniformed service, or national origin, be subjected to conduct that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or other education benefit or creating an intimidating, hostile, or offensive working, learning or living environment. This includes, but is not limited to, threatening, intimidating or hostile acts and verbal, written, or graphic material (including communications by computers) that defames or shows hostility or aversion toward an individual or group based on race, color, religion, disability, age, genetic background, service in a uniformed service, or national origin.

## 6.0 **REPORTING DUTIES**<sup>12</sup>

### 6.1 Generally

The promotion and protection of a discrimination-free environment is the responsibility of every member of the College Community. The College can take corrective action only when it becomes aware of problems. Timeliness of reporting is extremely important; it allows a more complete investigation and better prevention of recurrence. **Therefore, the College strongly encourages persons who believe that they have experienced or witnessed sexual harassment, other prohibited harassment, or proscribed discrimination, as defined in this Policy, to come forward promptly with their inquiries, reports, or complaints.**

### 6.2 Duty to Report

Any member of the College community who reasonably believes that s/he has experienced or witnessed discrimination, harassment or abuse proscribed by this Policy has a responsibility to report the situation immediately to one of the Designated Officials listed in Appendix D *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*.

A member of the College community who witnesses but fails to report such a situation may be subject to the immediate consideration of disciplinary or other remedial action if the failure to report has placed a member of the College community at risk of harm or the College at risk of legal liability. The nature and extent of the action taken, if any, will depend on the following factors: (a) the severity of the circumstances observed; (b) the position/status of the person who observed the incident; (c) the position/status of the observed victim and observed violator; and (d) the consequences of the failure to report or the failure to report in a timely manner.

### 6.3 Additional Duty in Reporting Child Abuse

South Carolina law requires certain persons to report CHILD NEGLECT OR ABUSE as it affects students and others younger than age 18, even when it occurs outside the College.

Among other designated persons, South Carolina law requires that schoolteachers, counselors, healthcare clinicians, substance abuse treatment staff, childcare workers in any day care center, police or law enforcement officers, and computer technicians, who have reasonable cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect, as defined by state law, are to immediately report it to the local Department of Social Services or other proper law enforcement agency.

A faculty or staff member who suspects or has any concern regarding child abuse or neglect may report this information promptly to his/her Department Head, Director of Human Relations and Minority Affairs, the Dean of Students, the Campus Police or other law enforcement authority, the Provost, or the General Counsel. College officials who receive such reports shall consult with the Office of Legal Affairs and the College's Chief of Police who will determine the College's duty under the circumstances and, if determined appropriate, will assist in contacting the proper external authorities.

A faculty member or member of the administration who has reason to suspect abuse or neglect and fails to report it is subject to prosecution; however, the person making the report based on valid

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<sup>12</sup> This Policy repeals and supersedes in its entirety the Policy formerly entitled: "Reporting Responsibilities, Investigation and Complaint Resolution for Protected Status Discrimination and/or Harassment/Abuse".

suspicion and concern is protected by law from both civil and criminal retaliation.

#### **6.4 Cooperation**

All Members of the COLLEGE COMMUNITY are expected to fully cooperate, as requested, in any investigation of an alleged violation of this Policy. If the College determines that anyone involved in the investigation has intentionally withheld material information or knowingly provided false information at any time, appropriate disciplinary and/or remedial action will be taken.

#### **6.5 Personal Advisers**

Both the COMPLAINANT and the RESPONDENT shall be allowed to have one personal adviser to accompany them throughout all phases of the investigatory process following the making of a COMPLAINT, provided that the adviser –

- (a) acts as a personal adviser only;
- (b) is a member of the COLLEGE COMMUNITY (other than a Trustee or a
- (c) is not a supervisor of the investigator or the decisional authority;
- (d) is not a witness to the alleged violation(s) of this Policy;
- (e) is willing to sign a confidentiality agreement;
- (f) does not have an economic interest in the investigation or its outcome;
- (g) does not disrupt the investigative proceedings or speak for the COMPLAINANT or RESPONDENT and;
- (h) agrees to following the directions of the investigator during the pendency of the investigation.

An adviser (if a College employee) must request permission from the adviser's immediate supervisor prior to leaving her/his workstation during work hours to accompany a COMPLAINANT or RESPONDENT to a meeting or interview held by the investigator. Such supervisor may deny the request if, in the exercise of that supervisor's discretion, the employee's absence for the times requested will adversely affect the operations under the management responsibility of the supervisor, provided that in such event the supervisor may suggest an alternative time that will not adversely affect such operations. Advisers will be considered as performing services within the scope of their employment when acting in accordance with this Section 6.5; however, employees may not spend more than 4 hours during a work week performing services as an adviser.

The opportunity to have a personal adviser is provided as a matter of comity and not as of right. Any violation of one or more condition listed in this Section 6.5, including any breach of a signed confidentiality agreement, or any abuse of this courtesy, will result in the immediate withdrawal of this courtesy for the individual(s) involved.

### **7. RESPONSE AND PROCEDURES**

#### **7.1 Prevention**

This Policy will be posted and disseminated to the College community. Among other efforts to disseminate this Policy ---

- (a) the Policy shall be presented and discussed by the Dean of Students, or the Dean's designee, during orientation for new undergraduate students and by the Office of the Graduate School for new graduate students;
- (b) the Office of Equal Opportunity Programs and Minority Affairs will present and discuss the Policy with each new employee, who will be asked to sign a

statement that acknowledges that she/he was informed of the Policy and either given a copy of the Policy or directed where to find the Policy on College's Policy webpage;

- (c) the Office of the Provost will ensure that the Policy is shared with all new adjunct faculty and graduate assistants during their orientation. Each adjunct faculty and graduate assistant will be asked to acknowledge that she/he was informed of the Policy and either given a copy of the Policy or directed where to find the policy on the Human Resources webpage; and
- (d) the Executive Vice Presidents shall ensure that this Policy is announced and publicized among all employees currently employed and all students then enrolled as of the effective date of this Policy.

## **7.2 Education**

Appropriate educational sessions will be conducted by the College on an ongoing basis to: (1) inform students and employees about identifying proscribed discrimination (including harassment) and the problems caused by discrimination; (2) advise members of the College community about their rights and responsibilities under this Policy; and (3) train personnel in the administration of this Policy. The Director of Human Resources and the Office of Equal Opportunity Programs and Minority Affairs shall be responsible for planning, coordinating and conducting such sessions, either directly or through the use of outside consultants and experts.

## **7.3 Contractors, Vendors, Consultants, Volunteers and Others**

Any party external to the College, including but not limited to, College contractors, consultants, or vendors found to have violated this Policy on the College campus, or on any property rented or leased by the College, may be held in breach of contract and, in such event, may be subject to such sanctions and damages as may be allowed under the relevant contract and/or applicable law including, but not limited to, ineligibility to be considered a responsible source for subsequent contracting with the College. Other parties who violate this Policy on the College campus, or on any property rented or leased by the College, but who do not have a contractual relationship with the College (including volunteers) may be barred from the College campus.

## **8. INFORMATION AND COUNSELING**

Information about or assistance with this Policy may be obtained from a variety of College resources, including the College's Resource Coordinators, the Office of Human Resources and the Office of Equal Opportunity Programs and Minority Affairs. For counseling services, employees may also contact the Human Resources Office regarding the employee assistance program (EAP) and students may contact the Counseling Center for support regarding discrimination, harassment, abuse or retaliation. Discussions with representatives of EAP and/or the Counseling Center offices do not constitute a complaint to the College.

## **9. COLLEGE INITIATED ACTION**

In circumstances when a report of inappropriate behavior is made, but the COMPLAINANT does not wish to pursue the matter, the College reserves the right to investigate the report and take appropriate action under this Policy. The College is likely to make a decision to pursue such a matter if it determines, in the exercise of its discretion, that: (a) the allegations, if true, give reason to believe that the COMPLAINANT or other members of the College community may be at continued risk of victimization and/or that the College may be put at risk of legal liability; and (b) the COMPLAINANT is credible.

The College also reserves the right to receive and investigate, at the College's discretion, complaints or

reports by persons external to the College community about conduct of a member of the College community alleged to be in contravention of this Policy.

