

# Student Code of Conduct

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## ***I. Student Conduct Code***

The Sage Colleges (“TSC”) reaffirms the principle of student freedom coupled with an acceptance of full responsibility for individual action and the consequences of such action. Thus, this Student Conduct Code has been written to set forth the terms of the relationship between the student and TSC with respect to disciplinary matters. It is an outgrowth of the duty of TSC to protect their educational purposes by setting standards of scholarship and behavior. Membership in TSC’s community necessitates compliance with regulations and procedures established by governing bodies. These regulations are essential for the maintenance of an atmosphere of learning in which the community’s academic and social standards can be upheld. Students, faculty and administrators share, according to TSC governance, the responsibility for the legislation, implementation, and enforcement of these TSC regulations. Each member of the TSC community, both in residence and those taking online and hybrid courses, is expected to uphold this individual and community responsibility, and must take action to uphold TSC regulations. All individuals in TSC’s community are expected to maintain integrity in all endeavors and respect the rights of others.

## ***II. Non-discrimination***

TSC applies the protections set forth in these policies and procedures 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, criminal conviction, or any other characteristics protected under federal or state law. Students may exercise civil rights and practice religion without interference by TSC’s investigative, criminal justice, or judicial or conduct process.

## ***III. No Retaliation***

Students have the right to be free from retaliation. Threats or other forms of intimidation or retribution against a student who files a complaint or grievance, reports a conduct violation, requests an administrative remedy, participates in an investigation, appears as a witness at an administrative conduct hearing, or opposes an unlawful act, discriminatory practice or policy, are prohibited and subject to College disciplinary procedures. Any student who feels that someone has subjected him or her to retaliation as a result of a report or participation in an investigation of a report should contact the Title IX Coordinator immediately, at: [titleix@sage.edu](mailto:titleix@sage.edu) , or (518) 244-4809.

## ***IV. Definitions***

1. The term “**accused**” means a person accused of a violation who has not yet entered TSC’s judicial or conduct process.
2. “**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.

- Consent to any sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
  - Whether through words or actions that clearly display consent, each party must affirmatively consent to participating in each sexual activity. Consenting to one type of sexual activity is not blanket consent to any and all types of sexual activity.
- 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, being involuntarily restrained, being under the age of consent, or if an individual otherwise cannot consent.
  - Minors who cannot consent under New York's laws covering age of consent are considered incapacitated. Under New York law, the age of consent is 17 years old. Students and employees are encouraged to review New York State Penal Law Article 130 for additional details regarding New York's age of 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. This does not mean that individuals cannot affirmatively consent to sexual activity or contact when they have been drinking or using drugs, however. Such individuals may still affirmatively consent through words or actions that clearly indicate interest in engaging in the activity.
  - Incapacitation is to be determined by a student conduct or investigation process based on available evidence, acknowledging that in almost no cases will scientific evidence of alcohol or drug level (such as a breathalyzer taken at the time of the assault) be available. There is no single standard or number of drinks that leads to incapacitation. This level varies for different people, and may depend in part on their age, gender, height, weight, metabolism and whether and how much they have recently eaten.
- 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.
  - Consent can "no longer be given" when a party to a sexual act or sexual contact initially consents to the activity, but during the course of the activity falls asleep or otherwise becomes unconscious or incapacitated. At that point, the other party must stop the sexual activity or contact.

3. **"Appellate Board"** means:

- In cases that do not involve any Sexual Offense charges: any one or more persons authorized by the Vice President for Student Life to consider an appeal from a Student Conduct Board’s determination, and from the sanctions imposed by the Student Conduct Administrator. Such board shall be appointed by the Vice President for Student Life on a case-by-case basis and consists of a panel of administrator(s), faculty member(s) (chosen from a list of TSC faculty who have been designated by Faculty Governance or other sources to serve in this capacity), or other sources, and student(s) (chosen from a list of candidates submitted by the applicable student government or other sources).
  - In cases involving one or more Sexual Offense charges: any three or more persons authorized by the Vice President for Student Life to consider an appeal from the determination of the Title IX Coordinator or other trained investigator that no Sexual Offense violation occurred, and from a Student Conduct Board’s final determination regarding responsibility and sanctions. Such board shall be appointed by the Vice President for Student Life on a case-by-case basis and consists of a panel of administrator(s), faculty member(s) (chosen from a list of TSC faculty who have been designated by Faculty Governance or other sources to serve in this capacity), and/or student(s) (chosen from a list of candidates submitted by the applicable student government or other sources). Members of the Appellate Board in a case involving a Sexual Offense must receive annual training on issues related to 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, how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, TSC’s policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking and sexual assault.
4. The term “**bystander**” means 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 TSC. A bystander is not a “reporting individual” (as defined below), even if the bystander brings forth a report.
  5. The term “**cheating**” is defined in appendix A.
  6. The term “**co-complainant**” means the member of the College community who may have initiated the complaint.
  7. The terms “**College**” and “**Colleges**” mean any one of The Sage Colleges: (TSC)-Russell Sage College, Sage Graduate Schools, or Sage College of Albany.
  8. The term “**complainant**” means the College on behalf of an individual or department in the TSC community.
  9. The term “**crime of violence**” means murder, manslaughter, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson, as

defined below.

