SECTION 1: INTRODUCTION

Buffalo State University policies and procedures are designed to guide student conduct and to ensure fair processes for all students. The Code of Conduct is published by the Division of Student Affairs to define student rights, freedoms, and responsibilities it defines student conduct; it provides due process and delineates sanctions when responsibility has been determined. These policies follow and articulate student rights and responsibilities. Students are expected to know the contents of this document. This document recognizes that students have rights, freedoms, and responsibilities both as citizens and as members of the university community. It is meant to be operable within the provisions of the Constitution of the United States; federal, state, and local laws; and the policies of the Board of Trustees of the State University of New York. Behaviors that are detrimental to the university environment and/or damaging to the reputation of the university (whether occurring on or off university property) will not be tolerated. Students who are found to be repeat offenders will be subject to increasing sanctions, with the possibility of suspension or dismissal from the university. Student conduct procedures and subsequent disciplinary outcomes are designed to find a balance between the interests of the individual student and the community.

SECTION 1.A: STUDENT BILL OF RIGHTS

1. Freedom of Government

Students have the right to organize and maintain democratic self-government in accordance with State University of New York and Buffalo State University policies and procedures.

2. Academic Freedom and Responsibilities

Students have the right to be informed of and are responsible for maintaining the standard of academic performance expected of them in each class and/or program in which they are enrolled. Students have the right to take reasoned exception with the data or views offered in any course of study and to hold differing opinions without fear of prejudiced or capricious academic evaluation.

3. Freedom of Expression and Inquiry

Subject to reasonable limitations imposed under State University of New York or Buffalo State University policies and procedures, students and registered student organizations have the right to meet, engage in discussion, pass resolutions, distribute fliers, circulate petitions, invite speakers, and take other action by orderly means that does not disrupt the operation of the university.

4. Freedom of Communication Media

Student communication organizations are to be free of censorship and advance approval of copy. Student editors and managers are free to develop editorial policies and news coverage in accordance with generally accepted standards of responsible journalism. Such public expressions are to be taken only as the work and opinions of their author(s).

5. Freedom of Association

Students are free to organize and join associations for educational, political, social, religious, or cultural purposes, as consistent with law.

6. Freedom from Disciplinary Action without Due Process

No sanction or other disciplinary action shall be imposed on a student by, or in the name of, the university without due process. The Code of Conduct defines due process at the university.

7. Freedom from Improper Disclosure

Information about student views, beliefs, and political associations that faculty and university staff may acquire in the course of their duties at the university are to be considered confidential. Judgments of ability and character may be expressed in appropriate circumstances (e.g., letters of recommendation).

8. Right to Privacy

Students are protected from invasion of privacy and searches of their residences, except where law enforcement has probable cause, a court-ordered search warrant has been legally obtained, or where permitted by the campus residence hall license. Nothing herein shall limit the university's ability to engage in reasonable inspections to ensure the health and safety of persons and facilities.

9. Freedom from Prejudice and Discrimination

Students have a right to be free from prejudice and discrimination based on race, color, national origin, religion, creed, age, disability, sex, gender identity, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

10. Right to Be Informed

The university has the obligation to inform all students, within a reasonable time, of their rights, freedoms, and responsibilities. Additionally, the university has the obligation to provide both complainants and those accused of violations, within a reasonable time, information outlining the alleged violation, student conduct process, possible sanctions, and student advocacy rights.

11. Rights under Title IX

The State University of New York and Buffalo State University are committed to providing options, support, and assistance to victims of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in Buffalo State and SUNY-wide programs, activities, and employment. All victims of these crimes and violations have the rights listed below, regardless of whether the crime or violation occurs on campus or off campus:

a. Make a report to local law enforcement and/or state police.
b. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
c. Make a decision about whether or not to disclose a crime or violation and participate in the conduct process and/or criminal justice process free of pressure from the institution.
d. Participate in a process that is fair and impartial and provides adequate notice and a meaningful opportunity to be heard.
e. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
f. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations.
g. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.

h. Be free from retaliation by the institution, the accused and/or the respondent(s), and/or their friends, family, and acquaintances within the jurisdiction of the university.
i. Be accompanied by a student conduct adviser of choice who may assist and advise a reporting individual, accused, or respondent throughout the conduct process including during all meetings and hearings related to such process.
j. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the university.

SECTION 1.B: JURISDICTION OF THE CODE OF CONDUCT

The Code of Conduct shall apply to conduct that occurs on university premises and at university-sponsored programs and activities, and to off-campus conduct that adversely affects the university community, the pursuit of its objectives, or neighboring communities. A student may be charged with violating local, state, and federal laws and also the Code of Conduct.

SECTION 1.C: INHERENT AUTHORITY FOR THE STUDENT CONDUCT PROCESS

Section 356g of the Education Law empowers the University Council of each state-operated campus of the State University of New York to make regulations governing the conduct of students. All programs for student welfare and conduct are entrusted to and administered by the president of Buffalo State University on behalf of the University Council.

The president has delegated administration, enforcement, and modification of programs and policies for student conduct to the vice president for student affairs. In addition to the Code of Conduct, the rules, regulations, and procedures for the Maintenance of Public Order on campuses of the State University of New York, adopted by the Board of Trustees, are in effect at Buffalo State University.

SECTION 2: DEFINITIONS

The following terms, when used with reference to the Code of Conduct, are defined as follows:

A. **Accused** shall mean a person accused of a violation who has not yet entered the university's conduct process.
B. **Affirmative consent** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, by being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under

the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop. In New York State, the age of consent is 17. Consent cannot be given if any of the parties are under the age of 17 or otherwise cannot consent.