## **10. STANDARDS**

There may be a violation of this Policy regardless of whether the underlying conduct is legally actionable. A violation of this Policy will be deemed to exist if the material facts needed to establish a violation are deemed more probably true than not true. (See Appendix D the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*.)

## **11. WRITTEN REPORT/COMPLAINT**

Once a COMPLAINT of discrimination or harassment has been made under this Policy, the COMPLAINANT may be asked to submit a written statement to the individual designated to investigate the COMPLAINT. The COMPLAINANT is expected to cooperate with the College's investigation including, but not limited to, preparation and submission of a comprehensive written complaint. The failure to submit a written complaint, however, will not be deemed as sufficient cause not to investigate a matter.

## **12. CONFIDENTIALITY**

The College recognizes that confidentiality is important. Information gathered during an investigation shall be maintained as confidential to the extent reasonably possible and permitted under law. Examples of situations when confidentiality will not be maintained include circumstances when the College is required by law to disclose information (i.e., in response to legal process) or when disclosure is required by the College's outweighing interest to protect the rights and safety of others.

## **13. NO RETALIATION**

The College prohibits adverse treatment of employees or students for exercising their rights under this Policy. Any good faith report of discrimination and/or harassment, experienced or observed, should be made without fear of retaliation by the College. **RETALIATION AGAINST ANY EMPLOYEE OR STUDENT FOR FILING A COMPLAINT OR PARTICIPATING IN AN INVESTIGATION IN GOOD FAITH IS STRICTLY PROHIBITED BY LAW AND THIS POLICY. VIOLATORS WILL BE SUBJECT TO THE IMMEDIATE CONSIDERATION OF DISCIPLINARY AND/OR REMEDIAL ACTION THAT COULD INCLUDE SEPARATION FROM THE COLLEGE.**

Intentionally making a false report or providing false or materially misleading information during an investigation also constitute grounds for discipline and/or remedial action.

## **14. INVESTIGATIVE PROCEDURES, DETERMINATIONS AND DISCIPLINARY/REMEDIAL ACTIONS**

Alleged violations of this Policy shall be investigated, and the merits determined, in accordance with the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*. (See Appendix D)

## **15. COMPLIANCE COORDINATORS**

The Director of Human Relations and Minority Affairs has been designated by the President of the College to be the compliance coordinator for those statutes listed below:

- Title IX, Education Act Amendments of 1972
- ADA/Rehabilitation Act of 1973
- Age Discrimination Act of 1975



## **16. AFTER THE DECISION IS MADE**

In the event the College determines that a corrective action is necessary, the accused individual may APPEAL the finding pursuant to the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*. (See Appendix D)

## **17. RESPONSIBILITY FOR POLICY MAINTENANCE**

The Director of Human Relations and Minority Affairs, upon consultation with the Director of Human Resources, shall be responsible for the periodic review and maintenance of this Policy. Such reviews shall take place no less frequently than once during each three year period and shall be provided to the PRESIDENT'S EXECUTIVE TEAM within seven calendar days of completion.

## **18. RECORDS**

### **18.1 Federal Requirements**

In compliance with federal law and the College's Program Participation Agreement with the U.S. Department of Education, the College's Office of Institutional Research completes and submits surveys (Fall Enrollment Survey and Fall Staff) conducted as part of the Integrated Postsecondary Education Data System (IPEDS) reflecting racial/ethnic data on students and employees.

### **18.2 State Requirements and Affirmative Action Plans**

It shall be the responsibility of the Office of Equal Opportunity Programs and Minority Affairs to prepare and submit such affirmative action plans and reports as may be required under the laws of South Carolina.<sup>13</sup> Prior to the submission of any such Plan, however, it shall be submitted for approval to the Director of Human Resources and the PRESIDENT'S EXECUTIVE TEAM.

## **19. AMENDMENTS**

This Policy and Procedure may be amended at any time in accordance with the Colleges *Campus Wide Policy Making Procedures*\*\*\*\*\*

## **GLOSSARY**

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<sup>13</sup> South Carolina law provides as follows:

§ 1-13-110. Affirmative action plans by State agencies; approval by Commission; action by General Assembly.

Each State agency shall develop an Affirmative Action Plan to assure equitable employment for members of minorities (race and sex) and shall present such Plans to the Human Affairs Commission. On or before February 1 of each year, the Human Affairs Commission shall submit a report to the General Assembly concerning the status of the Affirmative Action Plans of all State agencies. If any Affirmative Action Plans have been disapproved, the report shall contain the reasons for such disapproval. If the General Assembly takes no action within sixty (60) days on those Plans which have been disapproved, the action of the Human Affairs Commission shall be final.



**Definitions:** The definitions contained in this Policy will be interpreted and applied by the College in a manner that is consistent with applicable law, professional usage, and conventional understanding within the community. In the event of any alleged conflict in meaning, statutory and legal interpretations shall prevail and be deemed controlling.

**“APPEAL”** – shall have the meaning ascribed to that term in Section 8.0 of the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrative Staff*. (See Appendix D)

**“CAMPUS COMMUNITY” or “COLLEGE COMMUNITY”** – shall mean the students, faculty, and staff of the College, whether part-time, full time or temporary, the College Board of Trustees, visiting faculty, contractors and consultants performing work or performing services on College owned or leased property and all other invitees of the College.

**“CHILD ABUSE OR NEGLECT” or “HARM”** – means, with respect to a person under 18 years of age, conduct occurring when the parent, guardian, or other person responsible for the child's welfare:

**A.** Inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

- (i) is administered by a parent or person in loco parentis;
- (ii) is perpetrated for the sole purpose of restraining or correcting the child;
- (iii) is reasonable in manner and moderate in degree;
- (iv) has not brought about permanent or lasting damage to the child; and
- (v) is not reckless or grossly negligent behavior by the parents.

**B.** Commits or allows to be committed against the child a sexual offense as defined by the laws of this State [South Carolina] or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

**C.** Fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59 [South Carolina Code Ann.], supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so, and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

**D.** Abandons the child;

**E.** Encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

**F.** Has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

**“COLLEGE”** – shall mean the College of Charleston.

**“COMPLAINANT”** – shall mean a person who makes a complaint, whether written or verbal, of facts that, if true, would constitute a violation of this Policy.

**“COMPLAINT”** – shall mean a verbal or written report of a potential violation of this Policy that is received by a “Designated Official” within the meaning of Section 2.0 of the *Operating Procedures for Processing Initial Complaints Against Faculty and Administrators and Staff*. (See Appendix D)

**“DISABILITY”** - shall mean, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

**“GENETIC INFORMATION”**

(a) In general. The term "genetic information" means, with respect to any individual, information about-

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- (i) such individual's genetic tests,
- (ii) the genetic tests of family members of such individual, and
- (iii) the manifestation of a disease or disorder in family members of such individual.

(b) Inclusion of genetic services and participation in genetic research. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(c) Exclusions. The term "genetic information" shall not include information about the sex or age of any individual.

**“GENETIC MONITORING”**

The term "Genetic Monitoring" means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

**“GENETIC SERVICES”**

The term "Genetic Services" means--

- (a) a genetic test;
- (b) genetic counseling (including obtaining, interpreting, or assessing genetic information); or
- (c) genetic education.

**“GENETIC TEST”**

(a) The term "Genetic Test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes.

(b) Exceptions. The term "Genetic Test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

**“OFFICE OF LEGAL AFFAIRS” or “OLA”** – means the Office of Legal Affairs of the College of Charleston.

**“PRESIDENT’S EXECUTIVE TEAM”** – shall mean such Executive Vice Presidents, Senior Vice Presidents, Executive and Senior staff as the President may, from time to time, designate.

**“QUALIFIED INDIVIDUAL WITH A DISABILITY”** -- Qualified individual with a disability means:

(a) With respect to any program or activity (except employment), an individual with a disability who, with or without reasonable modifications or aids, meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(b) With respect to employment, a Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.<sup>14</sup>

**“RESPONDENT”** – means the person(s) named in a complaint who is accused of a violation of this Policy or who would be found to have violated the Policy if the material facts alleged in a complaint are determined to be more likely true than not true.