- Criminal Homicide/Manslaughter by Negligence: The killing of another person through gross negligence.
- Criminal Homicide/Murder and Nonnegligent Manslaughter: The willful (nonnegligent) killing of one human being by another.
- Rape: 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.
- Fondling: 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.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
- Robbery: The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- Aggravated Assault: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.
- Burglary: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- Motor Vehicle Theft: The theft or attempted theft of a motor vehicle.
- Arson: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

10. The term “**faculty member**” means any person hired by TSC to conduct classroom activities.

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

12. The term “**misconduct**” means conduct that violates this Code of Conduct.

13. The term “**member of the College community**” includes any person who is a student, faculty member, TSC official or any person employed by TSC. A person’s status in a particular situation shall be determined by the Vice President for Student Life.
14. The term “**organization**” means any number of persons who have complied with the formal requirements for TSC recognition.
15. The term “**plagiarism**” is defined in appendix A.
16. The term “**policy**” is defined as the written regulations of TSC as found in, but not limited to, the Student Conduct Code, Residence Life policies, Student Life policies, the Student Handbooks, and TSC Catalog.
17. The term “**reporting individual**” means a victim of a Sexual Offense, survivor of a Sexual Offense, complainant of a Sexual Offense, claimant of a Sexual Offense, or witness of a Sexual Offense with victim status.
18. The term “**residence life violation**” means any violation of the Residence Life policies.
19. The term “**respondent**” means a person accused of a violation who has entered TSC’s judicial or conduct process.
20. The term “**sexual activity**” means “sexual act” and “sexual contact” as provided in 18 U.S.C. § 2246(2) and 18 U.S.C. § 2246(3), and therefore includes the following:
  - contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
  - contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  - 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;
  - 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; or
  - 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.

Individuals must obtain affirmative consent prior to engaging in any of the activity referenced above.

21. The term “**Sexual Offense**” means “sexual assault,” “nonconsensual sexual activity,” “relationship violence,” and “stalking,” as those are defined in TSC’s Sexual Offense

Policies & Procedures For Students and Employees, available at <https://www.sage.edu/student-life/title-ix/policies-procedures/>

22. The term “**shall**” is used in the imperative sense.
23. The term “**student**” includes all persons taking courses at TSC, both full-time and part-time, online or in-person, pursuing undergraduate, graduate or professional studies, commuting to campus or residing in College residence halls. Persons who withdraw after allegedly violating the Student Conduct Code, who are not officially enrolled for a particular term but who have a continuing relationship with TSC or who have been notified of their acceptance for admission, are considered “students.” Any individual who has been awarded a degree from the Colleges will be considered a “student” to the extent that, prior to receiving the degree, the individual committed fraud, misrepresentation, or another violation of TSC standards in obtaining the degree, or committed other serious misconduct prior to receiving the degree.
24. The term “**Student Conduct Administrator**” means a member of the faculty or professional staff authorized on a case-by-case basis by the Vice President for Student Life to impose sanctions upon students found to have violated the Student Conduct Code. Nothing shall prevent the Vice President for Student Life from authorizing the same Student Conduct Administrator to impose sanctions in more than one case.
25. The term “**Student Conduct Board**” means any one person or persons authorized by the Vice President for Student Life to determine whether a student has violated the Student Conduct Code and, if so, to recommend imposition of sanctions. Such panel shall be appointed on a case-by-case basis, and, if consisting of more than one person, may consist of a Student Conduct Administrator, one or more, but not more than three, faculty members from a list of candidates provided by Faculty Governance or other sources and one or more, but not more than three, students from a list of candidates provided by the applicable student government and other sources. In cases of a Student Conduct Board of more than one person, the Student Conduct Administrator shall serve as chair with one vote. (In the case of residence life/student life violations, the Student Conduct Board may consist solely of students.) The total number of members of the Student Conduct Board must be an odd number.
26. The term “**student life violation**” means any violation of the Student Life policies.
27. The term “**Title IX Coordinator**” means the individual designated by TSC to serve as the Title IX Coordinator/EEO Specialist. The Title IX Coordinator’s responsibilities include coordinating TSC’s compliance with Title IX, and other applicable nondiscrimination laws and regulations. This includes coordinating TSC’s grievance procedures for resolving Title IX complaints. The Title IX Coordinator, and his or her designee, receive annual training on: (1) issues related to sexual assault, relationship violence, and stalking, (2) how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, (3) how to conduct investigations of sexual violence, (4) the effects of trauma, (5) impartiality, (6) 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 (7) TSC’s policies and procedures, and other issues.

28. The term “**TSC**” means The Sage Colleges, including Russell Sage College, Sage Graduate Schools, and Sage College of Albany.
29. The term “**TSC premises**” includes all land, buildings, facilities, vehicles, and other property used, or in the possession of, or owned or controlled by TSC (including adjacent streets and sidewalks.)
30. The term “**TSC official**” includes any person employed by TSC, performing assigned administrative or professional responsibilities.
31. The “**Vice President for Student Life**” is the senior officer designated by the President of TSC to be responsible for the administration of the Student Conduct Code. The Vice President, or his or her designee, is responsible for the day to day administration of the Student Conduct Code.

