

# Student CODE of CONDUCT



Genesee Community College

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## **SECTION 1 - Introduction**

Genesee Community College is committed to providing a safe and orderly environment where students may receive and college personnel may deliver quality educational services without disruption or interference. Appropriate behavior is essential to achieving this goal on college property and at all college sponsored events off-campus.

It is the responsibility of all Genesee Community College students to become aware of and to remain familiar with campus policies and procedures. The official and most current version of the Student Code of Conduct is always found online. Updates to the Student Code of Conduct may be made whenever necessary to comply with applicable law or policy and when the information presented here can be made clearer.

The Genesee Community College handbook enables all students to learn in an environment which promotes academic achievement by setting core principles, rules, and values. The Dean of Students serves as the primary administrator of student conduct and has the responsibility of holding students accountable to the Genesee Community College Student Code of Conduct. All students who are enrolled at Genesee Community College agree to adhere to this Code and all College policies and procedures.

In any organized group of people, it is essential to define the rights and responsibilities in that group. In defining the rights and responsibilities of individuals, Genesee Community College adheres to the 1967 Joint Statement on Rights and Freedoms of Students, the 1940 AAUP Statement on Principles of Academic Freedom, and subsequently approved Interpretive Comments (1970). Nothing contained herein shall be construed to be in conflict with the aforementioned documents. These rules are not intended to repeal, supersede, or preclude any other rules related to the same subject matter except to the extent that they are inconsistent therewith.

## SECTION 2 – Student Rights and Responsibilities

Genesee Community College respects the dignity of each individual member of the College community. The College recognizes certain rights and responsibilities as integral to achieving opportunities for intellectual, cultural, social and personal growth, and the health and safety of every student. These rights include, but are not limited to:

- The opportunity to pursue higher education;
- Freedom to exercise the rights of citizenship, association, inquiry, and expression;
- Appropriate privacy and confidentiality;
- A safe academic environment;
- The right to fair and equal treatment, instruction, evaluation, and services by faculty, staff, and students; and
- Procedural due process (specified below) in grievance and disciplinary hearings.

Most importantly, students have the right to quality education. This includes, but is not limited to, the right to competent instruction in courses and programs; the right to assistance in overcoming educational, cultural, emotional, and economic disadvantages which hinder the educational process.

As a corollary to the aforementioned rights, students are expected to assume the following responsibilities:

- To be knowledgeable of, and comply with, the directives, regulations, and laws as established by the SUNY Board of Trustees and the Genesee Community College Board of Trustees;
- To respect the rights of individuals and groups to independent action, as long as those rights do not interfere with the parallel rights of others – minorities and majorities alike; and
- To be knowledgeable of, and comply with, the directives, regulations, and laws of duly constituted civil authorities.

## **SECTION 3 – Statements on Affirmative Action, Diversity, Civility, and Non-Discrimination**

### **3.1 Affirmative Action Statement**

SUNY recognizes the importance of diversity for assuring the success of students and graduates in an increasingly global environment. We seek to establish the diversity that will provide all of our students with a learning environment to develop leaders and lifelong learners. Our efforts to attract a diverse student body will be enhanced by attracting diverse staff and administrators.

SUNY is committed to equal treatment in every aspect of hiring and employment. SUNY proactively reviews its policies and practices to assure that decisions with respect to every dimension of employment are made without regard to age, color of skin, disability, gender expression and identity, genetic predisposition, marital status, national origin, race, ethnicity, religion, sex, sexual orientation, veteran status, status as a victim of domestic violence, and all other protected groups and classes under federal and state laws and executive orders. We recognize, too, that achieving equal treatment may require proactive measures to offset obstacles and barriers faced by the groups for whom we seek inclusion. At SUNY, we are committed to the incorporation of proactive recruitment and retention practices as an integral part of the work of the Office of Diversity, Equity, and Inclusion.

[Click here to view GCC's policy on Affirmative Action](#)

### **3.2 Diversity Statement**

GCC is an academic community made up of individuals who reflect differences in race, color, culture, ethnicity, gender identity or expression, creed, age, nationality, physical ability, religion, sexual orientation, and skill.

As a community of global learners, we are proud to affirm and celebrate the rich diversity that exists among us. We believe acknowledging and celebrating our diversity is essential to maintaining academic freedom and inquiry. We maintain that valuing differences can teach us more about ourselves as human beings and provide us with creative energy that comes when we learn from each other.

Valuing diversity requires a willingness to respect and attempt to understand the full range of thought and feeling of others' views. To achieve this dialogue, we strive to maintain open and unprejudiced minds; we suspend our final judgment and seek to enter into others' views and knowledge. The GCC community supports learning and activities that enhance our knowledge, awareness, and appreciation of diversity.

[Click here to learn more about Diversity & Inclusion at GCC](#)

### **3.3 Civility Statement**

Genesee Community College has a long-standing set of expectations for conduct on college property and at college functions. These expectations are based on the principals found in the College's Core Values – Community, Diversity, Integrity, Learning, Opportunity, and Respect.

[Click here to view the College's Core Values and for information on the College's Mission & Vision](#)

### **3.4 Non-Discrimination Statement**

Genesee Community College is committed to providing an environment free of discrimination, harassment, and retaliation.

[Click here to view the College's Harassment & Non-Discrimination Policies](#)

## **SECTION 4 – Title IX Conduct and Resources**

### **4.1 Title IX Sexual Misconduct Information**

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits sex discrimination on the basis of sex in education programs, including athletic programs, or activities that receive federal funding. “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.” Under Title IX, discrimination on the basis of sex can include sexual harassment, rape, and sexual assault.

Genesee Community College is committed to creating and maintaining an educational environment free from all forms of sex discrimination, including sexual misconduct. Any act involving sexual harassment, violence, coercion, and intimidation will not be tolerated. Specifically, GCC strictly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. These acts have a real impact on the lives of victims/survivors. They not only violate a person’s feelings of trust and safety, but they can also substantially interfere with a student’s education. It is the policy of GCC that, upon learning that an act of sexual misconduct has taken place, immediate action will be taken to address the situation and punish the perpetrator. This includes working with state and local law enforcement to bring possible criminal charges, seeking disciplinary action through the College, and enforcing mandatory transcript notifications so other institutions are on notice of the offense committed.