**“UNIFORMED SERVICES”** means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

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**Appendix D. Operating Procedures for Processing Initial Complaints Against Faculty and Administrators and Staff**



**OPERATING PROCEDURES  
FOR  
PROCESSING INITIAL COMPLAINTS AGAINST FACULTY  
AND  
ADMINISTRATORS AND STAFF**

**INTRODUCTION**

Without changing the substantive provisions of any College Policy or amending any provision of the Faculty/Administration Manual, this document will describe how certain complaints alleging inappropriate conduct or omissions by faculty, administrators and staff will be initially investigated.<sup>15</sup>

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<sup>14</sup> Exceptions will be recognized to this definition that are consistent with Federal regulations (see e.g. 29 C.F.R. § 1630.3).

<sup>15</sup> For ease of convenience, in this document administrators and staff will be collectively referred to as “administrative staff.”

These Operating Procedures (“Procedures”) specify the acceptable method for conducting initial investigations of the types of matters listed in Section 1.0 below. The Procedures will also provide those managers making initial decisions on complaints (the “Decisional Authorities”) an improved opportunity to receive and review the facts and to discuss policy and legal implications at meaningful times prior to decision making.

With respect to the parties involved in the matter, it is intended that the Procedures will provide more information on “process” and the rights of both the Complainants (those alleging a policy violation) and Respondents (those alleged to have violated College policy). Similarly, these Procedures will afford supervisors and managers and the heads of affected operating units, such as department chairs, appropriate notice and an opportunity to provide input into the investigatory process.

Finally, it is expected that this standardization of the investigatory process will also promote consistency and uniformity in the type and content of communications sent to all concerned parties.

**NOTHING CONTAINED IN THESE OPERATING PROCEDURES IS INTENDED TO MODIFY, AFFECT, OR REPEAL ANY COLLEGE POLICY, ANY PROVISION OF THE FACULTY/ADMINISTRATION MANUAL (“FAM”), OR ANY RIGHT TO A GRIEVANCE PROCEDURE AS PROVIDED FOR UNDER THE FAM OR THE LAWS OF SOUTH CAROLINA AND RELEVANT REGULATIONS PROMULGATED PURSUANT THERETO.**

## **1. APPLICABILITY**

**1.1 Covered Policies** -- This Procedure will be used to investigate initial complaints<sup>16</sup> concerning a matter, or an alleged violation of a policy, dealing with one or more of the following (each a “Covered College Policy”):

- (a) the College Policies entitled, *Prohibition of Discrimination and Harassment Including Sexual Harassment and Abuse*, and the *Consensual Relations Policy*, described in the FAM when an alleged violation of that latter Policy is included within a claim of discrimination (collectively “Discrimination”);
- (b) student grievances against faculty members or others (not covered under (a)), as described in the FAM, except that student grade appeals are not subject to investigation under these Procedures;
- (c) *Code of Professional Conduct and Statement of Professional Ethics*, as described in the FAM (not covered under (a)); or
- (d) legal regulatory compliance issues.

**1.2 Other Matters** -- Alleged violations of the *College Code of Conduct and Disciplinary Actions* not specifically covered under a policy listed in Section 1.1 may be investigated in a reasonable manner deemed most suitable under the circumstances by the immediate supervisor of the Respondent, if a disinterested party, and the Director of Human Resources. If the immediate supervisor of the Respondent is not a disinterested party the Director of Human Resources shall decide how the matter is to be investigated. Complaints may be initially conveyed to or filed with the immediate supervisor or Director of Human Resources, but if the immediate supervisor of the Complainant is not a disinterested party, complaints shall be filed with or presented to the Director

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<sup>16</sup> For purposes of these Procedures a “complaint” or a “grievance” may be used interchangeably to indicate one or more allegations made by a complaining party that would trigger an initial factual investigation by the College to determine facts relevant to a determination of whether a member of the College community has violated a covered Policy. Students, faculty, administrators, staff, trustees and College volunteers are considered to be members of the “College community”. Claims of improper conduct by students, however, will be investigated and resolved in accord with the *Student Code of Conduct*.

of Human Resources. In all circumstances, however, the Complainant and the Respondent shall be given a meaningful opportunity, at a meaningful time, to present their respective positions.

**1.3 Duty to Investigate** – In the event that a Complainant discloses information that, if true, would constitute a violation of a Covered Policy, but then subsequently refuses to reduce his/her complaint to writing or to cooperate in an investigation, the Designated Official (see Section 2.0) or the investigator (see Section 3.0) shall consult with the General Counsel. The Senior Vice President, after consultation with the appropriate Executive Vice President and/or the President, will determine the legal responsibilities of the College to proceed with an investigation under the attending circumstances.

## **2. ACCEPTANCE OF COMPLAINTS**

**2.1 Designated Officials.** Except as provided below in Sections 2.2 and 2.3, alleged violations of a Covered Policy may be made to one or more Designated Officials (as appropriate) occupying the employment positions noted next to each matter listed immediately below in subsections (a) through (d). Once received by a Designated Official, the matter will be referred to an investigator as provided for in Section 3.0.

(a) Discrimination Complaints Including Sexual Harassment and Harassment of Protected Groups – Complaints may be conveyed to or filed with:

- (1) Director of Human Relations (“HRel”): for Complainants who are employees, students, College volunteers, College invitees or employees of College contractors alleging Discrimination on College owned or leased property (“College Property”).
- (2) An Associate Provost: for Complainants who are faculty and administrative staff employed by Academic Affairs and who elect not to file with the General Counsel, or Office of Equal Opportunity Programs and Minority Affairs.
- (3) Dean of Students: for Complainants who are students only.
- (4) General Counsel: for all of the above.

(b) Student Grievances for Other Than Discrimination Covered under Subsection (a)

- (1) With respect to a grievance against a faculty member made by a student for other than Discrimination, the Complainant/student may convey or file a grievance with the Chair or the Program Director of the unit that is the employing office of the Respondent faculty member.
- (2) Grievances against non-faculty members and other students should be brought to the attention of the Dean of Students or, if Discrimination by an employee is alleged by the student, to any one of those persons listed in (a) (1) through (4) above.
- (3) In all cases concerning the alleged violation of a Covered Policy, however, the Dean of Students must transmit the complaint, or direct the student, to the appropriate Designated Official. Such a referral does not preclude the Dean of Students from initiating proceedings under the Student Code of Conduct in cases when the alleged conduct would violate both a Covered Policy and the Student Code of Conduct. In such a situation, and in the absence of exigent circumstances, the Dean of Students will await the outcome of the factual investigation before proceeding with a disciplinary hearing.

(c) Code of Professional Conduct and Statement of Professional Ethics – Except for Discrimination, complaints may be conveyed to or filed with the appropriate Executive Vice President having responsibility for the area in which the Respondent is employed. A complaint

against an Executive Vice President or the General Counsel may be conveyed to or filed with the President.

(d) Regulatory Compliance Issues – Complaints or disclosures of non-compliance with laws, rules, or regulations by College personnel, students, volunteers, or College contractors, or subcontractors or sub recipients of sponsored research, may be conveyed to or filed with the General Counsel or the appropriate Executive Vice President having responsibility for the area in which the Respondent is employed. Violations of state or local criminal law may also be reported to the College’s Chief of Police. A complaint against an Executive Vice President or the General Counsel may be conveyed to or filed with the President.

**2.2 The President** -- Alleged violations of a Covered Policy by the President may be made to the Chair of the Board of Trustees, the Secretary of the Board, or to the General Counsel.

**2.3 Board of Trustees** -- Alleged violations of a Covered Policy by a Member of the Board of Trustees shall be made to the Chair of the Board of Trustees or to any other disinterested member of the Board.

**2.4 Notice to the President** -- In all circumstances the President shall be provided prompt notice of all allegations that a Senior or Executive Vice President has violated a Covered Policy.