#### ***V. Students’ Bill of Rights***

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by TSC;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from TSC courteous, fair, and respectful health care and counseling services, where available;
6. 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;
7. Describe the incident to as few TSC representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by TSC, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of TSC;

9. Access to at least one level of appeal of a final determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of TSC.

## **VI. *Student Amnesty Policy***

The health and safety of every student at TSC is of utmost importance. TSC 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. TSC strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to TSC 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 TSC's officials or law enforcement will not be subject to TSC'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.

## **VII. *Jurisdiction of The Sage Colleges***

1. Generally, TSC jurisdiction and discipline may be imposed for conduct which occurs on the Colleges' premises or as part of Colleges' sponsored or sanctioned off-premises activities, such as college sponsored housing (ex. University Heights College Suites), co-curricular activities, extracurricular activities, internships, field placements, co-curricular or off-campus trips, study abroad, general research, or for conduct which in and of itself adversely affects TSC community and/or the pursuit of its objectives. Students enrolled in a course offered in the online or hybrid formats are subject to the same jurisdiction and discipline as students attending class in a Sage classroom.
2. It is TSC's intent to leave action with respect to off-campus offenses of students to civil and/or criminal law enforcement authorities. It must be noted, however, that there are certain off-campus offenses that by their very nature are in the interest of TSC to investigate, adjudicate, and, where warranted, impose disciplinary action. Such offenses may include, but are not limited to, Sexual Offenses. In such cases, which shall be determined solely at the discretion of TSC, TSC reserves the right to assert jurisdiction and take appropriate action.
3. Further, any guest on TSC premises may be ejected from the premises if he or she appears to be engaged in misconduct, poses a threat to the safety or wellbeing of others, or is disrupting the normal operations of TSC.

### ***VIII. Interplay between the Code of Conduct and Criminal Justice Process***

1. TSC disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Conduct Code without regard to the pendency of civil or criminal litigation in court or criminal arrest or prosecution.
2. Generally, proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus at the discretion of the Vice President for Student Life. For Sexual Offense charges or complaints, however, the judicial or conduct process will run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence, which should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay. The Title IX Coordinator is responsible for determining whether a delay is justified. Determinations made or sanctions imposed under this Student Conduct Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of TSC rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
3. When a student is charged by federal, state or local authorities with a violation of law, the College will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also the subject of a proceeding before a Student Conduct Board or Appellate Board under the Student Conduct Code, however, the College may advise off-campus authorities of the existence of the Student Conduct Code and of how such matters will be handled internally within the College community.
4. TSC will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campuses and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual members of the College community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.
5. Where an interim suspension is imposed in a case involving the arrest of the respondent, other than an arrest related to a charge or complaint of a Sexual Offense, the College may require the matter to be resolved in full prior to the pending Student Conduct Code case being heard on its merits.
6. Nothing in TSC's Code of Conduct limits the rights of reporting individuals and other students to pursue cases through the criminal justice system. There are significant differences between the two systems because they have different, important goals. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. TSC's disciplinary process seeks to determine whether an individual has violated college policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to

have violated TSC policy may be suspended, expelled or otherwise restricted from full participation in the TSC community. A document that further explains the differences between the two systems can be found in **Appendix B** to this Code of Conduct.

## ***IX. Prohibited Conduct***

A violation of College policy occurs when there is evidence of a student having committed actual misconduct, attempting to commit misconduct but not completing the violation (i.e. offering to sell illegal substances to an individual who does not buy them or trying to steal an item but stopping or being stopped before removing the item from its location), assisting or convincing another person to commit misconduct, and misconduct or attempted misconduct by a student's guest. Any student found to have committed misconduct including, but not limited to, the following, is subject to the disciplinary sanctions set forth in this document.

### **1. Acts of Dishonesty**

Acts of dishonesty, including, but not limited to, the following:

- a. Cheating, plagiarism, or other forms of academic dishonesty.
- b. Furnishing false information to any College official, faculty member or office.
- c. Forgery, alteration, or misuse of any College recognized student organization's name, emblem, symbols, facilities, or property.
- d. Tampering with the election of any College recognized student organization.
- e. Computer theft, unauthorized use of computers or accounts, or allowing others access to an account.
- f. Illegal or improper use of the Colleges' phone system.
- g. Forgery, alteration, or misuse of any College document.

### **2. Acts of Disruption**

Disruption or obstruction of teaching, learning, research, administration, disciplinary proceedings, or other TSC activities, including its public-service functions on or off-campus, or other authorized non-college activities, when the act occurs on TSC premises.

### **3. Commitment of a Sexual Offense**

Committing a Sexual Offense, as defined above, and in TSC's Sexual Offense Policies & Procedures for Students and Employees, available at <https://www.sage.edu/student-life/title-ix/policies-procedures/>

### **4. Verbal Abuse**

Verbal abuse of any person.