C. **Appeals Review Board** means any person or persons authorized by the vice president for student affairs to consider an appeal.
D. **Bystander** shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the university.
E. **Code of Conduct** shall mean the written policies adopted by the university governing student behavior, rights, and responsibilities.
F. **University** refers to Buffalo State University.
G. **University document** refers to any university record, official communication, or form.
H. **University employee** is any staff member, faculty member, university official, or other person employed by or contracted with the university. In an instance where a person holds multiple campus roles, their particular situation shall be determined by the vice president for student affairs.
I. **University property** refers to all property owned, leased, or on loan to the university and/or to university organizations or affiliates.
J. **Complainant** is any member of the university community or visitor to the campus who initiates and/or later presents such a complaint against a student to a designated university official. A university official may serve as a complainant on behalf of others in enforcing the terms of this Code of Conduct.
K. **Confidentiality** may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to the university or law enforcement officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of institutional employees who may offer confidentiality.
L. **Guest** is defined as non-student person(s) not otherwise associated with the university community as defined in the Code of Conduct.
M. **Personal property** refers to anything of value to which a person has possession or title.
N. **Policy** is defined as the written rules of SUNY or the university that prescribe the behavior of individuals, groups, or the institution.
O. **Privacy** may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate university officials.
P. **Proceedings** refer to the activities related to a university conduct complaint, including but not limited to fact-finding investigations, conduct meetings, hearings, and appeals.
Q. **Reasonable person** refers to a hypothetical person who exercises average care, skill, and judgment in conduct and who serves as a comparative standard.
R. **Reporting individual** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used to reference an individual who brings forth a report of a violation.

S. **Respondent** shall mean a person accused of a university violation who has entered the university's conduct process.
T. **Results** means any initial, interim, or final decision by any university official or entity authorized to resolve conduct matters within the institution.
U. **Sexual activity** shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3). "Domestic violence," "dating violence," "stalking, and "sexual assault" shall be defined by each institution in its Code of Conduct in a manner consistent with applicable federal definitions.
V. **Student** is defined as persons registered for courses, either full time or part time, pursuing undergraduate, graduate, or professional studies, as well as non-degree-seeking individuals; those who confirm their intent to enroll in programs; those attending orientation sessions, between academic terms, taking online classes, auditing classes, or residing in the residence halls; those who were enrolled on the date of an alleged incident; and persons who are active but not enrolled at the university.
W. **Student Conduct Board** is a group of individuals authorized and trained by the Student Conduct and Community Standards Office to hear referrals.
X. **Student conduct body** refers to the group of authorized persons who administers student conduct proceedings.
Y. **Student conduct official(s)** means the person or persons designated by the vice president for student affairs to administer the Code of Conduct.
Z. **Student organization** means a group or association of students with a specific purpose that has complied with the formal requirements for registration with the university, which is further defined in the Student Organization Affiliation Policy: http://deanofstudents.buffalostate.edu/handbook-student-policies#soa

SECTION 3: CONDUCT POLICIES

While on university property or while attending university-sponsored activities on or off campus where a definite, legitimate, and substantial university interest exists, no student, either singly or in concert with others, shall violate any of the policies below.

1. **Respect for Others**
    a. **Obstruction** - Obstructing the free movement of persons and university-owned and/or operated vehicles on the university property.
    b. **Discriminatory Harassment** - Oral, written, graphic or physical conduct relating to an individual's protected characteristics that has the effect of subjecting the individual to inferior terms, conditions or privileges of education or employment or interferes with or limits the ability of an individual to participate in or benefit from the University's programs or activities. Such conduct must amount to more than petty slights or trivial inconveniences but need not be severe or pervasive. Please see SUNY Buffalo States's Discrimination and Complaint Procedure for further information.
2. **Abuse**
    a. **Physical abuse** - Intentionally causing physical injury to self or others or taking any action upon any person with such reckless disregard that bodily harm might result.

b. **Harassment (non-discriminatory)** - Engaging in any repetitive behavior that is threatening or intimidating to another person or that is disturbing to another person and has no legitimate purpose.
c. **Stalking** - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress
d. **Hazing** - Engaging in activity that may include but is not limited to paddling or other physical abuse or brutality; consumption of alcohol or drugs; activities that involve illegal acts of excessive fatigue and/or stress; or verbal and/or psychological abuse that compromises the dignity of individuals. Hazing is any reckless or intentional conduct in connection with the initiation into, or affiliation with, any organization that degrades, humiliates, or endangers the mental or physical health of any person, regardless of the person's willingness to participate. It can also include activities that damage, destroy, or remove any public or private property.
e. **Unlawful imprisonment** - Physically restraining or detaining any person or removing such person from any place where they are authorized to remain.

3. **Sexual Misconduct**

Sexual Misconduct is a broad range of prohibited behaviors. Sexual misconduct cases that do not fall within the jurisdiction of SUNY Buffalo State's Title IX Grievance Policy will be managed by this section of the Student Code.

a. **Domestic Violence**- (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family and domestic violence laws of New York; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York.
b. **Dating Violence-** (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
    i. The length of the relationship
    ii. The type of relationship;
    iii. The frequency of interaction between the persons involved in the relationship.
c. **Retaliation** - Adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including but not limited to violence; threats of violence; property destruction; adverse social, educational, or employment consequences; and bullying.
d. **Sexual exploitation** - Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the

one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

e. **Sexual assault**- Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
    i. Rape: Sexual Assault 1 (Rape): Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
    ii. Sexual Assault 2 (Criminal Sexual Contact): The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
    iii. Sexual Assault 3 (Incest and Statutory Rape): Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or sexual intercourse with a person who is under the age of consent in New York State.

f. **Sexual harassment**- conditioning the provision of an aid, benefit or service of the institution on an individual's participation in unwelcome conduct, creating an unequal power dynamic in order to access educational programs or activities, or creating a hostile environment based on sex for individuals at the institution.
    i. Sexual Harassment 1 (Quid Pro Quo): Any conduct on the basis of sex where an employee conditions the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct.
    ii. Sexual Harassment 2 (Hostile Environment): Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the institution's education program or activity.

g. **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

4. **Community Behavior**

a. **Disturbance** - Disrupting or preventing the peaceful and orderly conduct of classes, lectures, or meetings or unreasonably interfering with the freedom of any persons, including invited speakers, to express their views.
b. **Academic misconduct** - Practicing any form of dishonesty, including cheating or plagiarism.
c. **Fraud** - Deliberately furnishing false information to the university, either for personal gain or to harm another.
d. **Unauthorized access/entry** - Entering a private office of an administrator, faculty or staff member, or student organization without appropriate permission or accessing building roofs, storage/trunk rooms, electrical closets, mail cabinets, offices, etc. without permission.