It is the collective responsibility of all members of the GCC community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual misconduct from occurring, the College engages in ongoing prevention and awareness education programs for employees and students.

### **4.2 Title IX Sexual Misconduct Reporting**

Genesee Community College encourages the reporting of sexual misconduct that is prompt and accurate. This allows the College to quickly respond to allegations and offer immediate support to the victim/survivor. GCC is committed to protecting the confidentiality of victims/survivors, and will work closely with students who wish to obtain private/confidential assistance regarding an incident of sexual misconduct. Certain professionals at the College are permitted by law to offer confidentiality, and those who do not maintain that privilege are expected to keep reports private to the extent permitted under the law and College policy. This means that they may have to report to College officials, but will not broadcast the information beyond what is required by law and policy. All allegations will be investigated promptly and thoroughly, and both the victim/survivor and the Accused Student will be afforded equitable rights during the investigative process.

In all sexual misconduct disciplinary proceedings, the “preponderance of the evidence” standard of proof will be used. If the evidence presented meets this standard – in other words, if it is “more likely than not” that the sexual misconduct occurred - then the Respondent must be found responsible.

**You may withdraw your complaint or involvement from the Genesee Community College process at any time.**

At the first instance of disclosure by a Reporting Individual to a college representative, the following information shall be presented to the Reporting Individual:

*You have the right to make a report to Campus Safety, local law enforcement, and/or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.*

## **4.2 Title IX Related College Resources**

The following links will direct you to additional information about Title IX topics:

[Sexual Violence Response College Procedure 121.1](#)

[Options for Confidentially Disclosing Sexual Violence College Procedure 121.2](#)

[SUNY Sexual Violence Prevention \(SVP\) Campus Climate Survey](#)

[GCC Board Policy 1021 Sexual Harassment](#)

[Crime Prevention and Reports](#)

[Responsible Employees](#)

[Differences Between the Penal Law and the College Disciplinary Processes](#)

## **4.3 Students' Bill of Rights (Board Policy 1021.1)**

The State University of New York and Genesee Community College are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the Hearing or conduct process and/or criminal justice process free from pressure from the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;

- 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;
- Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the institution, any student, the Accused Student and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a Reporting Individual, Accused Student, or Respondent throughout the Hearing or conduct process including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or Hearing or conduct process of the College.

If necessary, refer to the most current version of Board Policy 1021.1.

#### 4.4 Options for Victims

Victims/survivors have many options that can be pursued simultaneously, and GCC follows [SUNY's Sexual Assault and Violence Response \(SAVR\) Procedures](#).

##### Local Resource:

Campus Safety  
 College Village Safety  
 Title IX Coordinator  
 RESTORE (Sexual Assault Victim Services)  
 Dean of Students  
 GCC Counseling Center  
 United Memorial Medical Center

##### Contact Information:

585-343-0055 ext. 6240  
 585-813-9262  
 585-343-0055 ext. 6514  
 1-800-527-1757  
 585-343-0055 ext. 6219  
 585-343-0055 ext. 6219  
 585-343-6030

#### 4.5 Alcohol, Marijuana, and/or Drug Use 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 colleges is of utmost importance. Genesee Community College 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. Genesee Community College strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution 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 Genesee Community College or law enforcement will not be subject to Genesee Community College officials or law enforcement will not be subject to Genesee Community College code of conduct action for violations of alcohol, marijuana, and/or drug use policies

occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## **4.6 Conduct Process for Cases Involving Sexual Misconduct**

This section outlines the process that will be followed for all cases of sexual misconduct in addition to the information described in other sections of the Code.

In the event that there is a conflict between any information set forth in this section and any information described in any other portion of this Code, the information set forth in this section will control cases of sexual misconduct.

Reporting individuals have the right to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the Genesee Community College Code of Conduct as well as federal and New York State laws.

The college will honor a reporting individual's request for no investigation/conduct proceedings unless the college determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community, weighing in a number of factors.

Throughout conduct proceedings, the Respondent and the Reporting Individual will have:

1. The right to be assisted during a student conduct hearing and related meetings by an advisor of their choice. Advisors may speak privately to their advisee during the proceeding. Either party may request a brief recess to consult with their advisor. Advisors may not present evidence or question witnesses.
2. The right to a prompt response to any complaint. Sexual misconduct and other sensitive complaints will be given priority to ensure that GCC resolves them within 60 days, unless there are extenuating circumstances.
3. The right to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made, and other issues relating to sexual assault, dating violence, domestic violence and stalking.
4. 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.
5. 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 longer than 10 days except when law enforcement specifically requests and justifies a longer delay.

6. The right to receive advance written or electronic notice of the date, time and location of any meeting or hearing they are required or eligible to attend as well as the factual allegations concerning the violation (including date, time and location), a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
7. The right to offer evidence during an investigation and to review all available relevant evidence in the case file.
8. The right to present evidence and testimony at a hearing, where appropriate.
9. The right to participate in the conduct process without fear of retaliation. Retaliation is defined as any intimidating, harassing, or retributive action including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequence, and bullying of any person for reporting a violation or for participating in any way in the investigation or conduct process.
10. The right to accommodations that address concerns for the personal safety, well-being, and/or fears of confrontation during the hearing through a variety of methods including providing separate facilities, using a visual screen, and/or permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audiotape, written and/or electronic statement, or other means.
11. The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis and/or treatment from admittance in the college 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.
12. The right to be present for all testimony and questioning. Deliberation is conducted in closed session without the parties present.
13. The right to make an impact statement during the point of proceedings right before the decision maker(s) begin deliberations.
14. The right to simultaneous 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.
15. Access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest. Please see "Appeals" section later in the Code for specific guidelines.
16. The right to have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least seven (7) years from such a hearing and may include a transcript, recording or other appropriate record.
17. The right to choose whether to disclose or discuss the outcome of a conduct hearing.

18. The right to have all information obtained during the course of the conduct process to be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

Administrative hearings and Hearing Board meetings are closed. Only those who have a legitimate reason to be present will be permitted.