### **5. Harassment**

Harassment, whether verbal, written, or otherwise, including, but not limited to, sexual and other harassment as defined in TSC's Discrimination and Harassment Policy & Procedure for Students and Employees:

[http://catalog.sage.edu/content.php?catoid=23&navoid=1277#Discrim\\_and\\_Harass](http://catalog.sage.edu/content.php?catoid=23&navoid=1277#Discrim_and_Harass)

**6. Threatening Conduct**

Actual or threatened conduct that directly or indirectly threatens, endangers, or interferes with the health or safety of any person, or which adversely affects the TSC community and/or the pursuit of its objectives.

**7. Theft**

Attempted or actual theft of and/or damage to property or services of TSC or any other person or entity.

**8. Acts of Physical Abuse**

Actual or threatened physical violence, intimidation, or coercion, and other forms of physical abuse.

**9. Hazing**

Hazing, defined as any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a person or persons, or involves the forced consumption of liquor, drugs, or other substances, 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. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing is also considered misconduct.

**10. Failure to Comply**

Failure to comply with directions of any TSC officials, University Heights Public Safety Officers, or law enforcement officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so.

**11. Unauthorized Use of Keys**

Unauthorized possession, duplication, or use of keys or electronic access cards to any of TSC premises or unauthorized entry to, or use of, TSC premises or any other entity.

**12. Violation of Other TSC Policies**

Violation of TSC policies, rules or regulations, published in hard copy or available electronically on TSC's website including, but not limited to, alcohol and drug policies, tobacco free policy, selling and soliciting policy, parking regulations, residence hall policies, library regulations, technology acceptable use policy, and student life policies.

**13. Violation of Federal, State, or Local Law**

Conduct which could be construed to be a violation of federal, state or local law.

**14. Illegal Drugs**

- a. Use of marijuana, heroin, narcotics, illicit drugs or other controlled substances except as expressly permitted by law. This includes prescription drugs being used or possessed by an individual without a valid prescription for that drug.

- b. Possession of marijuana, heroin, narcotics, illicit drugs or other controlled substances except as expressly permitted by law. This includes prescription drugs being used or possessed by an individual without a valid prescription for that drug.
- c. Manufacture of marijuana, heroin, narcotics, illicit drugs or other controlled substances except as expressly permitted by law. This includes prescription drugs being used or possessed by an individual without a valid prescription for that drug.
- d. Distribution of marijuana, heroin, narcotics, illicit drugs or other controlled substances except as expressly permitted by law. This includes prescription drugs being used or possessed by an individual without a valid prescription for that drug.

#### **15. Drug Paraphernalia**

- a. Use of drug paraphernalia (such as, but not limited to, pipes, bongs, hookahs and scales), including, but not limited to, all items used for the purpose of preparing, injecting, ingesting, inhaling or otherwise using illegal drugs, or in the illicit use of legal drugs.
- b. Possession of drug paraphernalia (such as, but not limited to, pipes, bongs, hookahs and scales), including, but not limited to, all items used for the purpose of preparing, injecting, ingesting, inhaling or otherwise using illegal drugs, or in the illicit use of legal drugs.
- c. Manufacture of drug paraphernalia (such as, but not limited to, pipes, bongs, hookahs and scales), including, but not limited to, all items used for the purpose of preparing, injecting, ingesting, inhaling or otherwise using illegal drugs, or in the illicit use of legal drugs.
- d. Illegal purchase of drug paraphernalia (such as, but not limited to, pipes, bongs, hookahs and scales), including, but not limited to, all items used for the purpose of preparing, injecting, ingesting, inhaling or otherwise using illegal drugs, or in the illicit use of legal drugs.
- e. Distribution of drug paraphernalia (such as, but not limited to, pipes, bongs, hookahs and scales), including, but not limited to, all items used for the purpose of preparing, injecting, ingesting, inhaling or otherwise using illegal drugs, or in the illicit use of legal drugs.

#### **16. Alcohol**

- a. Use of alcoholic beverages except as expressly permitted by the law and TSC regulations. Alcoholic beverages may not, in any circumstance, be used by any person under twenty-one (21) years of age.
- b. Possession of alcoholic beverages except as expressly permitted by the law and TSC regulations. Alcoholic beverages may not, in any circumstance, be possessed by any person under twenty-one (21) years of age.
- c. Manufacture of alcoholic beverages except as expressly permitted by the law and TSC regulations. Alcoholic beverages may not, in any circumstance, be manufactured by any person under twenty-one (21) years of age.

- d. Illegal purchase of alcoholic beverages except as expressly permitted by the law and TSC regulations. Alcoholic beverages may not, in any circumstance, be purchased by any person under twenty-one (21) years of age.
- e. Distribution of alcoholic beverages except as expressly permitted by the law and TSC regulations. Alcoholic beverages may not, in any circumstance, be distributed by/to any person under twenty-one (21) years of age.
- f. Being below 21 years of age and in the presence of alcohol within a TSC residence hall.