e. **Disruptive behavior** - ***Impairing, interfering with, or obstructing the orderly conduct, processes and functions of the University or surrounding community.*** Behavior that may be representing a nuisance or danger to persons (including oneself) or property.
f. **Binge drinking** - Activities that promote binge drinking or heavy and/or episodic drinking such as drinking games.
g. **Gambling** - Including but not limited to contests of chance, illegal lottery, and policy for money or something of value; promoting or advancing gambling; gambling using university computing/network facilities; possessing gambling devices or gambling records.
h. **Mail tampering** - Including but not limited to removing another person's mail or package from the mailboxes on campus.
i. **Endangerment** - Acting to create or contribute to dangerous or unsafe environments anywhere on or off campus. Reckless or intentional acts that endanger or put at risk the welfare of oneself or others.
j. Failure to Comply- Failing to comply with the directions of an authorized local, state, federal or university official acting in the performance of their duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities.
k. **Failure to Report** - Students must notify staff of a policy violation(s) immediately. Notification must be sent to the designated student conduct official via Student Conduct and Community Standards.
l. **Failure to Notify** - It is the obligation of every student to notify the designated campus official of any felony or misdemeanor arrests occurring at any time after the student pays their admissions deposit through graduation or separation from the institution, regardless of the geographic location of the arrest or specific crime alleged. Failure to do so may result in conduct charges by the university. The university may review the facts underlying the arrest to determine if there is an associated policy violation. **Notification must be sent to the designated official via the Dean of Students.**

5. **University Property**
   a. **Misuse** - Removing, using, vandalizing, damaging, misusing, willfully destroying, or taking university property such as supplies, equipment, furniture, materials, services, or documents without authorization.
   b. **Camping** - Camping on university property without authorization by appropriate officials. Requests should be submitted through the Events Management office.
   c. **Forgery** - Forging, transferring, altering, or misusing any student record, identification card, or other university document.
   d. **Computer/equipment use** - Any unauthorized use of university video equipment, the campus wide or residential cable system, or university computers is prohibited and may result in disciplinary action. It is impermissible to use any video equipment or computer technology in a manner that infringes on another person's right to privacy or violates any provision of this code, and/or to remove video equipment or

computer technology from the designated location. Other misuses of university or personal computers or technological equipment are strictly prohibited.

e. **Updating records** - Failing to keep the university informed of the current mailing address and any change thereof.

6. Safety and Security

Disciplinary action may be taken against a student for violation of a federal, state, or local criminal statute. A definite relationship between the statutory violation and the university's rules and regulations must exist. The violation of a statute or conviction off campus must be shown to be such that it justifies action by the Code of Conduct.

a. **Theft** - Removing or using another individual's personal property without authorization.
b. **Willful destruction of property** - Vandalizing, damaging, or destroying personal property of another individual.
c. **Responding to a university employee** - Failing to comply with a directive by a university employee who has duly identified themselves and is acting in performance of their duties on university property.
d. **Entries and exits** - Tampering with or propping open outside doors or fire doors and/or refusing to leave any building or facility after being directed to do so by an authorized university official.
e. **Willful destruction of property** - Vandalizing, damaging, or destroying personal property of another individual or of the university.
f. **Burglary** - Unlawfully entering (trespassing) a structure with the intent to commit a felony or theft.
g. **Robbery** - Unlawfully assaulting a person with the intent to take his or her property.
h. **Occupying a facility or building** - Remaining in any building or facility for any purpose after it is normally closed other than its authorized use or in such manner as to obstruct its authorized use by others.
i. **Guests and visitation** - All guests must comply with all escort and visitation policies and procedures. Guests may be directed to vacate residence halls or academic buildings at any time for failure to abide by university policies and procedures.
j. **Showing valid ID** - All students will be required to show a validated photo ID card when requested, and guests and visitors of Buffalo State students may be asked to show proof of identity.
k. **Escorting guests** - Students are entitled to have guests and visitors, but they must be escorted at all times. Students are responsible for the actions of their guests and visitors.
l. **Animals/pets** - Having animals in university buildings without written authorization from appropriate university officials. Additionally, animals should not be unleashed or otherwise unattended on university property.
m. **Parking** - Violating university parking and driving regulations. (Parking is prohibited at all times on roadways, sidewalks, lawns, grounds, lanes, and throughways of parking

areas except as posted.) The university may have illegally parked vehicles towed away, the expense of which will be borne by the violator.

n. **Mechanized vehicles** - Driving motorcycles, snowmobiles, or other mechanized vehicles on university property other than on provided roadways.
o. **Incitement** - Inciting any other person(s) to commit any of the acts herein prohibited.
p. **Safety and Security-** Conduct that may violate any local, state, or federal law or rule, or any policy, rule or regulation established by the Board of Trustees of the State University of New York or any policy, rule or regulation established by Buffalo State University.

7. Weapons and Fire Policy

Possessing or using any object or substance designed to inflict a wound, cause injury, or incapacitate, including but not limited to all firearms, switchblade knives, knives with blades five or more inches in length, explosives, fireworks, or dangerous chemicals (except as authorized for use in class, or in connection with university-sponsored research or other approved activities). The term firearms include pellet guns, air guns, rifles, shotguns, handguns, multiple firing weapons, and any weapon capable of firing a shot. Permission to store a rifle, shotgun, or firearm may be requested through the University Police Department (UPD) and is subject to written approval by UPD. All weapons for which permission has been granted for storage on campus must be stored at UPD and may be signed out by the owners through a log maintained by UPD. Students may NOT bring any weapon onto campus without prior written approval to do so. NOTE: Possession of any rifle, shotgun, or firearm in or on any building or grounds of the university is also a crime under New York State law without written authorization from the president. Any person doing so without authorization is subject to arrest.