### **3. REFERRAL TO INVESTIGATOR**

**3.1 Referrals or Investigations by the Designated Officials** -- Except as provided in Section 3.2, upon receipt of a complaint, a Designated Official shall refer the matter for investigation, or shall conduct the investigation, in accordance with the following:

(a) Discrimination --

(i) Alleged violations of the *Policy on Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse* shall be referred to the Office of Equal Opportunity Programs and Minority Affairs for investigation, except as may otherwise be determined, in exceptional cases, by the General Counsel, the President, or the Board of Trustees.<sup>17</sup>

(ii) When complaints of Discrimination involve both students and non-students, the Dean of Students and the Director of the Office of Equal Opportunity Programs and Minority Affairs shall consult and coordinate their respective activities. The Office of the Provost shall also be consulted if the complaint involves, or is likely to involve, issues of academic freedom, academic integrity, or other issues that may involve an academic matter. The Center for Disability Services will be consulted if the complaint involves, or is likely to involve, actual or apparent disabilities, within the meaning of the *Americans with Disabilities Act* or accommodations under that Act.

(b) Student Grievances for Other than Discrimination –

Grievances lodged against a faculty member for other than Discrimination shall be referred to and investigated by the Chair of the Respondent faculty member’s employing department or unit in accordance with the provisions of the FAM. Student grievances alleging a violation of policy by another student shall be investigated in accord with the Student Code of Conduct; complaints against administrative staff shall be investigated by those persons described in (a), (c), (d), (e) or (f) of this Section 3.0.

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<sup>17</sup> For the purposes of this subsection only, an exceptional case will be deemed to exist if, for example, the respondent is a dean or a member of the President’s Executive Team.

(c) Code of Professional Conduct and Statement of Professional Ethics – In the case of a complaint against a faculty member for unprofessional conduct (other than Discrimination), the Dean of the appropriate School, after consultation with the Office of the Provost, shall appoint a disinterested investigative review panel consisting of no more than three faculty members or academic administrators from the School to investigate the matter.<sup>18</sup> The results of that investigation shall be reviewed and commented on by the Chair of the Respondent’s department or unit. The Chair’s recommendation and comments shall be conveyed to the Dean for a decision or a recommendation to the Provost, as may be appropriate (see Section 7.0). The decision or recommendation of the Dean shall be provided to the Chair, the Complainant, and to the Respondent faculty member.

(d) Compliance Issues -- Compliance issues shall be investigated in a manner directed by the General Counsel after consultation with the President and/or the appropriate Executive Vice President, provided that if the Executive Vice President is an involved party in the challenged activity, the Senior Vice President shall consult only with the President. Complaints against the General Counsel shall be handled in a manner deemed most appropriate under the circumstances by the President.

**3.2 All Complaints Dealing with the President or a Trustee** -- Complaints against the President for a violation of a covered Policy shall be investigated and resolved in a manner deemed most appropriate under the circumstances by the Board of Trustees. Complaints against a Trustee for a violation of a covered Policy shall be investigated and resolved in a manner deemed most appropriate under the circumstances by the disinterested Members of the Board.

**3.3 Uncertainty Regarding Referrals for Investigation** – In the event that a Designated Official is uncertain as to the proper person to whom a Complaint should be referred, the matter shall be referred to the General Counsel who shall consult with the appropriate Executive Vice President and/or the President prior to making a final decision on the appropriate referral.

#### **4. INFORMAL RESOLUTION**

**4.1 Mediation** – Except as provided for in Section 4.4, mediation is the preferred way to resolve most disputes between members of the College community. In order for mediation to take place on any complaint, however, it must be mutually acceptable to both the Respondent and the Complainant. During the mediation, the investigator meets individually and/or with both parties, as appropriate. Either the Complainant or the Respondent may refuse mediation or, once commenced, end mediation at any time. No adverse inference is to be drawn from any such decision to accept or reject mediation. If a mediated compromise is reached between the parties, it must be approved by the investigator and the Executive Vice President in the supervisory chain. The Executive Vice President may consult, as appropriate, with affected supervisor(s) and others and shall seek legal advice from the General Counsel to resolve or discuss legal issues.

**4.2 Interim Action** – Upon receipt of a complaint, the investigator is to perform a preliminary assessment of the need for immediate interim action (e.g. removal, reassignment, administrative leave, or suspension). If the investigator believes that interim action is needed, the investigator is to provide notification to the Provost or other appropriate Executive Vice President and those in the supervisory chain, as may be appropriate under the circumstances. The recommended interim action, if approved by the relevant Executive Vice President (after consultation with the General Counsel), is to be taken by the Respondent’s supervisor or the first disinterested manager higher up in the supervisory chain.

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<sup>18</sup> In exceptional circumstances the Provost may determine, in the exercise of her/his discretion, that fundamental fairness would be better served by appointing a panel outside of the School to conduct the investigation.



**4.3 Next Step** -- If mediation is not feasible or appropriate under the circumstances, or if not successful within a reasonable period of time, the investigator is to commence a formal investigation.

**4.4 Inappropriate Circumstances for Mediation** -- The College will not agree to any mediated solution to a complaint, despite the wishes of the parties, when it has reason to believe that: (a) a sexual assault or any other form of violence has taken place; (b) the Complainant and the Respondent are so diametrically adverse in positions or have such conflicting views of an appropriate solution that resolution by mediation seems unlikely; (c) there is an unreasonable risk of violence or intimidation by one party against the other; (d) the Respondent has been charged with a crime arising out of the event giving rise to the Complaint; or (e) for other good cause in the interest of the College, or the parties, as determined in the discretion of the investigator.

## **5. FORMAL INVESTIGATION**

**5.1 Commencement** -- The investigator shall first identify all provisions of applicable policies that may have been violated if the allegations made by the Complainant prove more likely true than not true. Only those allegations that would, if true, constitute a violation of a Covered Policy should be investigated; and only evidence that tends to prove or disprove such allegations shall be considered relevant to the investigation. If the investigator determines that even if all allegations prove true there would be no violation of a Covered Policy, the matter shall not be investigated.

**5.2 Notice** -- Except as provided in this Section 5.2, the investigator is to notify the Respondent that allegations have been made against him/her and the nature of the allegations. The appropriate policy shall be cited and the Respondent shall be informed that retaliation in any form against the Complainant or a witness is strictly prohibited. The Respondent shall also be notified that s/he will have an opportunity to address the allegations and to submit evidence on his/her own behalf. In exceptional cases, notification of the Respondent may be delayed if the investigator determines that such notification may put the Complainant or a witness at risk or impede the investigation.

### **5.3 Evidence** --

(a) **Fact Gathering** -- The investigator is to conduct fact finding through interviews of the Complainant, the Respondent and other witnesses, the examination of written statements from the parties, the review of all relevant documents, and the consideration of any other evidence that would tend to prove or disprove the factual allegations. Executive Vice Presidents are to take reasonable measures to assure that the investigator has access to witnesses, documents, and such other evidence as may be reasonably necessary under the circumstances to discover and consider relevant facts. The investigator shall make notes of all interviews conducted as part of the investigation.

(b) **Counsel** -- Witnesses, including the Complainant and the Respondent, may have legal counsel present at interviews, but counsel may not participate in the interview (that is, answer questions for, or ask questions on behalf of, their clients) and may be asked to leave the interview site if disruptive or causing an unreasonable delay in the conduct of the interview. Prior to any such interview with counsel in attendance, the investigator shall notify the Senior Vice President of Legal Affairs and afford the Senior Vice President the opportunity to attend the interview.

(c) **No Inference** -- A negative inference may not be drawn by the Respondent's decision not to provide a statement or give an interview. In such event, the matter will be decided without the benefit of the Respondent's participation.

(d) **Interference** – A member of the College community who interferes with an investigation conducted under these Procedures shall be subject to disciplinary action up to and including termination or expulsion, depending on the frequency or seriousness of the offense.

**5.4 Opportunity to Respond** -- The Respondent must be given a meaningful opportunity, at a meaningful time, to respond to the allegations and present relevant evidence on his/her behalf during the initial investigation.

**5.5 Time Estimates** – The investigator shall conduct an investigation in a manner and within a timeframe most appropriate to the circumstances, taking into account pending workload requirements, other assigned cases, and the complexity of the individual complaint being investigated. Upon inquiry by either the Complainant or the Respondent, the investigator shall give a good faith estimate of when the Report of Investigation will be completed.