The Hearing Board or Administrative Hearing Officer has final decision-making authority in determining if the Code has been violated. Where the accused individual is found in violation, after consultation with the Title IX officer, the appropriate sanctions for the violation will be imposed. The College considers dating violence, domestic violence, sexual assault, and stalking as extremely serious violations and subject to Suspension and/or Expulsion from the College.

The burden of proof in all cases is “the preponderance of the evidence” - whether it is “more likely than not” that the sex discrimination, dating violence, domestic violence, sexual assault, or stalking occurred. If the evidence presented meets this standard, then the Accused/Respondent must be found responsible.

#### **4.7 Temporary Accommodations**

Upon the receipt of a claim of sexual misconduct, the Dean of Students or their designee will confer with the Title IX Coordinator on interim action, accommodations for the Reporting Individual and Accused/Respondent, or other necessary remedial short-term action.

When the Accused/Respondent is a student, the college will issue a “No Contact Order” meaning that continuing to contact the protected individual either directly or through a third party is a violation of college policy subject to additional conduct charges. If the accused/respondent and a protected individual observe each other in a public place, it is the responsibility of the accused/respondent to leave the area immediately without coming into contact with a protected person.

When the accused/respondent is a student and presents a continuing threat to the health and safety of the community, the accused/respondent may be subject to an interim suspension pending the outcome of the conduct process.

Both the accused/respondent and the reporting individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and potential modification of either of the above temporary/administrative directives. The accused/respondent or reporting individual shall be allowed to submit evidence on his or her behalf. Any requests for such review must be made through the Dean of Students Office. The Dean of Students Office is located in C209 at the Batavia Campus and can be reached at 585-343-0055 x6219.

Please see information on Title IX sanctions, transcript notation and appeals process in the General Conduct Rules section below.

## SECTION 5 – General Conduct Rules

GCC's College conduct system and process is overseen by the Dean of Students. The College's jurisdiction under this Code shall extend to student conduct occurring on College property, property under the management and/or control of the College, and/or off College property when such conduct adversely affects the College community, poses a risk of harm or the threat of harm to the College community, and/or interferes with the College's pursuit of its objectives and mission. A student shall be subject to disciplinary sanctions, and proceedings under this Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

Certain College departments, facilities, academic programs, athletics, student organizations, College Village or clinical or other off-campus assignment sites have additional behavioral guidelines and related policies and procedures that apply to students.

All GCC and College Village personnel are inherently responsible for the maintenance of acceptable conduct of persons on the College premises. Such a responsibility can be manifested as informally as a verbally expressed concern to a transgressing individual or a more formal expression of concern to a department head, divisional dean, or vice president.

In an instance of a violation, the Dean of Students or his/her designee has the authority to make a determination and impose a sanction. Unless otherwise noted, the student has the right to appeal a given sanction.

Application of College disciplinary procedures regarding any of the following subsections will not preclude criminal or civil prosecution by any party having a legal right to prosecute. The President, under authority delegated by the Board of Trustees, is empowered to request police assistance from local, state, and federal agencies. The President may also make the decision to initiate injunction proceedings when deemed necessary.

### 5.1 Prohibited Behavior

Genesee Community College prohibits the following behavior:

#### 1. Alcohol, Marijuana, and other Drugs

- a. The use, sale, transfer, or possession of alcoholic beverages, marijuana, and/or other drugs on College premises (except cases when a permit is issued by the President)
- b. Knowingly being in the presence or possession of alcoholic beverages, marijuana, and/or other drugs or empty containers for such substances on College premises
- c. Disruptive behavior exhibited as a result of alcohol, , marijuana, and/or other drug use, whether the use was on or off campus

#### 2. Animals on Campus

- a. Possession or accompaniment of animals in any campus building at any time - exceptions include laboratory animals and service/comfort animals as defined and recognized through the Access and Accommodations Office, and the College Village pet policy guidelines.
- b. Improper handling or behavior of a service or comfort animal
- c. Failure to clean up after a service or comfort animal

### **3. Assault**

- a. Non-physical violence or abuse, including verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct which threatens or endangers the health or safety of any person
- b. Actual or attempted slapping, kicking, shoving, or otherwise striking another person

### **4. Attempting Prohibited Conduct**

- a. Attempting to engage in conduct which, if completed, would result in the violation of any rule applicable to the College

### **5. Breaking Laws or College Rules**

- a. Any conduct which constitutes a violation of the laws of the United States, the State of New York, Genesee County, or any other civil jurisdiction
- b. Failure to abide by any of the College's published policies, rules, and regulations, or any of the published policies of College Village

### **6. College Grounds Misuse**

- a. Use of College space and grounds by an organization or person without reservation of the space or proper authorization
- b. Operation of bicycles, skateboards, rollerblades, or other recreational items in a reckless or unsafe manner on College grounds, including College Village
- c. Bicycles, skateboards, rollerblades, or other recreational items within any GCC or College Village building or facility is prohibited. [College Procedure 613: Use of Wheeled Conveyances in College Facilities](#)

### **7. Complicity**

- a. The aiding, assisting, or abetting any person or persons in any action or conduct stated to be prohibited

### **8. Computer and Technology Misuse**

#### [College Procedure 420: Student Misuse of College Computing Resources](#)

- a. A person is responsible of unauthorized use of a computer when he or she knowingly uses, causes to be used, or accesses a computer, computer service, or computer network without authorization.
- b. A person is responsible of computer trespass when he or she knowingly uses or causes to be used, or accesses a computer, computer service, or computer network without authorization and he or she thereby knowingly gains access to computer material.
- c. A person is responsible of computer tampering when he or she uses, causes to be used, or accesses a computer, computer service, or computer network without authorization and he or she intentionally alters in any manner or destroys computer data or a computer program of another person.
- d. A person is responsible of unlawful duplication of, downloading of computer related material when having no right to do so, he or she copies, reproduces or duplicates in any manner computer material.
- e. A person is responsible of misuse when he or she intentionally seeks information on, obtains copies of, or modifies files or passwords belonging to others.
- f. A person is responsible of misuse when he or she intentionally develops or uses programs that harass other users.