a. **Fire safety** - Causing or creating a fire, regardless of intent (except as authorized for use in class, or in connection with university-sponsored research or other approved activities).
b. **Tampering with fire or life-safety devices** - Tampering includes but is not limited to covering a fire or life-safety detection device; discharging a fire extinguisher or activating a fire sprinkler; and tampering with exits signs, emergency phone systems, smoke or heat detectors, fire hoses, security systems, locked exterior doors, or other equipment.
c. **Firearms and projectile-firing devices** - SUNY Policy on Toy Guns and Weapons on Campus 7c. Firearms and projectile-firing devices (including toy guns) SUNY campuses generally prohibit the possession of any weapon — including toy guns — on campus grounds, in line with both New York State law and SUNY system-wide policies. New York State Law Under N.Y. Penal Law § 265.06, it is unlawful for anyone 16 years or older to knowingly possess an air-gun, spring-gun, or other instrument/weapon (including toy guns) in or upon a building or grounds used for educational purposes, such as a SUNY campus, without written authorization from the institution. Possessing on university property a rifle, shotgun, pistol, revolver, or other firearm; air gun, BB gun, paintball gun, or any other replica of a firearm, instrument, or weapon in which the propelling force is air or carbon dioxide; knife, club, slingshot, or other thing adaptable to the purpose of a weapon without the

written authorization of the chief administrative officer, whether or not a license to possess same has been issued to such person.

d. **Combustible materials** - Using or possessing on university property any fireworks, explosives, combustible materials, mechanical machinery, fuel-powered equipment, or noxious gases without the written authorization of the chief administrative officer.
e. **Falsifying an emergency** - Making a false report of a bomb, fire, or other emergency in any building, structure, or facility on university property.
f. **Altering fire or life-safety equipment** - Altering or making unwarranted use of firefighting equipment, safety devices, or other emergency safety equipment.
g. **Activating fire and life-safety systems** - Activating fire and life-safety systems (e.g., fire alarms, smoke detectors) due to negligence or malicious intent. Persons who have activated the fire alarm system in a building must immediately report themselves to hall staff and/or University Police.
h. **Evacuation routes** - Obstructing the evacuation route within a hallway, student room, suite, apartment, stairwell, entrance/exit, etc. (desks and other furniture cannot block exit doors).
i. **Failing to conform to safety regulations** - Including but not limited to falsely reporting an incident; failing to evacuate facilities in a timely fashion in emergency situations or in response to fire alarms, fire codes, and regulations; and inappropriately using the fire alarm system.

8. **Alcohol and Other Drugs**
   a. **Alcohol violation** - Consumption of alcoholic beverages is prohibited unless students are 21 years of age. Students who are under 21 and are under the influence of, possessing, and/or consuming alcoholic beverages on campus will be in violation of New York State law as well as Buffalo State University policies. (This includes sale and/or distribution of alcoholic beverages other than in authorized areas and to persons at least 21 years of age.) Open containers and public intoxication are prohibited. Students who are irresponsible in their use of alcohol or who provide alcohol to minors will be subject to this code regardless of the student's age. This applies to both on-campus and off-campus behavior.
   b. **Smoking** and **Tobacco** - Smoking, including the use of devices of any kind (e.g., electronic smoking device, vaping, hookah, etc.), use of tobacco or cannabis, anywhere on university property.
   c. **Drug violation -** Possessing, selling, using, or distributing illegal drugs or cannabis on university property or off campus where a nexus between the off-campus location and the university exists under this code. Using, offering for sale, distributing, possessing, and/or being under the influence of or manufacturing any controlled substances and/or paraphernalia, including prescription medications, except as expressly permitted by law. University officials will confiscate drug paraphernalia and illegal drugs and cannabis. Students are subject to this code regardless of their age.

SECTION 4: STUDENT CONDUCT PROCEDURES

The student conduct system addresses charges that are brought against a student who allegedly violates the Code of Conduct. The student conduct system uses a "preponderance of evidence" standard of proof. A preponderance of evidence standard evaluates whether it is more likely than not that a violation occurred. Buffalo State University email is the official means of communication between student conduct officials and students on all matters pertaining to the student conduct system.

Student Conduct Advisers

Student conduct advisers will be drawn from a list of faculty and staff members selected and trained by the designated student conduct official. Student conduct advisers will advise students of their rights and responsibilities, resources that are available to them, and student conduct procedures before an administrative hearing or conduct board hearing.

The Student Conduct Board will

- hear and evaluate charges and evidence,
- question participants on matters directly germane to the case,
- make decisions on findings of responsible or not responsible, and
- make final determinations of sanctions in cases of responsible findings.

Conduct Board Composition and Limitations

The Student Conduct Board will consist of volunteer members of the campus community who are current faculty members, staff members, or students. Each board will consist of three persons: one student, one faculty and one staff member. Board members will hear cases on a rotating basis.

The following persons may not serve on the Student Conduct Board: the dean of students; University Police officers and staff members.

Any board member who has a personal or professional interest in the outcome of a case must disqualify themselves from hearing the case. Where the designated student conduct official has reason to suspect that such an interest exists, the designated student conduct official must request that the board member be disqualified and inform the board of that request. A simple majority of the board may elect to exclude a board member from participating where the board believes a personal or professional interest exists.

A quorum shall consist of three members, including the chair, at least one of whom must be a student.

Student Conduct Board Chair

The Student Conduct Board chair position shall be filled by a university faculty or professional staff member drawn from the conduct board pool and shall serve on a rotating basis. Student Conduct Board chairs will

- chair hearings: formally present charges to the board and ensure the orderly and thorough presentation of necessary evidence, participate in board discussion, and vote on whether the student is responsible or not responsible; and
- inform the accused student(s) of the board's findings and sanctions if applicable.

Appeals Review Board

The Appeals Review Board will consist of three members: one faculty member, one staff member, and one student. The chair of the Appeals Review Board shall be any faculty or staff member who serves as a member of the Student Conduct Board. The chair formally presents all information on the case being appealed, participates in board discussions, and votes on all matters before the board. Members of the Appeals Review Board will be assigned from a list of volunteers of faculty, staff, and students.

The Appeals Review Board will

- review appeals submitted by students within the designated time frame;
- determine which cases will be granted appeals;
- where deemed appropriate, allow students who have received responsible findings to personally address the board and answer questions posed by members of the Appeals Review Board;
- in cases where sexual misconduct is alleged, and where deemed appropriate, allow complainants who wish to challenge the results of a hearing to personally address the board and answer questions posed by members of the Appeals Review Board;
- where deemed appropriate, vacate findings and/or reduce sanctions;
- where deemed appropriate, grant new hearings; and
- where deemed appropriate, uphold the decisions of the original Student Conduct Board.