**5.6 Facilitators** – If the investigator, in the exercise of her/his sole discretion, determines that the appointment of a “facilitator” would be of assistance to the investigator in the conduct of the matter under investigation, the investigator may request the appropriate Executive Vice President to appoint a disinterested employee to assist the investigator. Such assistance may include, but not be limited to, gathering relevant documents, arranging for the interview of potential witnesses, and keeping the Complainant and the Respondent informed of the progress of the investigation and its expected time of completion. All facilitators shall be subject to the direction of the investigator and shall sign an appropriate confidentiality agreement prepared by OLA prior to performing any services under this Section 5.6.

**5.7 Pending Criminal Matter** – Generally, a College investigation will not be postponed if the Complainant or Respondent has been charged with a crime arising out of an event related to the Complaint. In each such circumstance, the OLA shall be notified of the criminal matter and will decide, on a case-by-case basis, whether exceptional circumstances exist to warrant delaying the investigation of the matter.

#### **5.8 Personal Advisers**

**When investigations are conducted under the authority of either the *Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse Policy* or the *Consensual Relations Policy* both the Complainant and the Respondent shall be allowed to have one personal adviser to accompany them throughout all phases of the investigatory process following the making of a complaint. This courtesy, however, shall be subject to all of the terms and conditions stated in Section 6.5 of the *Prohibition of Discrimination and Harassment, Including Sexual Harassment and Abuse Policy*.**

### **6. REPORT OF INVESTIGATION**

**6.1 Issuance of a Report of Investigation (the “Report”) by the Investigator** -- The content of the Report shall be principally confined to the allegations, the applicable Covered Policy, and the findings and conclusions of fact. No legal conclusions are to be presented in the Report as to the applicability of any law, or whether any law was violated; except that, the Report must state that retaliation is a violation of both law and College policy. The Report shall contain at least the following five sections:

- (a) the allegations;
- (b) the applicable policy or policies involved;
- (c) the method of investigation, including a list of witness interviewed, documents reviewed and other evidence considered;
- (d) findings of fact; and
- (e) factual conclusions.

**6.2 Office of Legal Affairs --** The Report is to be forwarded to the Decisional Authority through the Office of Legal Affairs (“OLA”). OLA may not amend the Report in any way, but may prepare a legal memorandum for use by the Decisional Authority to accompany the Report. The memorandum will be protected by privilege and will contain a legal review and an explanation of the range of options legally available to the Decisional Authority under the circumstances. The memorandum may also indicate the rights, if any, that the Respondent may have to address any proposed conclusion and discipline prior to the issuance of a final decision.

**6.3 The Record –** The Report and all its exhibits and referenced materials, as well as, newly discovered evidence, as described in Section 8.3, shall be the official record of the investigation. The investigator, however, may summarize voluminous evidence in the Report, with appropriate references, provided that the Decisional Authority is advised of his/her authority and opportunity to review the entire record.

**6.4 Maintenance of the Record –** After the investigation has been completed and the matter has been closed, the official record of the investigation, the Report of Investigation and the disposition of the Decisional Authority shall be maintained in the Office of the investigator. These materials shall be available to: (a) the Complainant and the Respondent, with such redactions as may be required under law; (b) the investigator, the Decisional Authority, and the OLA; and (c) such third parties who may have a legal right to access such materials, in whole or in part, as determined by the General Counsel.

## **7. DECISIONAL AUTHORITY**

**7.1 Responsibilities --** The initial Decisional Authority is the manager who receives the Report of Investigation and who initially opines on whether the Respondent has violated the relevant Covered Policy and, if so, the nature and extent of the discipline and/or remedial action to be imposed or recommended to a higher management authority (the “Initial Decisional Authority”). The decision must contain a determination as to the material facts established by the record (deemed more probably true than not true), whether the established facts constitute a violation of the Covered Policy and, if so, what discipline and/or remedial action is to be imposed or recommended. In lieu of a decision, the matter may also be remanded by the Initial Decisional Authority to the investigator for more investigation. All decisions regarding a policy violation must be based solely on the Report of Investigation.

**7.2 Decisional Authorities --** The Initial Decisional Authorities for the matters listed below are as follows:

(a) **Discrimination or Code of Professional Conduct and Statement of Professional Ethics:**

(i) If a Faculty member is the Respondent -- The Initial Decisional Authority is the relevant Chair or Dean.

(ii) If the Respondent is Administrative Staff -- The Initial Decisional Authority is the first supervisor in the supervisory line of the Respondent who is at the level of an Associate Vice President or higher.

(b) **Student Grievances --**

(i) Against Faculty Members for other than Discrimination – These grievances shall be initially decided by the Chair of the relevant department and appeals from that decision are to be resolved by the appropriate Dean. Subsequent proceedings, if any, are to be conducted in accordance with the FAM.

(ii) Against Administrative Staff -- Student grievances against administrative staff based on alleged Discrimination or violation of the Code of Professional Conduct and Statement of Professional Ethics shall be treated under the procedures provided for under subsection (a) of this Section 7.2.

(iii) Against other Students – These matters shall be resolved by the Dean of Students under the Student Code of Conduct or as provided for under a Covered Policy, whichever is more appropriate under the circumstances.

**7.3 Automatic Disciplinary Reviews** -- Disciplinary action against Faculty or Administrative Staff that is more severe than an oral or written reprimand must be approved by the appropriate Executive Vice President. In such a case, the lower level supervisors shall forward the Report, the OLA legal memorandum and his/her recommendations to the appropriate Executive Vice President. Notification of the recommendation submitted to the Executive Vice President shall be provided to the Complainant and the Respondent to afford each of them an opportunity to comment on the recommendations directly to the Executive Vice President.

**7.4 Compliance Issues** – Legal opinions regarding whether the College has acted in a manner inconsistent with laws, rules, or regulations shall be made by the General Counsel and shall be provided to such person(s) as may be appropriate under the circumstances.

## **8. APPEALS**

**8.1 Generally** -- An appeal is not a grievance proceeding. Rather, it is a request that the appropriate higher level manager in the supervisory chain overturn or modify an action taken by an initial Decisional Authority or decline to follow the recommendation of the initial Decisional Authority.

**8.2 Non-Appealable Matters** -- Verbal or written reprimands and the findings on which they are based are not appealable. In the case of a written reprimand, however, the Respondent may be permitted to include in her/his official personnel file a response to the written reprimand, provided that such response, in the opinion of the appropriate Executive Vice President upon consultation with the General Counsel, is relevant, does not defame any person or the College, respects the privacy rights of students, and avoids expletives and pejorative language.

**8.3 Special Considerations** -- Decisions on appeal shall be based solely on the Report of Investigation, except that, an appeal may also raise the following issues:

(a) newly discovered evidence that was previously unknown and not reasonably discoverable at the time of the initial investigation and that could affect the outcome; or

(b) an irregularity in the process that affected the finding of a material fact or that could have otherwise affected the outcome.

**8.4 Standard of Review** -- Upon an appeal, the findings of the Decisional Authority will be overturned only if the Appeal Authority determines that there was no circumstance under which a reasonable person could reach the same factual conclusion based on the Record, as it may be modified under section 8.3. The sanctions imposed in a case will not be modified unless the Appeal Authority determines that they are materially disproportionate to the severity of the violation or not supported by the factual conclusions of the Initial Decisional Authority.

**8.5 Termination of Tenured Faculty** – Nothing contained in these Procedures is intended to indicate that the standard for the termination of a tenured faculty member is other than “clear and convincing evidence in the record considered as a whole,” as provided for in the FAM.

## 9. ASSISTANCE

Upon request, investigators and Decisional Authorities shall be provided legal assistance by the Office of Legal Affairs.