- g. A person is responsible of misuse when he or she authorizes individuals who are not associated with the College to use an account, or uses the academic computers for non-work related tasks.
- h. A person is responsible of misuse when he or she fails to cooperate with or follow established computing resource procedures.
- i. A person is responsible of misuse when he or she intentionally alters any computer resources that the College has installed, set-up, or implemented for general or specific use such as but not limited to disconnecting cables from College computers and connecting personal computers or devices to College telecommunication connections, unless written permission has been obtained from the Director of Computer Services or their authorized designee.
- j. Unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the student to civil and criminal penalties (View the following Internet web site for penalties of copyright infringement: <http://www.copyright.gov/title17/92chap5.html>) and is a misuse of computing resources.

#### **9. Demonstrations Without Authorization**

- a. Participation in a campus demonstration which disrupts the normal operations of the College and infringes on the rights of other members of the College community; leading or inciting others to disrupt schedules and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement
- b. Providing or dispensing of materials that could lead to harm or injury to a person, including, but not limited to, self-defense spray, objects that can be thrown, objects that can be used to deface property, etc. [College Procedure 137: Maintenance of Order](#)

#### **10. Destruction of Property**

- a. Destroying, defacing, materially altering, or otherwise damaging property not his or her own. This includes, but is not limited to, doors, windows, swipe card mechanisms, restroom equipment, vending machine equipment, College transportation equipment, etc.
- b. Creating a condition which endangers or threatens property not his or her own

#### **11. Discrimination**

- a. Unfair treatment of a person or group based on race, color, religion, sex, sexual orientation, familial status, gender identity or expression, age, genetic information, national or ethnic origin, physical or mental disability, marital or veteran status, domestic violence victim status, and/or criminal conviction.

#### **12. Dishonesty**

- a. Academic dishonesty or other incidents of dishonesty that involve complicity on a large scale. See:
- b. <https://www.genesee.edu/home/academics/classroom-policies/>
- c. Furnishing false information to any College official, faculty member, employee, or office
- d. Forgery, alteration, or misuse of any instrument of identification, including, but not limited to, driver's licenses, passports, GCC ID cards, etc.
- e. Use or attempted use of counterfeit money
- f. Forgery, alteration, falsification, or misuse of any College or official document, supplies, or record, including, but not limited to:
- g. Submission of a falsified universal grade change form to the College

- h. Submission of false grade information of any sort to a College office or department, employer, academic institution, etc.
- i. Altering any academic coursework and/or examinations so as to unjustly affect the grade awarded to that assignment
- j. Knowingly falsifying application information

**13. Disorderly Conduct**

- a. Conduct that is disorderly, lewd, or indecent, or causes a breach of the peace
- b. Aiding, abetting, or procuring another person to breach the peace on College premises, or at functions sponsored or participated in by the College

**14. Disruption**

- a. The obstruction or disruption of any College function, class, or activity; general disruption that results in Campus Safety or other public servant/faculty/staff response or intervention, both on and off campus

**15. Election tampering**

- a. Tampering with the election process of any College-recognized student organization

**16. Failure to Comply**

- a. The refusal to obey any reasonable or lawful request, order, or directive of a Campus Safety officer, faculty member, administrator, or any other identified representative of the College

**17. Fire and Safety Hazards**

- a. Tampering with, misuse of, or negligent activation of fire alarms and firefighting equipment, including, but not limited to, fire extinguishers, fire hoses, heat and smoke detectors, sprinkler systems, etc.
- b. Causing a fire or explosion or unauthorized use of any potential incendiary device or equipment
- c. Tampering with, or misuse of, or rendering useless any elevator device or systems
- d. Failure to exit the building during a fire alarm or drill, except as authorized in a documented safety plan
- e. Use of elevators during a fire alarm or drill
- f. Possession and/or use of any equipment or materials that is/are determined to be a fire or safety hazard, including but not limited to:
- g. Any device with an open flame (candles, Bunsen burners, etc.)
- h. Combustible/flammable liquids (butane, gasoline, etc.)
- i. Hoverboards, motorized self-balancing or hands-free scooters
- j. Explosives, or any other hazardous materials including sparklers and fireworks
- k. Storage of any motor vehicle or internal combustion machine within any College building

**18. Gambling**

- a. Money and/or other valuables being exchanged or wagered

**19. Harassment**

- a. Unwelcome verbal, non-verbal, or physical conduct, based on race, color, religion, sex, sexual orientation, familial status, gender identity or expression, age, genetic information, national or ethnic origin, physical or mental disability, marital or veteran status, domestic

violence victim status, and/or criminal conviction, that is sufficiently persistent or pervasive such that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the College's educational program and/or activities, and is based on power differentials, the creation of a hostile environment, or retaliation.

## **20. Hazing**

- a. Any act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization

## **21. Hearing Process Interference**

- a. Abuse of the disciplinary process, including, but not limited to:
  - i. Failure to comply with a College official in any form (ex. verbal, written, electronic, etc.)
  - ii. Falsification, distortion, or misrepresentation of information before a Hearing body
  - iii. Disruption or interference with the orderly conduct of a Hearing proceeding
  - iv. Attempting to discourage an individual's proper participation in, or use of, the Hearing system
  - v. Attempting to influence the impartiality of a member of a Hearing body prior to and/or during the course of the Hearing proceeding
  - vi. Harassment (verbal or physical) and/or intimidation of a member of a Hearing body prior to, during, and/or after a Hearing proceeding
  - vii. Failure to comply with the sanctions imposed under the Student Code of Conduct
  - viii. Influencing or attempting to influence another person to commit an abuse of the Hearing system

## **22. Keys/ID Access Abuse**

- a. Unauthorized possession, duplication, or use of keys or IDs to any College or College Village premises
- b. Unauthorized entry to, or use of, College or College Village premises

## **23. Leaving the scene**

- a. Attempting to flee or unlawfully leaving the area of an accident, crime, a College violation (and/or areas of potential accidents, crimes, or violations), or avoiding being apprehended or questioning by the College or other law enforcement agencies

## **24. Publicity and Posting Unapproved Material**

- a. Distributing promotional material that is not approved by the College and/or College Village [Promoting Your Event Guidelines](#)

## **25. Sexual Misconduct**

- a. Refer to the above links with regard to Title IX and Sexual Misconduct.