Initiating Complaints and Scheduling Hearings

Complaints may be initiated by any member of the university community (student, faculty, or staff). Any complaint concerning a violation of the Code of Conduct should be made or referred to the Student Conduct and Community Standards Office as soon as practicable but no later than the end of the semester, or within 30 days of the incident date if the incident occurs between semesters. All complaints must be filed in writing. If it is determined that the complaint is within jurisdiction, a hearing shall be scheduled. Both the complainant(s) and the accused shall be notified by email to their official university email addresses at least three business days before the hearing date. The hearing will be concerned only with the allegations written in the complaint. In cases where sexual misconduct is alleged, the complaint and accused shall, upon request of either party, be separated from view of each other during the course of a hearing, such that both parties and the Student Conduct Board are able to hear each other.

Student Conduct Board and administrative hearings are held Mondays through Fridays.

Hearing the Case

Accused students and complainants may each bring a student conduct adviser of their choice at their own expense. This person may assist them during the hearing. Student conduct advisers take no direct part in the proceedings unless permitted to do so by the chair, although they may advise students during the proceedings. All hearings are closed to the public. Only individuals directly concerned with the existing case may be present during a hearing, e.g., complainant(s), witnesses, the accused, and student conduct adviser(s). Observers are not allowed. Complainants and accused students are responsible for presenting their cases, with the assistance of a student

conduct adviser if desired and have the right to present witnesses on their behalf and to ask questions of witnesses presented by the opposing party or parties. It is the responsibility of both accused student(s) and complainant(s) to notify witnesses of the time and place of the student conduct hearing.

Decisions

The Student Conduct Board will determine the responsibility of the student(s) accused by a simple majority vote of those present during the entire hearing. Judgment shall be based solely on the evidence presented at a hearing. In cases where sexual misconduct is alleged, judgment shall be based solely on a preponderance of the evidence presented at the hearing, and the provisions of the Sexual Violence Addendum will apply. In the case of a responsible decision", short of suspension or dismissal from the university, the Student Conduct Board shall determine the sanction. Sanctions will be determined by a simple majority vote. Past disciplinary records may be taken into consideration.

The board chair may present the decision of the Student Conduct Board to the accused student(s) and summarize the reasons for the decisions. A student found in violation of the Code of Conduct will be asked to sign a statement indicating that they understand the decision. Signing the statement does not necessarily indicate agreement with the decision.

Both the accused student(s) and the complainant(s) must be informed as soon as practicable but no later than 30 days after the outcome of any institutional disciplinary proceeding brought alleging violation of the code. The outcome of a disciplinary proceeding represents only the institution's final determination with respect to the alleged offense and any sanction that is imposed against the accused student(s).

1. **The following is a timeline of the major steps in the conduct review process:***

    a. **Student Conduct Hearing:** If a complaint is submitted, a student conduct hearing will be held as soon as possible. All parties will receive at least three business days' notice.
    b. **Parties Receiving Notice of the Outcome of a Student Conduct Hearing:** Both the complainant(s) and the accused will receive notice of the outcome of a conduct hearing as soon as possible.
    c. **Parties Filing an Appeal of the Results of a Student Conduct Hearing:** Both the complainant(s) and the accused are entitled to an appeal of the results of a conduct hearing. Such an appeal must be submitted within three days of receipt of notice of the outcome of the conduct hearing.
    d. **Appeals Hearing and Notice of the Outcome of an Appeal:** The Appeals Review Board will meet to review appeals as soon as possible once all appeal-related documents have been submitted. Upon the conclusion of the appeal, both the complainant(s) and the accused will receive notice of the outcome via email. The decision of the Appeals Review Board is final. In the event of an egregious error in the appeal process, students can appeal to the student conduct designee for a review. The appellate must demonstrate and document the errors in their request for the review.

*Reasonable exceptions to the stated time frames are at the discretion of the designated student conduct official.

2. Referrals

a. When an incident occurs and there are allegations that a student violated the Code of Conduct, a Student Conduct Referral may be filed by any university faculty member, staff member, or student. Individuals who wish to initiate a student conduct complaint must put the complaint in writing. Any complaint should be submitted as soon as possible after the event takes place, preferably within the academic year in which the alleged violation took place. While timeliness is preferable, there is no deadline by which a complaint must be filed as long as the respondent is a current student at Buffalo State University. Assistance in filing a complaint is available from the Student Conduct and Community Standards Office, the Dean of Students Office, the Counseling Center, or the Equity and Campus Diversity Office/Title IX coordinator.

b. When an allegation of misconduct has been determined, a student will
   i. be notified via Buffalo State University email that a complaint has been filed against them;
   ii. have an opportunity to meet with a student conduct official to review the Student Conduct Referral, which includes the Code of Conduct violations;
   iii. learn about the student conduct proceedings and have questions answered;
   iv. give his or her perspective about the incident; accused students shall be given the opportunity to provide a written account of their perspective of the act(s) in question to the Student Conduct and Community Standards Office. If a statement is provided, it will be disclosed to the complainant(s) and the Student Conduct Board. This statement must be submitted at least three days prior to the hearing;
   v. provide witness information, if applicable; and
   vi. receive information about the assignment of a student conduct adviser.
   vii. Students may not be required to sign a non-disclosure agreement or other document forbidding them from discussing their case. This applies to respondents and reporting individuals. Participants are not themselves barred by the Family Educational Rights and Privacy Act (FERPA) from sharing this information; however, this does not allow students to unreasonably share private information in a manner intended to harm or embarrass another individual, or in a manner that would recklessly do so regardless of intention. Such sharing may be considered retaliation, which can result in separate charges under the Code of Conduct.

   viii. The student conduct process will run concurrently with any criminal justice investigation and proceeding, if applicable, except for temporary delays as requested by external municipal entities while law enforcement gathers

evidence. Temporary delays will not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.

ix. The student conduct official will determine the manner in which the case will be resolved and will communicate this to the respondent(s) and the complainant(s).