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### Appendix E. Information on State and Federal Alcohol and Drug Laws



#### SOUTH CAROLINA ALCOHOLIC BEVERAGE LAWS

NOTE: Likely actual fines (including court costs and administrative fees) are provided. The information provided below is produced by the S. C. Department of Alcohol and Other Drug Abuse Services online at:  
<http://www.daodas.state.sc.us/>

**Purchasing or possessing beer or wine if you are under the age of 21 (In instances where beer or wine is discovered in the presence of minors [e.g., at a party], but no one is holding the beverages and no one claims ownership, law enforcement in some jurisdictions have charged all those present with “constructive possession,” carrying the same penalties as for actual purchase or possession.)**

A fine of \$265 to \$470 and/or imprisonment for up to 30 days for the first offense. Mandatory completion of alcohol prevention intervention/education program.

*S.C. Code Ann. Sections 63-19-2440*

**Lying or providing false information about your age to purchase beer, wine, or liquor**

A fine of \$262.50 to \$470 and/or imprisonment for up to 30 days. Lose your driver’s license for 120 days for a first offense and one year for a second or subsequent offense.

*S.C. Code Ann. Sections 61-4-60, 20-7-8925, 56-1-746*

**Lending a driver’s license or personal identification card to any other person**

A fine of \$237.50 to \$470 or imprisonment for up to 30 days

A fine up to \$1,090 or imprisonment for up to six months

*S.C. Code Ann. Sections 56-1-510(2), 56-1-746*

**Providing false information on an application to obtain a driver’s license or personal identification card**

A fine of up to \$237.50 to \$500 or imprisonment for up to 30 days

A fine of up to \$500 [*\$1,090*] or imprisonment for up to six months

*S.C. Code Ann. Sections 56-1-510(5), 56-1-746*

**Altering a driver’s license**

A fine of up to \$2,500 [*\$5,250*] or imprisonment for up to six months – or both

*S.C. Code Ann. Sections 56-1-515(1), 56-1-746*

**Selling or issuing a false driver’s license**

A fine of up to \$5,250 or imprisonment for up to six months – or both

*S.C. Code Ann. Sections 56-1-515(1), 56-1-746*

**Using someone else’s driver’s license or personal identification card**

A fine of up to \$100 or imprisonment for up to 30 days

S.C. Code Ann. Sections 56-1-515(2), (4), 56-1-746

**Using an altered driver's license or identification card containing false information**

A fine of up to \$100 or imprisonment for up to 30 days

S.C. Code Ann. Sections 56-1-515(2), (4), 56-1-746

**Possessing an altered or invalid driver's license or personal identification card**

A fine up to \$470 or imprisonment for up to 30 days for the first offense, and a fine of up to \$1,090 or imprisonment for up to six months for a second or subsequent offense

S.C. Code Ann. Sections 56-1-510(1), 56-1-746

In addition to the penalties outlined, individuals convicted of the following offenses will also have their driver's licenses suspended for 120 days for a first offense and one year for a second or subsequent offense:

- Possessing, consuming, purchasing or attempting to purchase beer, wine, or liquor under the age of 21
- Lying or providing false information about your age to purchase beer, wine, or liquor
- Lending a driver's license or personal identification card to any other person
- Providing false information on an application to obtain a driver's license or personal identification card
- Altering a driver's license • Selling or issuing a false driver's license
- Using someone else's driver's license or personal identification card
- Using an altered driver's license or identification card containing false information.

**Violating any alcohol-related laws if you are a student**

Additional penalties (besides those cited previously) include:

- ineligibility for state-funded grants and/or scholarships (e.g., the LIFE Scholarship) for one year upon second conviction; and
- ineligibility for the refundable state individual income tax credit.

S.C. Code Ann. Sections 59-149-90, 59-149-20, 59-113-20, 59-142-10, 12-6-3385

**Providing Alcohol to Underage Youth and Allowing Underage Drinking**

**Giving beer, wine, or liquor to anyone who is under the age of 21, including serving anyone in your home except your child or spouse**

A fine of \$470 to \$677.50 and/or imprisonment for up to 30 days for the first offense.

A fine of \$885 to \$1,092 and/or imprisonment for up to 30 days for a second or subsequent offense.

S.C. Code Ann. Sections 61-4-90, 61-6-4070

**Selling beer, wine, or liquor to anyone under the age of 21**

A fine of \$200 to \$300 and/or imprisonment for up to 30 days for the first offense

A fine of \$400 to \$500 and/or imprisonment for up to 30 days for a second or subsequent offense. Mandatory completion of an approved merchant education program.

S.C. Code Ann. Sections 61-6-4080, 61-4-50

**Purchasing beer, wine, or liquor for someone who cannot lawfully buy these beverages**

A fine up to \$677.50 and/or imprisonment for up to 30 days for the first offense

A fine up to \$1,090 and/or imprisonment for up to 30 days for a second or subsequent offense S.C. Code Ann. Sections 61-4-80, 61-6-4075

**Allowing underage drinking to occur in a hotel/motel room you have rented**

A fine of up to \$500 or imprisonment for up to 30 days S.C. Code Ann. Section 45-2-40 (C)

**OFFENSES RELATED TO ALCOHOL USE AMONG THE GENERAL POPULATION**

*NOTE: Likely actual fines (including court costs and administrative fees).*

**OPEN CONTAINERS**

**Having an open container of beer or wine in a moving vehicle of any kind, except in the trunk or luggage compartment**

A fine of up to \$260.50 or imprisonment for up to 30 days S.C. Code Ann. Section 61-4-110

**Having an open container of liquor anywhere that is not allowed by state law. (Examples of approved locations include private residences, hotel/motel rooms, licensed establishments, etc.)**

A fine of up to \$262.50 or imprisonment for up to 30 days  
S.C. Code Ann. Sections 61-6-2600, 61-6-4020, 61-6-4710

#### **UNDERAGE YOUTH AND DUI**

Suspension or denial of issuance of driver's license for six months or one year if you have been convicted of driving under the influence (DUI) or driving with a BAC of .02% or higher while under the age of 21, within the five years preceding the violation mandatory enrollment and completion of an Alcohol and Drug Safety Action Program (ADSAP) if license is suspended S.C. Code Ann. Section 56-1-286

#### **Driving a motor vehicle with a BAC of .02% or higher if you are under the age of 21**

Suspension of driver's license for three months. Suspension of driver's license for six months if you have had a DUI conviction within the past five years. Mandatory enrollment and completion of an ADSAP if license is suspended.  
S.C. Code Ann. Section 56-1-286

#### **Operating a motor vehicle while under the influence of alcohol. If you have a BAC of .08% or higher, it will be inferred that you were driving while under the influence of alcohol. A BAC that is at least .05% but less than .10% may be considered with other evidence to determine guilt or innocence.**

A fine of up to \$400 and/or imprisonment from 48 hours to 30 days *and* suspension of driver's license for six months for a first offense. A fine of \$2,000 to \$5,000 and imprisonment not less than 5 days to one year *and* suspension of driver's license for one year for a second offense. A fine of \$3,800 to \$6,300 and imprisonment from 60 days to three years, *and* suspension of driver's license for two years for a third offense. Imprisonment from one to five years and permanent revocation of driver's license for a fourth or subsequent offense. If the third offense occurs within five years of the first offense, the driver's license is suspended for four years. If the third or subsequent offense occurs within 10 years of the first offense, the vehicle used must be confiscated if the offender is the owner or a resident of the household of the owner. Mandatory enrollment and completion of an ADSAP if license is suspended. A third or subsequent offense is considered a felony offense. The name and address of any person whose license is suspended shall be released to the public.  
S.C. Code Ann. Sections 56-5-2930, 56-5-2990, 56-5-2940, 56-5-3000, 56-5-6240, 56-5-2933

#### **Driving a motor vehicle with a BAC of .15% or higher**

Mandatory suspension of driver's license for 30 days. Suspension of driver's license for 60 days if you have had a prior DUI conviction within the past 10 years S.C. Code Ann. Sections 56-5-2950, 56-5-2951

#### **Refusing to submit to testing to determine your blood alcohol concentration (BAC) level if you are under the age of 21**

Suspension of driver's license for six months to one year. Suspension of driver's license for one year if you have had a prior DUI conviction within the past 5 years. S.C. Code Ann. Section 56-1-286 (F)

#### **Driving a vehicle while under the influence of alcohol or other drugs and causing great bodily injury to any other person**

Mandatory fine of \$5,100 to \$10,100 and imprisonment for 30 days to 15 years. This crime is considered a felony offense. S.C. Code Ann. Section 56-5-2945

#### **Driving a vehicle while under the influence of alcohol or other drugs and causing death to any other person**

Mandatory fine of \$10,100 to \$25,100 and imprisonment for one to 25 years. This crime is considered a felony offense. S.C. Code Ann. Section 56-5-2945

#### **Commission of a felony DUI offense**

Additional penalties (besides fines and imprisonment as identified above) include:

- ineligibility to vote until sentence is served (including probation and parole);
- possible denial of entry to the armed forces or restriction in regard to certain jobs within the armed forces;
- ineligibility to work for a federal law enforcement agency;
- possible denial of employment by federal or state agencies; and
- ineligibility to file to run for any office in the state or its political subdivisions until 15 years or more after the completion of sentence (including probation and parole).