## **26. Smoking**

- a. Unless following posted guidelines

## **27. Substances**

- a. The use, sale, transfer, or possession of illegal substances and/or related paraphernalia on College premises
- b. Knowingly being in the presence of illegal substances
- c. Disruptive behavior exhibited as a result of substance use, whether the use was on or off campus

#### **28. Theft**

- a. Using, taking, and/or possessing property or services that are knowingly not his or her own with intention to deprive the owner of his/her rights

#### **29. Traffic and Driving Interference**

- a. The obstruction of the free flow of pedestrian or vehicular traffic, or the free access to, or exit from, any part of the College or College Village premises
- b. Unsafe or unauthorized use of a motor vehicle on campus grounds, including operating a motor vehicle under the influence of alcohol, marijuana, and/or other drugs
- c. Repeated failure to pay parking tickets and/or address traffic fines/citations

#### **30. Trespassing/Unauthorized Entry**

- a. Knowingly entering or remaining in a building, office, residence hall room, apartment, or any other College/College Village property at any time without permission or authorization

#### **31. Weapons**

- a. Possession or use of any dangerous or deadly weapon or instrument on any college-owned or controlled property or at any college-sponsored or supervised function. For purposes of these guidelines, a “dangerous or deadly weapon or instrument” includes but is not limited to any: firearm, shotgun, rifle, pistol, air rifle, BB gun, folding pocket knife, dirk, dagger, locking blade knife, switch blade knife, brass knuckles, blackjack, billy club, nun-chuck sticks, sling shot, taser, stun gun, shocker, razor blade, acid, metal pipe, sharpened wood or metal trap, or any other weapon, instrument or object designed or modified to inflict physical harm on another person or animal. In the interest of protecting students, college personnel, or campus visitors, the College retains discretion to determine what constitutes a dangerous or deadly weapon or instrument.
- b. The possession of any replica or “fake” copy of a weapon which can, to a reasonable person, seem real.

### **5.1.a Additional Conduct Rules and Regulations at College Village**

Please visit the website for the most up to date information and housing contract. Not knowing the rules and guidelines will not exempt you from possible sanctions based on behavioral infractions.

[College Village Housing Regulations](#)

[College Village License Agreement](#)

### **5.2 Filing a Conduct Complaint**

All complaints under the Student Code of Conduct shall be filed with or by the Dean of Students.

When the Dean of Student files or receives a complaint alleging that a student has acted in a manner which may be in violation of the Student Code of Conduct, the Dean of Students initiates the disciplinary process (see Section 6 of the Code), including meeting with the Accused Student, putting him/her on notice of the alleged violation, and providing him/her with an opportunity to respond to the allegations. The Dean of Students may conduct further investigation, if necessary. When there are instances of safety concerns, interim suspension may occur prior to any meetings.

## **SECTION 6 – Disciplinary Process**

### **6.1 Violations of the Code**

The disciplinary process is initiated once a complaint is filed against a student and the Dean of Students determines that a violation exists. This policy is not intended to prevent members of the College community from attempting to resolve matters informally.

When the Dean of Students determines that a violation exists, the following options are available:

1. Verbal or written warning: For low-level offenses, the Dean of Students may issue a verbal, written and/or electronic warning to the Accused Student. Warnings shall not be subject to appeal.
2. Administrative Meeting with Dean of Students or designee(s).
3. Hearing Board

NOTE: Failure to cooperate with the College’s investigation of an alleged Student Code of Conduct violation, which includes appearing before a Hearing Board or College official if summoned to do so, will result in the student forfeiting his/her rights to a hearing or appeal and/or may result in disciplinary action. A “hold” may also be placed on the student’s account and interim sanctions put into place. For more information, contact the Dean of Students office.

A student who is charged with a violation and who is a graduating student will be ineligible to graduate until Hearing action on the case has been completed and eligibility to graduate is confirmed. If the Hearing action results in suspension, the student will be subject to being ineligible to graduate until the term of suspension has been served. Campus Hearing action for an alleged violation of the Code of Conduct will not be delayed due to the pending nature of any related criminal charges.

### **6.2 Hearing Board**

The College Hearing Board is the primary fact-finding and decision-making body in the College conduct system. The Hearing Board shall consist of a minimum of three GCC employees, approved by the Dean of Students or designee.

This Board hears and decides whether the student is responsible or not responsible for the infractions, and may recommend sanctions. The decision of assigning sanctions is the responsibility of the Dean of Students or designee. All decisions are final, with the exception of the appeal process.

Every attempt will be made to schedule the Hearing Board and Administrative Hearings within a timely manner. The rules of evidence do not apply, but rather the preponderance of evidence standard (what’s more likely than not).

The Accused Student has the right to be accompanied by one advisor of his/her own choosing and at his/her own expense. The advisor may be an attorney. An advisor's role is limited to advising the Accused Student directly. An advisor is not permitted to participate directly in the hearing.

A request to reschedule a Hearing Board hearing must be completed 24 hours prior to the scheduled time of the hearing and will only be considered for just cause. Just cause will be determined by the Dean of Students or his/her designee. Only one request will be considered, and the alternative date must be within five (5) business days. Failing to attend a Hearing Board hearing will result in the hearing being conducted in the student's absence. If a student is late to his/her Hearing Board hearing and the hearing has already commenced, the student will be permitted to attend at the discretion of the Hearing Board.

### **6.3 Hearing Conduct**

A hearing is normally conducted in private.

There shall be a record created of all hearing boards. The record shall be the property of the College.

All questions and names of witnesses are subject to the final decision of the Hearing Board.

Admission of any person(s) into the hearing shall be at the discretion of the Hearing Board.

A hearing shall proceed as follows:

1. Generally, the Dean of Students or designee presents the statement of charges on behalf of the College. The Dean of Students may present documents, materials, and/or witnesses in support of the statement of charges.
2. The Respondent Student responds to the statement of charges. The student may present documents, materials, and/or witnesses in response to the statement of charges, if previously submitted. If not submitted ahead of time, it will be at the discretion of the Dean of Students or designee to allow these.
3. Following the parties' presentations, the College Hearing Board may question each party, their witnesses, and/or review all information presented. The College Hearing Board has the option to request additional documents, materials, or information from either party and has the final opportunity to question the parties.
4. The Hearing Board shall determine, by majority vote, whether the statement of charges has been proven (responsible or not responsible). They may recommend sanctions to the Dean of Students or designee, who will make the final decision.