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

a. **Administrative Resolution Hearing**

i. Students will attend a hearing with a student conduct official to review the incident and speak about options for an administrative resolution.

ii. The respondent(s) will have the right to accept or deny responsibility for the violations that they are charged with. The student conduct official will render a finding based on the preponderance of evidence. If the finding(s) warrant any sanction, it will be imposed and communicated to the respondent(s) in writing via Buffalo State University email. The student conduct official reserves the right to render findings and impose sanctions in the absence of the respondent should the respondent fail to attend his or her scheduled hearing. The respondent maintains the right to file an appeal. Imposed sanctions may be applied only in cases where sanctions will not result in suspension or dismissal from the university.

iii. Absence of Student Conduct Board members: In the event that all parties involved agree to have a hearing without the presence of Student Conduct Board or Appeals Review Board members, then additional faculty or staff members will be substituted. All parties must sign a waiver acknowledging their agreement to this substitution.

iv. Student conduct body/committee hearing: A hearing will be scheduled when the respondent contests the referral for an Administrative Resolution Hearing and/or is facing suspension or dismissal from the university, or at the discretion of the student conduct official. The student conduct official may later serve as the complainant at a student conduct hearing. The Student Conduct and Community Standards Office will make every effort to schedule hearings around students' academic schedules only. Hearings are conducted as follows:

1. Both the respondent(s) and the complainant(s):

a. receive written notice of a hearing date, time, and place at least three business days in advance;
b. must represent themselves;
c. may be separated during the hearing at the request of either party and provide testimony via alternative arrangements,

including telephone or videoconferencing or testifying with a room partition.

d. may have one student conduct adviser present. The student conduct adviser may not address the student conduct body but may speak privately with the advisee during the proceedings;
e. have the right to call witnesses who have direct knowledge of the incident (names of witnesses must be submitted to the student conduct official at least three business day before the hearing);
f. hear the description of the incident and conduct charges (the respondent(s) will then state his or her responsibility for the charges);
g. have the opportunity to make an opening statement;
h. have the opportunity to ask questions of each other and their witnesses;
i. may be questioned by the student conduct body;
j. have the opportunity to make a closing statement. Both the complainant(s) and the respondent(s) are entitled to make an impact statement during the point of the proceeding where the Student Conduct Board is deliberating on appropriate sanctions.

v. The student conduct body encourages student involvement in the conduct proceedings and relies on full and open discussion of cases with all parties concerned in order to render a fair judgment. The student conduct system is administrative in nature and, as such, is not considered a court of law where formal rules of process, procedure, or technical rules of evidence apply.

1. Referrals involving multiple students for the same incident can be resolved at one hearing.
2. Hearings are regarded as confidential and closed to all but the principals of the case, their witnesses, their student conduct advisers, and the Student Conduct and Community Standards Office. Student Conduct Board members in-training may observe.
3. An official audio recording will be made of the proceedings. This recording is the property of the university and will not be duplicated or released. Participants are prohibited from making their own recordings during the hearing (including but not limited to audio, photographic, and written recordings). The respondent(s) and the complainant(s) may submit a written request to Student Conduct and Community Standards Office for permission to listen to the official audio recording in a supervised location on campus. An official

written transcript can be provided by the university at the requesting party's expense.

4. Evidence to be presented by the complainant(s) and respondent(s) during any hearing on the charges must be submitted to the Student Conduct and Community Standards Office at least three business days in advance of the scheduled hearing. This evidence will be shared with the opposing party. The Student Conduct Board or chair may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The Student Conduct and Community Standards Office or the student conduct body will make the final decision related to the admissibility of all evidence.
5. It shall be the responsibility of the student conduct body to determine the relevancy of the testimony and written evidence.
6. Should the respondent(s) or complainant(s) fail to appear for a scheduled hearing, a finding will be made based on the information available, and sanction(s) will be imposed, if appropriate.
7. The primary function of any student conduct body is to determine, using a preponderance standard, whether the respondent(s) has violated the provisions of the Code of Conduct and if so, recommend an appropriate sanction.
8. The respondent(s) will be notified in writing via Buffalo State University email of the final decision of the student conduct body and of the right to appeal. Consistent with the provisions of the Family Educational Rights and Privacy Act (FERPA), and in cases involving sexual offenses or crimes of violence, both the respondent(s) and the complainant(s) shall be notified of the final decision of the student conduct body.
9. The respondent's status at the university is not altered until the appeal decision is final. In certain cases, however, the vice president may determine that the respondent's presence is a threat to the university community and uphold the sanction imposed by the student conduct body until the appeal is final.

b. **Alternative Dispute Resolution**
    i. Mediation is a voluntary process that requires the commitment of all parties. It is appropriate when a violation arises out of a dispute between students. It is generally reserved for first-time and less serious violation(s). The goal is to reach a written agreement to resolve the dispute and to prevent it from recurring. The student conduct administrator will retain a record of the mediation efforts and the mediation agreement. If the parties fail to live up to the agreed settlement, or if mediation attempts fail to reach an agreement, a referral will be processed.

ii. Community Standards Accountability Board (CSAB): CSAB is a restorative justice practice that presents an alternative to the traditional disciplinary process by engaging the responsible parties, as well as the parties harmed by their behavior, in a dialogue that seeks to repair harm. The goal is to design a process that reintegrates responsible parties into the community. Students also play a key role in deciding what they must do to repair the harm they may have caused by the behavior. Responsible parties must acknowledge that their behavior violated the Code of Conduct and harmed another in order to participate in the CSAB process. This procedure is generally reserved for first-time and less serious violations. CSAB facilitators are selected from a pool of faculty, staff, and students.

iii. Administrative Resolution- Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the complaint at any point during the informal resolution process, the institution may administratively resolve the complaint. Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and [a decision-maker(s)] will convene to determine the Respondent's sanction and other Remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and Remedies, which may be appealed according to the process described below [please reference the appeals process as outlined in the code].