S.C. Code Ann. Sections 7-5-170, 7-5-120, AETC 36-2002, AR-601-210 S.C. Const. Art. VI, §1, Art. III, §7

NOTE:

- All convictions are placed on a permanent criminal record. All alcohol offenses are misdemeanors except a felony DUI conviction.
- For underage drinking laws, alcohol offenses can be “stacked.” In other words, a person charged and convicted of three separate offenses can receive all three fines or jail terms, not just the largest of the three.
- Persons convicted of first offense DUI:
  - Are required to show proof of financial responsibility to the Department of Highways and Public Transportation, usually in the form of a guarantee of high-risk insurance coverage, for three years.
  - Are required to complete an Alcohol and Drug Safety Action Program (ADSAP) before becoming eligible to apply to the Department of Highways and Public Transportation for driver’s license reinstatement.
  - May be eligible for a provisional driver’s license upon meeting requirements. \*All accidents resulting in injury or death of a person under age 21 as a result of DUI are investigated.

**PUBLIC DRINKING**

**Being grossly intoxicated on any highway or at any public place or public gathering**

A fine of up to \$100 or imprisonment for up to 30 days S.C. Code Ann. Section 16-17-530

**Consuming alcoholic liquor in a public conveyance**

A fine of up to \$100 or imprisonment for up to 30 days S.C. Code Ann. Section 61-6-4720

**SELLING OR POSSESSING KEGS**

**Selling a keg of beer without the proper tag or forms**

A fine of up to \$675 for the first offense and a fine of up to \$1,090 for a second or subsequent offense. S.C. Code Ann. Section 61-4-1920

**Possessing a keg of beer that does not have the proper tag**

A fine of up to \$1,090 and/or imprisonment for up to 30 days S.C. Code Ann. Section 61-4-1930

**Removing, altering, or obliterating the tag on a keg of beer**

A fine of up to \$1,090 and/or imprisonment for up to 30 days S.C. Code Ann. Section 61-4-1940

**BE AWARE THAT STATE ALCOHOL LAWS ARE SUBJECT TO CHANGE**

**INFORMATION ON SOUTH CAROLINA DRUG LAWS**

The following is a partial list of South Carolina’s drug laws. For more information and a complete list of laws relating to offenses, please see Chapter 53, Title 44 of the South Carolina Code of Laws, as amended.

**MARIJUANA—HASHISH**

**Possession of 1 ounce or less of marijuana, or 10 grams or less of hashish**

- First offense: Not more than 30 days of imprisonment and/or a fine of not less than \$100 nor more than \$200; \$570 with court fees.
- Second or subsequent offense: Not more than one year and/or \$200 to \$1,000 (Section 44-53-370{d}{4})

**Manufacture, distribution, or possession with the intent to distribute**

- First offense: Not more than five years and/or not more than \$5,000
- Second offense: Not more than 10 years and/or not more than \$10,000
- Third or subsequent offense: Not less than five years nor more than 20 years and/or not more than \$20,000 (Section 44-53-370{b}{2})

**Trafficking (10 lbs. to 100 lbs. of marijuana)**

- First offense: Not less than one year nor more than 10 years and \$10,000
- Second offense: Not less than five years nor more than 20 years and \$15,000
- Third or subsequent offense: 25 years and \$25,000 (Section 44-53-370{e}{1}{a})

**Trafficking (100 lbs. to 2,000 lbs. of marijuana, or 100 to 1,000 marijuana plants regardless of weight)**

- 25 years and \$25,000 (Section 44-53-370{e}{1}{b})



**Trafficking (2,000 lbs. to 10,000 lbs. or more of marijuana, or 10,000 or more marijuana plants regardless of weight)**

- Not less than 25 years and \$50,000 (Section 44-53-370{e}{1}{c})

**LSD, COCAINE AND HEROIN**

**LSD Possession**• First offense: Not more than two years and/or not more than \$5,000

- Second offense: Not more than five years nor more than \$5,000
- Third or subsequent offense: Not more than five years and/or not more than \$10,000 (Section 44-53-370{d}{1})

**Cocaine Possession (less than one gram)**

- First offense: Not more than three years and/or not more than \$5,000
- Second offense: Not more than five years nor more than \$7,500
- Third or subsequent offense: Not more than ten years and/or not more than \$12, 500 (Section 44-53-370{d}{3})

**Manufacture, distribution, or possession with the intent to distribute cocaine (10 grains < 10 grams).**

- First offense: Not more than 15 years and/or not more than \$25,000
- Second offense: Not less than five years nor more than 30 years and/or not more than \$50,000 (Section 44-53-370 {e}{2}{a})

**Trafficking cocaine (10 grams to 28 grams).**

- First offense: Not less than three years nor more than 10 years and \$25,000
- Second offense: Not less than five years nor more than 30 years and \$50,000 (Section 44-53-370{e}{2}{a})

**Manufacture, distribution, or possession with the intent to distribute heroin, opium, or morphine (2 grains < 4 grains).**

- First offense: Not less than 15 years and \$25,000
- Second or subsequent offense: 5-30 years and \$50,000 (Section 44-53-370{e}{3}{a})

**SYNTHETIC SUBSTANCES §44-53-190**

**Manufacturing, selling or using K2, Bath Salts or other synthetic substances**

- First offense: Not less five years and \$10,000
- Second offense: Not more than ten years and \$10,000
- \*Third offense or subsequent: Not less than five and \$20,000 (Section 44-53-370) {b}{2}

**ANABOLIC STEROIDS**

**Possession of 10 or fewer dosage units without a valid prescription**

- First offense: Not more than six months and/or not more than \$1,000
- Second or subsequent offense: Not more than one year and/or not more than \$2,000 (Section 44-53-1530{2})

**Possession of 10 to 100 dosage units without a valid prescription**

- First offense: Not more than one year and/or not more than \$2,000
- Second or subsequent offense: Not more than two years and/or not more than \$3,000 (Section 44-53-1530{3})

**Possession of more than 100 dosage units without a valid prescription**

- First offense: Not more than five years and/or not more than \$5,000
- Second or subsequent offense: Not more than 10 years and/or not more than \$10,000 (Section 44-53-1530{4})

**SUSPENSION OF DRIVER'S LICENSE**

In addition to the above, the driver's license of any person convicted of a controlled substance violation involving hashish or marijuana must be suspended for a period of six months. The driver's license of any person convicted of any other controlled substance violation must be suspended for a period of one year. (Section 56-1-286{a})

**Possessing PRESCRIPTION DRUGS without a valid prescription is illegal.** For example, Adderall and Ritalin are prescription stimulants often prescribed for Attention Deficit Hyperactivity Disorder (ADHD). Both of these drugs are classified as Schedule II controlled substances, as are cocaine and heroin. Unlawful distribution of Adderall or Ritalin, which means either the sale or simply giving the drug to another person, is a felony carrying up to five years in prison. Additionally, if the offense occurs on or within a half-mile of the college campus, an additional crime of distribution in proximity to a school as been committed, which is a felony carrying a 10-year sentence. A person who has in their possession one of these drugs, without a valid prescription, is guilty of a misdemeanor carrying a penalty of up to two years in prison. (Section 44-53-370)