Within five (5) business days after the hearing, the Dean of Students or designee will forward a written and/or electronic decision outlining findings and disciplinary action, if any, to the parties.

### **6.4 Disciplinary Sanctions**

Please note: For students found responsible for Sexual Assault, the available sanctions are suspension with additional requirements before re-enrollment or expulsion/dismissal. Students found responsible for Domestic Violence, Dating Violence, or Stalking may be subject to one or more sanctions. A sanction

need not be imposed in every case, and no sanction shall be imposed that is more serious than is clearly appropriate for the circumstances.

Findings and sanctions will become a part of a student's conduct file and will be part of the student's educational record.

The following sanctions (not all inclusive) may be imposed upon any student found to have violated the Student Code of Conduct:

1. **Restitution:** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
2. **Fines:** This action may be imposed when necessary.
3. **Educational Sanctions:** Including work assignments, essays, community service, behavioral contract, administrative referral, or other related educational assignments.
4. **Verbal Warning:** This action is a formal admonition on behalf of the College community and is intended to clearly document, in a student's disciplinary file, that his/her behavior has been deemed unacceptable. Reprimands typically do not include additional sanctions, but may.
5. **Written Warning:** This action is a written and/or electronic statement on behalf of the College community and is intended to clearly document, in a student's disciplinary file, that his/her behavior has been deemed unacceptable and that repetition or additional wrongful conduct would be followed by more severe disciplinary action. A written and/or electronic warning may include additional sanctions.
6. **Disciplinary Probation:** The student is not in good standing for a designated period of time and is notified that further proven violations of the Student Code of Conduct may result in suspension or expulsion from GCC, particularly if the incident occurs during the probationary period.
7. **Discretionary Sanctions:** This action typically occurs in conjunction with a written and/or electronic warning or disciplinary probation. Sanctions include but are not limited to: essays, privilege revocation, referral to counseling or another service area, work assignments, apology letters, service to the College, or other related discretionary assignments may be imposed.
8. **Interim Sanctions:** This action results in directives that are in place through the Hearing process. A student may be placed on a disciplinary probation status, temporarily relocated or removed from the College Village, unable to attend one class, referred to counseling, provided an order of no contact, etc., while an investigation and Hearing Board hearing are taking place.
9. **Facility Suspension:** The student no longer has the privilege of entering or using a particular facility or building for a specified period of time or until a specific condition is met.
10. **Facility Expulsion:** The student has lost the privilege of entering in or using a particular facility or building at any time.

11. **Loss of Privileges:** Denial of specified privileges for a designated period of time.
12. **Removal from Class:** The student is barred from attending a particular class or may be reassigned to a different section of the same class. Details will be coordinated between the Dean of Students or designee and the appropriate faculty member.
13. **Revocation of Admission:** The student loses admitted status to GCC. A permanent notation will be made on the student's college transcript indicating that the admission was revoked and the date of the action.
14. **Revocation of Degree:** The student loses the right to claim a degree from GCC. Awarding of the degree will be removed from the student's transcript and a permanent notation will be made on the transcript indicating the revocation, the degree involved, and the date of the action. The Provost/Executive Vice President for Academic Affairs or designee shall review all recommendations for degree revocation.
15. **Interim Suspension:** This action results in the immediate removal of a student from the College, including the College Village, until a conduct hearing can take place. If a student is interim suspended, immediate written and/or electronic notice of charges is provided and a Hearing Board hearing is scheduled within five (5) business days (more days in extreme situations). During this time, a student may not be permitted to be on campus for any reason without notifying Campus Safety and College Village Safety.
16. **Suspension from GCC** - suspension is defined as a complete separation from GCC activities, services, facilities, and grounds. Suspension may be:
  - a. Term suspension will be for a specified time, after which the suspended student may return to GCC.
  - b. Conditional suspension will stipulate that reentry to the college community will be granted upon the fulfillment of certain conditions by the student. Subject to fulfillment of the stipulated conditions, the suspension will be indefinite.
17. **Suspension from College Village**
18. **Loss of Academic Credit:** Students found responsible for serious violations may, as a part of the College's disciplinary action, be denied academic credit for the semester in which a suspension or expulsion occurred.
19. **Liability for Tuition and Fees:** Students found responsible for serious violations will, as a part of the College's disciplinary action, be responsible for all tuition and fees for the semester in which a suspension or expulsion occurred (including College Village charges)
20. **Expulsion from GCC:**The student is permanently separated from GCC, may not be present on GCC property, or in attendance at GCC-sponsored events. Permanent notification will appear on the student's transcript.

#### **Student Group or Organization Sanctions**

1. Any of those sanctions listed above.

2. Loss of registration as a registered student organization. The Student Activities Office shall notify any national, regional or state governing body with whom the organization is associated or which sponsors social, academic, or sports events when such action is taken. Loss of registration includes loss of all student activity fee and College funding and all rights and privileges given to registered student organizations.

More than one of the sanctions listed above may be imposed for any single violation. A sanction need not be imposed in every case, and no sanction shall be imposed that is more serious than is clearly appropriate for the circumstances.

Any sanction imposed will be in effect at all campuses/sites or functions sponsored by or under the supervision of GCC or College Village.

Where there is reasonable cause to believe that a student has intentionally selected a person or persons to victimize or selected property to damage, or violated other provisions of the Student Code of Conduct because of the personal characteristics or status of a person or group of persons or personal characteristics or status of the owner or owners of any property, sanctions may be increased. These characteristics include, but are not limited to race, ethnicity, creed, disability, color, religion, national origin, sex, age, veteran's status, marital status, sexual orientation, or public assistance status.

If a student is found responsible for one or more violations of the Student Code of Conduct, the student's prior conduct record will be taken into consideration and may result in progressive sanctions because of a pattern of behavior. While previous conduct violations by the accused student are not generally admissible as information about the present alleged violation, the Dean of Students or designee may supply information to the Hearing Board in pattern-offense situations.

All conduct records are kept by the Dean of Students Office for seven (7) years from the date of the incident.