4. Student Rights

Students have the following rights:

a. The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent(s), including the right to a presumption that the respondent(s) is "not responsible" until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
b. The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
c. The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or eligible to attend. Accused individuals will also be told of the factual allegations concerning the violation, a

reference to the specific Code of Conduct provisions alleged to have been violated, and possible sanctions.

d. The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
e. The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by the university).
f. The right to present evidence and testimony at a hearing, where appropriate.
g. The right to a range of options for providing testimony via alternative arrangements, including telephone or videoconferencing or testifying with a room partition.
h. The right to exclude prior sexual history with persons other than the other party in the conduct process or their own or past mental health diagnoses or treatment from admittance in the university disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
i. The right to ask questions of the decision maker and, via the decision maker, indirectly request responses from other parties and any other witnesses present.
j. The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
k. The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
l. The right to written or electronic notice about the sanctions(s) that may be imposed on the accused based on the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion or dismissal.
m. Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
n. The right to have access to the record of a student conduct hearing, which shall be preserved and maintained for at least five years and is available by contacting the Student Conduct and Community Standards Office.
o. The right to choose whether to disclose or discuss the outcome of a student conduct hearing.
p. The right to have all information obtained during the course of the conduct process protected from public release until the appeals panel makes a final determination, unless otherwise required by law.

SECTION 5: CASES OF SEXUAL MISCONDUCT

1. Amnesty in Sexual and Interpersonal Violence Cases

The health and safety of every student at the State University of New York and its state-operated and community university's is of utmost importance. Buffalo State recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that

violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Buffalo State strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to campus officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Buffalo State officials or law enforcement will not be subject to Buffalo State's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

2. Policies Related to the Resolution of Allegations of Sexual Misconduct

Policies related to the Resolution of Allegations of Sexual Misconduct2. Policies related to the Resolution of Allegations of Sexual Misconduct Note: Sexual misconduct cases that do not fall within the jurisdiction of SUNY Buffalo State's Title IX Grievance Policy will be managed by this section of the Student Code.

a. The campus will promptly review existing no-contact orders at a party's request, including requests to modify the terms of or discontinue the order. The parties can submit evidence to support their requests. If the campus finds it appropriate, it can even make a schedule for parties who seek to use the same facilities without running afoul of the no-contact order.
b. The campus will promptly review existing interim suspensions at a party's request, including requests to modify the terms or discontinue it. Parties can submit evidence to support their request.
c. The campus will promptly review existing interim measures and accommodations at the request of the party who is affected by the interim measure or accommodation. The parties can submit evidence to support their request.
d. For crimes of violence, including but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), institutions shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a Code of Conduct violation" or "expelled after a finding of responsibility for a Code of Conduct violation." For the respondent who withdraws from the institution while such conduct charges are pending and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." Each institution shall publish a policy on transcript notations and appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.
e. Students may submit an appeal to the dean of students seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for

expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

f. Policy on how parties can review the case file/evidence: In student disciplinary proceedings involving domestic violence, dating violence, stalking, or sexual violence, the campus will allow parties to review available evidence held by the campus in accordance with university/university policy. Parties can also present available evidence as appropriate under campus policies.

SECTION 6: SANCTIONS, TEMPORARY AND ADMINISTRATIVE DIRECTIVES

It is the responsibility of the student to complete sanctions within the required time period. A student must return to the Student Conduct and Community Standards Office the "Completion of Sanction" form signed by the appropriate individuals. Failure to complete sanctions may result in an official "hold" placed on all permanent records of a student and/or further charges.

In the event of non-compliance with an order of suspension or dismissal, University Police will be responsible for ensuring enforcement. The following sanctions may be imposed on an individual or student organization if they are found responsible for one of the specified violations.

1. **Sanctions**
    a. **Reprimand or warning** - Written notice that continuation or repetition of the violation within a period of time stated in the warning may be a cause for more severe disciplinary action.
    b. **Social probation** - Restriction from participation in specified university/sponsored activities, events, or use of specified university facilities.
    c. **Restitution** - Reimbursement for damage or misuse of property.
    d. **Educational workshops and programs** - Workshops or programs produced by student respondents pertaining to their violations and submitted to the Student Conduct and Community Standards Office.
    e. **University or community service** - In consultation with the Student Conduct and Community Standards Office, students may be assigned appropriate community or university service. Such service may not exceed 50 hours and may not conflict with a student's religious or ethical views.
    f. **Disciplinary probation** - Status of student is declared probationary for a specific period of time that shall not be less than three months nor more than one calendar year. Further violation of recognized rules and regulations may warrant immediate suspension or expulsion from the university. This sanction precludes the student from representing the university in an official capacity (e.g., intercollegiate athletics or student office) and may include the loss of specific privileges.
    g. **Suspension** - Students suspended from the university as a result of violations of the Code of Conduct shall not receive credit for the semester in which the expulsion occurred and will be liable for all tuition and fees for that semester. During the suspension period, students are not eligible to register for or take classes. Students shall not, without prior permission of the dean of students, enter or remain on the campus of Buffalo State University. Violation of any condition of the suspension shall be grounds for dismissal from the university. Resident students must vacate the residence halls within 48 hours of notification of the suspension, unless otherwise

specified. Suspended students may not visit the campus unless prior permission is given by the dean of students. Students will be banned from campus until their suspension ends. Violations of this ban and suspension may subject students to arrest.

h. **Dismissal** - Permanent dismissal from the university is ordered in cases of serious violations of the Code of Conduct. Cases involving sanctions of dismissal from the university are reviewed and approved by the vice president for student affairs or their designee. As a result of this determination, students may not reapply for admission. Students are banned from campus. Dismissed students found on campus may be subject to arrest. Students dismissed from the university as a result of violations of the Code of Conduct shall not receive credit for the semester in which the expulsion occurred and are liable for all tuition and fees for that semester.

i. **Interim suspension** - The designated student conduct official may suspend a student pending a hearing and determination thereof whenever in their judgment the continued presence of such student would constitute a clear danger to the student or to the safety of persons or property or would pose an immediate threat of disruptive interference with the normal conduct of the institution's activities and functions. During an interim suspension, the student shall not, without prior permission in writing from the vice president for student affairs or the designated student conduct official, enter or remain on the campus of Buffalo State University other than to attend the hearing. Violation of any condition of the interim suspension shall be grounds for dismissal from the university. The student must leave the campus immediately upon notification of the suspension or expulsion unless an appeal is granted, or an extension is approved by the designated student conduct official. Students who are placed on an interim suspension will be scheduled for a Student Conduct Board hearing within a reasonable time frame.