**17. Binge Drinking Paraphernalia**

- a. Items and substances used to dispense and ingest alcohol at a rapid manner such as, but not limited to, beer bong, funnels, Jell-O shots, etc. are prohibited.
- b. Drinking games and contests such as quarters, beer pong, altered board games etc. are also prohibited even if alcohol is not present.
- c. Paraphernalia related to excessive drinking is prohibited including, but not limited to, beer pong tables.
- d. The display of empty alcohol containers is also not permitted.

**18. Public Intoxication**

Conduct which demonstrates public intoxication or signs that indicate the use of alcohol, drugs or other harmful substances.

**19. Possession of a Firearm**

Possession of any firearm, pistol, revolver, rifle, shotgun, assault weapon, stun gun, explosive or incendiary device.

**20. Possession of a Dangerous Instrument**

Possession of any dangerous instrument, toxic or poisonous substance or chemical other than for use in a supervised academic setting.

**21. Arson**

Any attempt to intentionally or recklessly start a fire or cause an explosion and/or contribute to an unauthorized fire.

**22. Filing a False Report**

Falsely reporting an emergency; such as falsely reporting a bomb, fire or other emergency in any building, structure or facility on College premises or at any College related function by activating a fire alarm or by any other means.

**23. Participation in a Disruptive Demonstration**

Participation in a campus demonstration which disrupts the normal operations of TSC and infringes on the rights of other members of the College community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.

**24. Obstruction of Traffic**

Obstruction of the free flow of pedestrian or vehicular traffic on TSC premises or at College sponsored or supervised functions.

**25. Disorderly Conduct**

Conduct which is disorderly, lewd, indecent, or a breach of the peace (i.e. conduct which is disruptive, disturbing, or offensive to others); or aiding, assisting, or encouraging another person to breach the peace on TSC premises or at functions sponsored by, or participated in by, TSC or members of the academic community.

**26. Uncivil Conduct**

Engaging in conduct which has the intent to demean, annoy, or alarm another person; including, but not limited to: initiating communication via mechanical or electronic means, social network communication, telephone, telegraph, mail, computer, electronic mail or other form of written or pictorial communication, texting, or by making a telephone call or calls whether or not a conversation ensues, with no purpose of legitimate conversation.

**27. Unauthorized Surveillance**

Unauthorized surveillance, including, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on TSC premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom or any other place where there is a reasonable expectation of privacy.

**28. Abuse of the TSC Network**

Theft or other abuse of computer or telephone systems or time, including but not limited to:

- a. Unauthorized file access, to use, read, or change the contents, or for any other purpose.
- b. Unauthorized transfer of a file.
- c. Unauthorized use of another individual's identification and password or allowing another person use and/or access to one's MySage or voicemail account identification or password.
- d. Use of computing or telephone facilities to interfere with the work of another student, faculty member or TSC official.
- e. Use of computing or telephone facilities to send obscene, threatening, harassing, or abusive messages.
- f. Use of computing or telephone facilities to interfere with the normal operation of TSC computing system.
- g. Use of computer or telephone facilities in any way which could be construed to be in violation of federal or state laws.
- h. Use of computer or telephone facilities in any way which could be construed as copyright infringement.

- i. Any violation of the TSC Acceptable Use Policy.

## **29. Abuse of the Student Conduct System**

Abuse of the student conduct system, including but not limited to:

- a. Failure to appear before a Student Conduct Board or Appellate Board or College official if requested, or willful failure or refusal to cooperate as a witness, unless doing so would incriminate oneself; however, this provision does not apply to reporting individuals who choose not to participate in student conduct proceedings regarding Sexual Offenses that they report to TSC.
- b. Falsification, distortion, or misrepresentation of information before a Student Conduct Board or Appellate Board.
- c. Disruption or interference with the orderly conduct of a Student Conduct Code proceeding.
- d. Initiation of a Student Conduct Code proceeding knowingly without cause.
- e. Attempting to coerce an individual from proper participation in, or use of, the student conduct system.
- f. Attempting to influence the impartiality of a member of a Student Conduct Board or Appellate Board prior to, and/or during the course of, a Student Conduct Code proceeding.
- g. Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Board or Appellate Board prior to, during, and/or after a Student Conduct Code Hearing.
- h. Failure to comply with the sanction(s) imposed under the Student Conduct Code.
- i. Influencing or attempting to influence another person to commit an abuse of the student conduct system.
- j. Institution of a Student Conduct Code proceeding in bad faith.

## **30. Gambling**

All gambling or betting activities, with the exception of small, private card or other games, which do not involve monetary bets or involve monetary bets of very small amounts.

## **31. Irresponsible Social Conduct**

Failing to engage in responsible social conduct that reflects credit upon the TSC community and to model good citizenship in any community.

## **32. Acts of Complicity**

Acts of complicity; aiding, abetting, attempting, conspiring, hiring, willfully encouraging or being an accessory to any violation of TSC Code of Conduct.