## **6.5 Transcript Notation Policy**

Genesee Community College official transcripts will notate reportable Code of Conduct violations. 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, Genesee Community College 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, Genesee Community College shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." Students may make an appeal seeking removal of a suspension transcript notation following the Appeals process. The suspension notation may not be removed prior to one year after conclusion of the suspension. Notations for expulsion may not be appealed and will not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation will be removed.

## 6.6 Appeals Process

A student who is found responsible for violating the Student Code of Conduct may petition within five (5) business days of the written and/or electronic notice of a decision reached or a sanction imposed. Appeals will be in writing, can be emailed, no texting, and shall be submitted to the Dean of Students or designee(s). All housing removal appeals will be directed to the Director of College Village or designee(s) and the Dean of Students. An appeal is not a review of a case, but instead is an independent review of the process utilized to reach the original finding or decision.

Students may appeal the decision of a hearing for the following reasons, and MUST indicate the reason in the appeal:

- Procedural irregularity that affected the outcome of the hearing. During the hearing process, there was a material deviation from the College's written procedures that adversely affected the outcome of the hearing.
- Harshness of sanction inconsistent with stated community standards and precedents. The sanction(s) imposed were grossly disproportionate to the violation(s) of the Student Code of Conduct for which the student was found responsible.
- Pre-Hearing bias on the part of the hearing board members.
- New information. Information has been discovered that was not reasonably available at the time of the hearing and that could be sufficient enough to alter the outcome of the hearing. New evidence not available at the time of the original hearing must be brought to the attention of the original hearing body for consideration before the case can be presented on appeal.

*In cases of Title IX with a complaint of sexual harassment or sexual assault, both the accused student and the complainant may appeal a decision of a hearing board or officer based on one or more of the reasons stated above.*

Sanctions imposed upon students found responsible for a Student Code of Conduct violation will not go into effect until there is a final appeal decision in the case. Interim suspensions will remain in effect during the appeal process.

The function of the Appeals Board is to ascertain that hearings have been conducted fairly, in accordance with the procedures outlined above, and without undue bias. The Appeals Board will not substitute its own judgment for that of the original hearing body, nor will it concern itself with the possibility that others might have arrived at a different judgment. Its terms of reference extend only to investigation of the procedures by which the original judgment was reached. Decisions of the Appeals Board are final.

The Appeals Board shall be composed of a minimum of three members (employees).

Within five (5) business days of receipt of the appeal (with leniency in time due to extraordinary circumstances), the Dean of Students shall convene the Appeals Board to determine whether the appeal shall be considered. In making that decision, the Appeals Board shall have access to the written and/or electronic records of the case.

If the Appeals Board decides to consider the appeal, the Appeals Board shall have access to the records of the hearing. The Appeals Board may decide:

- To uphold the original decision.
- To return the case to the original board for rehearing. This shall normally be done when there is a procedural irregularity that could be corrected in a rehearing.
- To return the case to the Dean of Students with a recommendation that the sanction be modified, together with an explanation of why the original sanction is deemed inappropriate.

The appellant and other party shall be informed in writing of the decision and of the grounds for the decision.

## **SECTION 7 – Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act of 1974 (FERPA) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Please check with the college Registrar for more detailed information about FERPA.

Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by GCC 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  
600 Independence Avenue, SW  
Washington, DC 20202-4605

## **SECTION 8 – Enforcement of Conduct**

Any question regarding the enforcement, interpretation or application of this Code shall be referred to the Dean of Students, or his/her designee, for a final determination.

## **SECTION 9 – Records Release Policy Statement**

Colleges and universities vary widely in the student misconduct issues that they consider “reportable” to outside agencies, potential employers, and graduate or professional programs. The practice of the Dean of Students Office at Genesee Community College is to report any formal disciplinary action taken against a student that results in a finding of responsible for a Genesee Community College policy violation and a sanction of disciplinary probation or greater (our sanctions, in order of increasing severity, are: verbal reprimand, written and/or electronic warning, disciplinary probation, suspension, expulsion. Each infraction usually receives one of these statuses in addition to other educational activities and mandates).

Disciplinary records are maintained for seven (7) years after the end of an academic year. Suspension and expulsion records continue to be maintained longer.

## APPENDIX A – Code Definitions

For the purpose of this Code, the following definitions apply:

- A. **Accused:** A person accused of a violation who has not yet entered an Institution's Hearing or conduct process.
- B. **Administrative Hearing:** A resolution of a complaint, which is mutually agreed upon by the Dean of Students and the Accused Student. An administrative hearing shall result in an Accused Student waiving his/her right to a Hearing Board hearing or appeal.
- C. **Affirmative Consent:** Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.
  - 1. 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.
  - 2. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - 3. Consent may be initially given but withdrawn at any time.
  - 4. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
  - 5. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - 6. When consent is withdrawn or can no longer be given, sexual activity must stop.
- D. **Appeals Officer:** The College's Dean of Students or designee(s).
- E. **Associate Dean of Students (ADean of Students):** Acts as Dean of Students when designated.
- F. **Bystander:** 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 an institution.
- G. **Clery Act:** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act is a federal statute that requires colleges and universities that participate in federal financial aid programs to keep and disclose statistics about crime on or near their campuses.
- H. **Code of Conduct:** The written and/or electronic policies adopted by an Institution governing student behavior, rights, and responsibilities while such student is matriculated in the Institution.

- I. **College Property:** For the benefit of this document, it includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, including adjacent streets and sidewalks. It also includes College Village and the Campus Centers.
- J. **Complaint:** An allegation of a violation of the Student Code of Conduct, which is filed with or by a college official.
- 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 institution officials, in a manner consistent with State and Federal law. Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.
- L. **Dating violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.
- M. **Day:** As used in this policy, shall mean a business day. The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the Dean of Students may extend the time limits at his/her discretion in exceptional situations.
- N. **Dean of Students (Dean of Students):** The College official charged with the responsibility of administering the College's Student Code of Conduct.
- O. **Domestic violence:** A felony or misdemeanor crime of violence committed:
  - 1. By a current or former spouse or intimate partner of the victim;
  - 2. By a person with whom the victim shares a child in common;
  - 3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - 4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
  - 5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- P. **Hearing Board:** Members of the College community approved by the Dean of Students to conduct a hearing when it has been determined by the Dean of Students that a violation of the Student Code of Conduct has occurred. Members of the Board shall act in a fair and impartial manner.
- Q. **Incapacitation:** Physical and/or mental inability to make informed, rational judgments and decisions. Where alcohol or other substances are involved, incapacitation is determined by how the substance impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments.