j. **Sexual misconduct sanctions** - Sanctioning sexual violence violations shall follow the guidelines set out in the Code of Conduct except as described below:
    i. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
    ii. Neither mediation nor informal resolutions are appropriate in cases of sexual assault.
    iii. Any student who has been found responsible through the SUNY Buffalo State's student conduct process for committing the act of rape shall be issued the sanction of suspension or expulsion from the campus. For any such student, if the rape was forcible, meaning that the rape was accomplished by physical force, threat, or drugging by the student, the student shall be issued the sanction of expulsion from the campus.

k. **Residence hall sanctions** - Sanctioning for residence hall violations shall follow the guidelines set out in the Code of Conduct except as described below:
    i. **Residence hall probation.** A student's resident status is declared probationary for a specified period of time. Residence hall probation is a

strict warning against further violation(s) of residence hall/university policies. Further violations may result in loss of a student's license to live on campus.

ii. **Imposed reassignment.** A resident student will be reassigned to an available space on campus to be determined by the Student Conduct Board and Residence Life Office. The student will be required to move to the new assignment within a specified and reasonable period of time or be subject to immediate suspension from the residence halls.

iii. **Removal in abeyance.** Students placed on removal in abeyance are permitted to remain as a campus resident provided that they abide by the rules and regulations outlined in the Code of Conduct and for campus residency. Students must complete all other sanctions assigned. Violations of any campus policies while placed on removal in abeyance will result in immediate removal from campus housing.

iv. **Removal from the residence halls.** The student will be required to immediately vacate the residence halls for a reasonable specified period. The student may apply to the Student Conduct and Community Standards Office to be readmitted to the residence halls following a period of suspension. Any individual under suspension or expulsion from the residence hall is prohibited from entering any residence hall without explicit written permission from the Student Conduct and Community Standards Office.

v. **Housing termination/non-renewal of license.** Students who have their housing terminated will no longer be permitted to live in or visit the residence halls for a two-year period.

2. Transcript Notation

a. Effective June 1, 2004, Buffalo State University will indicate a permanent notation on the official university transcript of any student who is dismissed as a result of either serious and/or repeated violations of the Code of Conduct. Removal of suspension notations: such notation shall not be removed prior to one year after conclusion of the suspension. Removal of dismissal notations: these notations may never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, such transcript notation will be removed immediately. Students may submit an appeal to the Dean of Students seeking removal of a transcript notation for a suspension, provided that such notation shall not be the outcome of responsibility related to sex-based harassment/ discrimination.

b. For code violations that are a threat to the safety of others, the university shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a Code of Conduct violation" or "expelled after a finding of responsibility for a Code of Conduct violation." For respondents who withdraw from the institution while such conduct charges are pending and who decline to complete the disciplinary process, the university shall make a notation on the transcripts that they "withdrew with conduct charges pending."

c. Violations equivalent to the Clery Act (as updated by the Violence Against Women Act Final Regulations) Part I. Crimes covered under the legislation that would require

a transcript notation are murder; rape, fondling, incest, and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; and arson. Notations may not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

3. **Administrative Directives**
    a. **Absence of respondent** - If the respondent does not appear at the hearing and if it has been determined that the respondent did receive the required notice of the hearing, the case will be heard in his or her absence and a decision will be rendered by the Student Conduct Board.
    b. **Absence of the complainant** - If the complainant does not appear at the hearing and if it has been determined that the complainant did receive the required notice of the hearing, the case may be dismissed.
    c. **Absence of quorum** - In the event that a quorum of the Student Conduct Board is not present, the hearing will be rescheduled. The rescheduled hearing will take place within 10 days of the first hearing date.
    d. **Reporting decisions** - A written report of the findings of the student conduct body and the sanctions imposed or recommended by the body shall be forwarded to the Student Conduct and Community Standards Office.
    e. **Conduct records**
        i. Student records, including files, taped proceedings, and testimony of cases heard before the Student Conduct Board are confidential.
        ii. University guidelines concerning the confidentiality of student records in accordance with the Family Educational Rights and Privacy Act (FERPA) (PL 93-380) of 1974, as amended, shall be followed.
    f. **Non-retaliation** - All persons are prohibited from engaging in any form of retaliatory action against another party including the complainant(s) and student(s) accused, witnesses at a hearing, members of the Student Conduct or Appeals Review boards, Student Affairs staff, or any other person associated with the conduct complaint. Retaliation is considered to be any action that is perceived as intimidating, hostile, harassing, retributive, vengeful, or violent that occurs as a result of a conduct action.
4. **Appeals**
    a. An appeal must be made in writing to the Student Conduct and Community Standards Office within three days of receipt of notification of the outcome of the hearing. An appeal must include the specific reason(s) for the request. Such reasons for appeal are limited to the following: procedural error, inappropriate application of university regulations, presence of new information, or severity of the sanctions imposed. The Appeals Review Board shall first determine whether or not an appeal will be granted. If granted, the Appeals Review Board shall make a decision to amend the sanctions and/or findings for the case or schedule a rehearing. In cases where an error is found or if there is compelling new evidence, the Appeals Review Board shall issue a new decision or recommend a new hearing. The Appeals Review Board may elect to request to speak directly with complainants, witnesses, or the accused student(s). In cases where sexual violence is alleged, both the complainant(s) and

the accused have the right to request an appeal of any decision made by a student conduct body that may include one or more students, that is fair and impartial, and that does not include individuals with a conflict of interest.

b. The non-requesting party will receive notice of the appeal and may submit either their own appeal or a written response to the requesting party's appeal within 10 days, which the Appeals Review Board will consider together.

c. All sanctions imposed shall be considered in effect until or unless reversed by the Appeals Review Board. The decision of the Appeals Review Board is final.

Revisions or Amendments

All material revisions or amendments to the Code of Conduct must be approved by the University Council with the advice of the president.