## **33. Smoking**

Smoking, the use of any tobacco product, and the use of e-cigarette and other electronic smoking or “vaping” methods are strictly prohibited. The Sage Colleges are dedicated to providing a healthy, comfortable, and productive living and work environment for our faculty, staff, administrators, and students; and a healthy, comfortable, and safe

environment for our visitors. The Tobacco Free Policy prohibits the use of any and all tobacco products on Sage's institute facilities or property. For the purpose of this policy, tobacco is defined as any type of tobacco product, including, but not limited to, cigarettes (commercial, handmade or electronic), cigars, cigarettos, pipes, hookas, oral tobacco (spit and spitless, smokeless, chew, snuff), or any other smoking material or device.

**34. Retaliation**

Threats or other forms of intimidation or retribution against a student who files a complaint or grievance, reports a conduct violation, requests an administrative remedy, participates in an investigation, appears as a witness at an administrative conduct hearing, or opposes an unlawful act, discriminatory practice or policy, are prohibited and subject to College disciplinary procedures.

**35. Tampering with Fire Equipment**

Fire extinguishers, alarm systems and conduit, detectors, sprinkler heads, strobes, devices, and exit signs shall not be tampered with or tested by unauthorized persons, nor should anything cover, be attached to, or hung from any piece of fire safety equipment. Students tampering with fire safety equipment are financially responsible for any charges assessed as a result of the tampering.

**X. *Student Conduct Charges***

1. Any member of TSC community or the Colleges on their own may request that TSC file charges against any student for misconduct. Requests to file charges shall be prepared in writing and directed to the Vice President for Student Life as soon as possible.
2. The Vice President for Student Life will respond promptly to any request to file charges.
3. The Vice President for Student Life will determine a) whether or not the alleged misconduct is within the purview of the Student Conduct Code; b) whether to file charges, and c) if charges are filed, the appropriate body to hear the charges.
4. All charges shall be presented to the respondent in written form.

**XI. *Interim Measures Pending Student Conduct Hearings***

1. Interim Suspension – In certain circumstances, the Vice President for Student Life, or a designee, may impose a College Suspension prior to the hearing before a Student Conduct Board.
  - a. Interim suspension may be imposed only: a) to ensure the immediate safety and well-being of members of TSC community or preservation of TSC property; or b) to ensure the student's own immediate physical or emotional safety and well-being; or c) if the student poses an immediate threat of disruption of, or interference with, the normal operations of TSC. The student should be notified in writing of the interim suspension and the reasons for the suspension. The notice should include the time, date, and place

of a subsequent hearing at which the student may show cause why his or her continued presence on the campus does not constitute a threat and at which time he or she may contest whether a campus rule was violated.

- b. Mandatory Interim Suspension – If a student accused of a Sexual Offense is determined to present a continuing threat to the health and safety of the community, TSC must subject the accused or respondent to interim suspension pending the outcome of a judicial or conduct process. Upon request, TSC will provide both the respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of this mandatory interim suspension, including potential modification, in which they are allowed to submit evidence in support of their request. Requests to review a mandatory interim suspension should be submitted to: Trish Cellemme, Vice President for Student Life [cellep@sage.edu](mailto:cellep@sage.edu) or 518-292-1710. If a request for review is received from one party, the other party will be notified of the request for review. The Vice President for Student Life will issue a determination in response to the request, and notify both parties of the determination.
  - c. During an interim suspension, students shall be denied access to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Vice President for Student Life or his or her designee may determine to be appropriate.
  - d. In the case of residence hall violations where the Vice President for Student Life or a designee determines that interim suspension from the residence hall is warranted, the Vice President for Student Life may allow the student to attend classes and participate in campus activities that are not conducted in the residence hall.
2. Mandatory No Contact Order – Upon receipt of a report of a Sexual Offense by a student, TSC will issue a “no contact order.” This “no contact order” is a TSC document that does not have the legal effect of orders of protection, which are obtained through a court. Under the no contact order: (1) the accused’s continued intentional contact with the reporting individual is a violation of TSC’s policy that is subject to additional conduct charges; and (2) if the accused or respondent and a reporting individual observe each other in a public place, it is the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. This may include establishing a schedule of attendance for the accused and respondents to access certain locations at TSC, such as academic buildings, libraries, athletics or fitness facilities, and dining halls. Responsibility to stay away falls upon the person subject to the no contact order (“covered person”), not the protected individual. A covered person may be a respondent or accused or a third party who is the subject of a no contact order. If the covered person and protected person are in the same place accidentally, it is incumbent upon the covered person to remove himself or herself in a reasonable time and manner. Upon request, both the respondent and the reporting individual are entitled to a prompt review, reasonable under the circumstances, of the need for and terms of the no contact order, including potential modification, in which they are allowed to submit evidence in support of their requests. Requests to review a no contact order should be submitted to: Trish Cellemme, Vice

President for Student Life [cellep@sage.edu](mailto:cellep@sage.edu) or 518-292-1710. If a request for review is received from one party, the other party will be notified of the request for review. The Vice President for Student Life will issue a determination in response to the request, and notify both parties of the determination.