1. In evaluating whether a person was incapacitated for purposes of evaluating affirmative consent, the College considers two questions:
    - i. Did the person initiating sexual activity know that the other individual was incapacitated? and if not,
    - ii. Should a sober, reasonable person in the same situation have known that the other individual was incapacitated?
  2. If the answer to either of these questions is “yes,” affirmative consent was absent.
  3. Incapacitation is a state beyond drunkenness or intoxication. A person is not incapacitated merely because they have been drinking or using drugs. The standard for incapacitation does not turn on technical or medical definitions, but instead focuses on whether a person has the physical and/or mental ability to make informed, rational judgments and decisions. A person who initiates sexual activity must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs may include: slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, and/or incontinence. Additionally, a person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?”, “Do you know how you got here?”, “Do you know what is happening?”, “Do you know whom you are with?”
- R. **Institution:** Any college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York.
- S. **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 Institution officials.
- T. **Reporting Individual:** Encompasses the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.
- U. **Respondent:** A person accused of a violation who has entered an Institution's Hearing or conduct process.
- V. **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 educational or employment consequences, and bullying.
- W. **SaVE Act:** The Campus Sexual Violence Elimination Act (the Campus SaVE Act) refers to the Violence Against Women Act (VAWA) amendments to the Clery Act. The Campus SaVE Act is an update to the Clery Act, expanding the scope of this legislation in terms of reporting, response, and prevention education requirements around rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking
- X. **Sexual act:** The term “sexual act” means –

1. Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
  2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  3. The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
  4. The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- Y. **Sexual assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Specifically:
1. Sexual Assault I – The 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, including instances where the victim is incapable of giving consent because of his/her temporary or permanent mental incapacity.
  2. Sexual Assault II – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  3. Sexual Exploitation – Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II, or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; and inducing incapacitation with the intent to sexually assault another person.
- Z. **Sexual contact:** The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- AA. **Sex discrimination:** Includes all forms of sexual harassment, sexual assault, and other sexual violence by employees, students, or third parties against employees, students, or third parties. Students, employees, and third parties are prohibited from harassing other students and/or employees whether or not the harassment occurs on GCC campuses and whether or not the incidents occur during working hours. All acts of sex discrimination including sexual harassment, sexual assault, and other sexual violence, are prohibited by Title IX.
- BB. **Sexual harassment:** Unwelcome verbal or physical conduct that is sexual in nature. It is sufficiently persistent or pervasive in that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the College's educational program and/or activities. It is based on power differentials ("quid pro quo" harassment) or the creation of a hostile environment.

1. *“Quid pro quo” sexual harassment:* Occurs when a person in a position of authority uses that position to engage in unwelcome sexual advances, requests for favors, or other verbal or physical conduct of a sexual nature when: a) submission to such conduct is explicitly made a term or condition of a student’s employment or education; or b) submission to or rejection of such conduct is used as a basis for decisions affecting a student’s education or employment.
2. *Creation of hostile environment:* Hostile environment sexual harassment requires an assessment based on the totality of circumstances to determine whether the conduct is sufficiently serious to deny or limit a student’s ability to participate in or benefit from the College’s program and/or activities based on sex:
  - i. Degree to which the conduct affected one or more students’ education
  - ii. Type, frequency, and duration of conduct
  - iii. Identity of and relationship between alleged harasser and the subject(s) of harassment
  - iv. Number of individuals involved
  - v. Age and sex of alleged harasser and subject(s) of harassment
  - vi. Size of the College, location of incidents, and context in which they occurred
  - vii. Other incidents at the College
  - viii. Incidents of gender-based but nonsexual harassment
3. Examples of sexual harassment may include:
  - i. Unwelcome physical contact
  - ii. Continued expression of sexual interest after being informed that the interest is unwelcome
  - iii. Requests for sexual favors
  - iv. Persistent requests for a date, telephone calls, emails or other communication that is unwelcome
  - v. Posters, photos, cartoons, or graffiti that are demeaning or offensive
  - vi. Sexual language and/or jokes of a sexual nature
  - vii. Unwelcome visual contact, such as leering or staring at another person
  - viii. Comments or statements that are demeaning, humiliating, suggestive, insulting, vulgar, crude, or lewd
  - ix. Sexual gestures
  - x. Following or stalking
  - xi. Taking pictures that are sexual in nature
  - xii. Preferential treatment or promise of preferential treatment for submitting to sexual conduct

**CC. Sexual Misconduct:** Is sexual harassment or sexual violence, and encompasses a wide range of behavior for sexual purposes against another’s will or at the expense of another. Sexual misconduct includes, but is not limited to: sexual assault, intimate partner violence, stalking of a sexual nature, or any conduct of a sexual nature that is nonconsensual or has the effect of threatening or intimidating another.

**DD. Stalking:** Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly

communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her.

1. A course of conduct is two or more acts, including but not limited to acts in which the stalker directly, indirectly or through third parties by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a persons' property.
2. Substantial emotional distress is significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.
3. A reasonable person is one under similar circumstances with similar identities to the victim.

EE. **Student:** Includes all persons taking courses at the College, both full time and part time, online, credit and non-credit. Persons who are not officially enrolled for a particular term, but who have a continuing academic relationship with the College, are considered "students." This includes persons who withdraw while an investigation of an alleged violation is pending and/or prior to completion of the adjudication process. It also includes persons who are enrolled in pre-collegiate programs, co-sponsored partnerships, and other re-occurring programs.

FF. **Title IX:** Part of the Educational Amendments of 1972, Title IX states, "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 educational program or activity receiving federal assistance." See more recent relevant information below.

GG. **Title IX Coordinator:** The Title IX Coordinator and/or his or her designee or designees.

HH. **Violence Against Women Act (VAWA):** VAWA requires colleges and universities to: (1) report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates; (2) adopt certain student discipline procedures, such as for notifying purported victims of their rights; and (3) adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.