## MISCELLANEOUS STATE LAWS

**Distribution of controlled substance within proximity of a school.** (Distance from school, public park, or playground, or college or university is a radius of one-half mile.) Fine is not more than \$10,000 and imprisonment to be less than 10 years. For crack cocaine, the fine is between \$10,000 and 15,000 and prison between 10 and 15 years. For purchase, the fine will not exceed \$1,000 and not exceed one year of prison. Any violation of this section is considered a separate offense. (Section 44-53-445)

**Illegal acts involving persons under 17-years-old.** Any use of persons under the age of 17 by persons over the age of 17 in the violation of Section 44-53-370 and 375, or the receipt of controlled substance from a person under 17 is considered a felony with punishment between 5 and 15 years. Any violation of this section is considered a separate offense. (Section 44-53-577)

**Illegal acts involving persons under 17 years old and controlled substances.** It is unlawful for any person at least 17 years old to knowingly use, hire, coerce, or employ a person under 17 years old to violate a controlled substance law. Violation of this section is a separate offense and punishment is imprisonment for not less than five years up to 15 years. (Section 44-53-577)

**Unlawful to advertise for sale, manufacture, possess, sell, or deliver, or to possess with intent to sell or deliver drug paraphernalia.** Any person convicted can be fined no more than \$500; a corporation can be fined up to \$50,000. (Section 44-53-391)

**Distribution of controlled substances to persons under 18-years- old.** Distribution of a narcotic drug, LSD, and crack cocaine is guilty of a felony and upon conviction must be imprisoned not more than 20 years or fined not more than \$30,000, or both, and the sentence may not be suspended and probation may not be granted. Distribution of any other controlled substance to a person under 18 is guilty of a misdemeanor, and upon conviction must be imprisoned not more than 10 years or fined not more than \$10,000 or both. (Section 44-53-440)

## BE AWARE THAT STATE DRUG LAWS ARE SUBJECT TO CHANGE.

### INFORMATION ON FEDERAL DRUG LAWS

The following is a partial list of federal drug laws and penalties. Penalties are set by sentencing guidelines in Federal Court. For more information and a complete list of the laws relating to drug offenses, please see Title 21 of the U.S. Code of Laws, as amended.

#### **Possession of a controlled substance without a valid prescription**

- First offense: Not more than one year and/or less than \$1,000
- Second offense: Not less than 15 days nor more than two years and not less than \$2,500
- Third or subsequent offense: Not less than 90 days nor more than three years and not less than \$5,000 (Statute - 21 U.S.C.A. Section 844{a})

#### **Possession of a mixture or substance which contains cocaine base**

- First offense: If the amount exceeds 5 grams, not less than five years nor more than 20 years and/or a fine of \$1,000
- Second offense: If the amount exceeds 3 grams, not less than five years nor more than 20 years and/or a fine of \$1,000
- Third offense: If the amount exceeds 1 gram, not less than five years nor more than 20 years and/or a fine of \$1,000 (Statute - 21 U.S.C.A. Section 844{a})

**Distribution of controlled substances to persons under the age of 21**

- First offense: Imprisonment (for not less than one year) and/or a fine, neither to exceed twice that authorized by 21 U.S.C.A. Section 841 (b)
- Second offense: Imprisonment (for not less than one year) and/or a fine, neither to exceed three times that authorized by 21 U.S.C.A. Section 841 (b) Statute 21 U.S.C.A. Section 859
- Third offense: Life imprisonment (Statute - 21 U.S.C.A. Section 841{b}{1}{A})

**Manufacture, distribution, or possession with intent to manufacture or distribute controlled substances in or on, or within 1,000 feet of the real property comprising a public or private elementary, vocational, secondary school, college, junior college, or university, or a playground, or within 100 feet of a public or private youth center, public swimming pool, or video arcade**

- First offense: Imprisonment (for not less than one year) and/or a fine, neither to exceed that authorized by 21 U.S.C.A. Section 841 (b)
- Second offense: Not less than three years nor more than life (or three times that authorized by an offense, whichever is greater) and/or a fine not to exceed three times that authorized by 21 U.S.C.A. Section 841 (b)
- Third offense: Life imprisonment (Statutes - 21 U.S.C.A. Section 860; and 21 U.S.C.A. Section 841 {b}{1}{a})

**Manufacture, distribution, or possession with intent to manufacture or distribute:**

- a) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;  
or
- b) 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine;  
or
- c) 50 grams or more of a mixture or substance which contains cocaine base;  
or
- d) 100 grams or more of PCP or 1 kilogram or more of a mixture or substance containing a detectable amount of PCP;  
or
- e) 10 grams or more of a mixture or substance containing a detectable amount of LSD;  
or
- f) 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana, or 1,000 or more marijuana plants regardless of weight;  
or
- g) 100 grams or more of methamphetamine, or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine.

- First offense: Not less than 10 years nor more than life (if death or serious bodily harm results from the use of such substance, imprisonment shall be for not less than 20 years nor more 47 than life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$4,000,000
- Second offense: Not less than 20 years nor more than life (if death or serious bodily harm results from the use of such substance, imprisonment shall be for life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$8,000,000
- Third offense: Life imprisonment (Statute - 21 U.S.C.A. Section 841{b}{1}{A})

**Manufacture, distribution, or possession with the intent to manufacture or distribute:**

- a) 100 grams or more of a mixture or substance containing a detectable amount of heroin;  
or
- b) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;  
or
- c) 5 grams or more of a mixture or substance which contains cocaine;  
or
- d) 10 grams or more of PCP or 100 grams or more of a mixture or substance containing a detectable amount of PCP;  
or
- e) 1 gram or more of a mixture or substance containing a detectable amount of LSD;  
or
- f) 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana, or 100 or more marijuana plants regardless of weight;  
or
- g) 100 grams or more of methamphetamine, or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine

- First offense: Not less than five years nor more than 40 years (if death or serious bodily injury results from the use

of such substance, imprisonment shall be for not less than 20 years or more than life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$2,000,000

- Second or subsequent offenses: Not less than 10 years nor more than life (if death or serious bodily harm results from the use of such substance, imprisonment shall be for life) and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$4,000,000 (Statute - 21 U.S.C.A. Section 841 {b}{1}{B})

**Manufacture, distribution, or possession with intent to manufacture or distribute:**

a) 50 kilograms or less of marijuana (except in the case of 50 or more marijuana plants regardless of weight); or b) 10 kilograms or less of hashish, or 1 kilogram or less of hashish

- First offense: Not more than five years and/or a fine not to exceed the greater of that authorized by Title 18 or \$250,000

- Second or subsequent offenses: Not more than 10 years and/or a fine not to exceed the greater of twice that authorized by Title 18 or \$500,000 (Statute - 21 U.S.C.A. Section 841 {b}{1}{D})

**Manufacture, distribution, or possession with the intent to manufacture or distribute any controlled substance listed in Schedule I or II** (e.g., LSD, heroin, opium, morphine) of 21 U.S.C.A. Section 812 (except as provided elsewhere):

- First offense: Not more than 20 years (if death or serious bodily injury results from the use of such substance, imprisonment shall be for not less than 20 years nor more than life) and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$1,000

- Second or subsequent offenses: Not more than 30 years (if death or serious bodily injury results from the use of such substance, imprisonment shall be for life) and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$2,000,000 (Statute - U.S.C.A. Section 841 {b}{1}{C})

**Manufacture, distribution, or possession with intent to manufacture or distribute any controlled substance listed in Schedule IV** of 21 U.S.C.A. Section 812:

- First offense: Not more than three years and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$250,000

- Second or subsequent offenses: Not more than six years and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$500,000 (Statute - 21 U.S.C.A. Section 841 {b}{2})

**Manufacture, distribution, or possession with intent to manufacture or distribute a controlled substance listed in Schedule V** of 21 U.S.C.A. Section 812:

- First offense: Not more than one year and/or a fine not to exceed the greater of that authorized by Title 18 of the U.S. Code or \$100,000

- Second or subsequent offenses: Not more than two years and/or a fine not to exceed the greater of twice that authorized by Title 18 of the U.S. Code or \$200,000 (Statute - 21 U.S.C.A. Section 841 {b}{3})

**BE AWARE THAT DRUG LAWS ARE SUBJECT TO CHANGE.**