3. Additional Interim Measures and Accommodations – in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment, TSC offers reasonable and available interim measures and accommodations to reporting individuals of Sexual Offenses that could effect changes in respondents’ academic, housing, employment, transportation or other applicable arrangements. These interim measures may include: support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance); changing work assignments and situations (for employees); changing living arrangements, course schedules, assignments, or test schedules (for students); no contact orders, campus escorts, transportation assistance, or targeted interventions; providing increased monitoring, supervision, or security; and/or providing an escort. Upon request, TSC will provide both the respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, in which he or she is allowed to submit evidence in support of his or her request. Requests to review interim measures and accommodations should be submitted to: Dishpaul S. Dhuga, Title IX Coordinator/EEO Specialist, at [titleix@sage.edu](mailto:titleix@sage.edu) , or (518) 244-4809. If a request for review is received from one party, the other party will be notified of the request for review. The Vice President for Student Life will issue a determination in response to the request, and notify both parties of the determination.

## ***XII. Student Conduct Hearings***

### **A. Designation of an Appropriate Hearing Body**

#### **1. Cases Not Involving Sexual Offense Charges**

Upon receipt of a request for charges or complaint, the Vice President for Student Life may designate a Student Conduct Administrator to conduct an investigation to determine if the request for charges has merit and/or if the charges can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Student Conduct Administrator. Such disposition shall be final and there should generally be no subsequent proceedings. If the charges are not admitted and/or cannot be disposed of by mutual consent, the Vice President for Student Life can designate a Student Conduct Board to hear the charges. The Student Conduct Administrator may serve in the same matter as the Student Conduct Board or a member thereof. If the student admits violating institutional rules, but sanctions are not agreed to, subsequent process, including a hearing if necessary, shall be limited to determining the appropriate sanction(s).

## 2. Cases Involving Sexual Offense Charges

### a. Cases Involving Initial or Ongoing Investigations

Upon receipt of a request for charges or complaint for which an investigation under TSC's Sexual Offense Policies & Procedures For Students and Employees, available at <https://www.sage.edu/student-life/title-ix/policies-procedures/> has not already been initiated, the Title IX Coordinator, or other trained investigator who does not have a conflict of interest, will promptly conduct a fair, complete, thorough, and impartial investigation that provides a meaningful opportunity to be heard, pursuant to TSC's Sexual Offense Policies & Procedures For Students and Employees (the "Sexual Offense Policies").

Upon receipt of a request for charges or complaint for which an investigation under the Sexual Offense Policies has already been initiated, the Title IX Coordinator or other investigator who is conducting the investigation will be informed that the disciplinary charge or complaint is pending, and instructed to investigate the charge or complaint as part of his or her investigation pursuant to the Sexual Offense Policies, and to make a preponderance of the evidence determination regarding the charges.

Following an investigation, the Title IX Coordinator or other trained investigator will prepare written findings of fact and recommendations, with respect to whether it is more likely than not that the incident of sexual assault, relationship violence, or stalking occurred, appropriate disciplinary actions, if any, and/or other appropriate remedial measures. The parties will be informed, in writing, of the result of the investigation, any recommended sanctions, the rationale for the result and any recommended sanctions, the findings of fact, whether the disciplinary process will continue, information regarding sanctions that may be imposed as a result of the continuation of the disciplinary process, and any potential rights to appeal at that time. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

- If the Title IX Coordinator or other trained investigator determines that it is more likely than not that the student violated TSC's Sexual Offense Policies, or any other provision of the Code of Conduct, the Title IX Coordinator will make a recommendation regarding any appropriate sanctions, and the Title IX Coordinator will refer the conduct charges to a Student Conduct Board for a hearing.
- If the Title IX Coordinator or other trained investigator determines that the student did not violate TSC's Sexual Offense Policies & Procedures For

Students and Employees, or any other provision of the Code of Conduct, the Title IX Coordinator will not refer the conduct charges to a Student Conduct Board for a hearing, and the charges will be dismissed. Upon receipt of the Title IX Coordinator's written determination, the co-complainant shall have the right to appeal the Title IX Coordinator's decision to an Appellate Board within two (2) business days of the decision, pursuant to the procedures set forth in § VIII (E) (below).

b. Cases Involving Completed Title IX Coordinator Investigations

If a request for charges or complaint is received after a Title IX Coordinator has completed an investigation into the incident under the Sexual Offense Policies by a Title IX Coordinator and issued a written determination to the parties (as outlined below), the Title IX Coordinator will determine whether to bring charges to the Student Conduct Board, based on the Title IX Coordinator's determination. If the Title IX Coordinator determines it is more likely than not that the student committed a Sexual Offense, the Vice President for Student Life will refer the charges to a Student Conduct Hearing. If the Title IX Coordinator determines that the student did not commit a Sexual Offense, the Vice President for Student Life will not refer the charges to a Student Conduct Hearing, will dismiss the charges, and will inform the co-complainant of his or her right to appeal the Title IX Coordinator's decision to an Appellate Board within two (2) business days of the decision, pursuant to the procedures set forth in § VIII (E) (below).

**B. Rules Applicable to All Student Conduct Hearings**

1. The standard of evidence used to evaluate a charge or complaint is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the respondent violated the Code of Conduct.
2. If any disciplinary action is pending against a student, degrees, grade reports, and transcripts will not be issued until the matter is resolved.
3. If the student withdraws from TSC while student conduct proceedings are in process, the student does so with charges pending. The Colleges reserve the right to adjudicate those charges when/if the student returns to TSC.
4. A time shall be set for a hearing, not less than five (5) nor more than fifteen (15) business days after the student has been notified. Minimum and maximum time limits for scheduling of hearings may be modified at the discretion of the Vice President for Student Life.
5. Hearings normally shall be conducted in private.

6. The complainant, respondent, the co-complainant, and their advisor(s), if any, shall be allowed to attend the entire portion of the Student Conduct Board Hearing at which information is presented.
7. After the portion of the Student Conduct Board Hearing concludes in which all pertinent information has been received, the Student Conduct Board shall determine (by majority vote if the Student Conduct Board consists of more than one person) whether the respondent has violated each section of the Student Conduct Code which the student is charged with violating. The Student Conduct Board's determination shall be made on the basis of whether it is more likely than not that the respondent violated the Student Conduct Code.
8. If a respondent, with notice, does not appear at a Student Conduct Board Hearing, the information in support of the charges shall be presented and considered, even if the respondent is not present.
9. The Student Conduct Board may accommodate concerns for the personal safety, well-being and/or fears of confrontation of the complainant, co-complainant, respondent, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or permitting participation by telephone, video tape, written statement or other means, where and as determined in the sole judgment of the Vice President for Student Life to be appropriate.
10. If the respondent or the co-complainant wishes to challenge the placement of any member(s) of the Student Conduct Board, he or she must raise this issue at the start of the Student Conduct Board Hearing. The Student Conduct Administrator, as chair, will hear the reasons for any such challenge. If the Student Conduct Board consists of only one individual, that individual must bring the challenge to the attention of the Vice President for Student Life, who will hear the reasons for such challenge. Any deliberations before the Student Conduct Board as to the challenge should be made without the respondent or the co-complainant present. The Student Conduct Administrator, or, if applicable, the Vice President for Student Life, will determine whether to support the challenge. Any member(s) so removed will be replaced as quickly as possible by the Vice President for Student Life, or, in the case of a Student Conduct Board made up of multiple individuals, the Student Conduct Board Hearing may simply proceed without the removed member, at the discretion of the Vice President for Student Life.
11. Formal rules of process, procedure, and/or technical rules of evidence, such as those which are applied in criminal or civil court, are not used in Student Conduct Code proceedings.

**C. Rules Applicable to Cases Involving One or More Sexual Offense Charges Only:**

1. TSC will simultaneously provide co-complainants and the respondent with reasonable advance written or electronic notice of:

- any meeting they are required to or are eligible to attend,
  - the specific rule, rules, laws, and Code of Conduct provisions alleged to have been violated;
  - the date, time, location and factual allegations concerning the violation;
  - in what manner the specific rule, rules or laws are alleged to have been violated; and
  - any possible sanctions.
2. TSC may provide notice of the date, time, location and factual allegations that have been reported, specific code provisions reported to have been violated, and associated sanctions in multiple notices and/or separate communications. Nothing prohibits TSC from holding students accountable for violations that are not referenced in the initial charge letter but are learned about from evidence, testimony, or admission at a hearing or during the investigatory process, consistent with TSC policies and due process, where applicable.
  3. The respondent is presumed to be “not responsible” until TSC has established evidence, testimony or information that would allow the decision maker to find the accused responsible pursuant to the Code of Conduct.
  4. Co-complainants and the respondent will be given the opportunity to offer evidence during any investigation into any Sexual Offense charges.
  5. Co-complainants and the respondent will be given reasonable access to review and present available evidence in the case file, or otherwise in the possession or control of TSC, that may be used in a hearing or investigation and/or may exonerate or show responsibility in the case. TSC may place reasonable restrictions on access to evidence, such as time, place and manner restrictions, heightened restriction for sensitive information that is not directly relevant to the questions raised in the investigation or hearing, and a limit on students or their advisors of choice engaging in “fishing expeditions” of all records maintained by TSC that in any way relate to any of the parties. Co-complainants, the respondent, and their advisors are not entitled to generalized pre-hearing discovery, or to copies of all available evidence, but are instead entitled to access the evidence directly relevant to the specific case, as reasonably determined by TSC.
  6. The co-complainant and the respondent may select any advisor of their own choosing, including an attorney, who must be permitted to assist and advise a co-complainant, accused, or respondent throughout the process, including during all meetings and hearings related to such process. The co-complainant and/or the respondent is responsible for presenting his or her own information, and therefore, advisors (including an attorney, when applicable), are not permitted to speak or to participate directly in any hearing before a Student Conduct Board. The selection of an advisor is the responsibility of the co-complainant or respondent. Any costs associated with the advisor are at the expense of the student. Advisors who violate institution policies may be removed from a hearing or meeting. A student should select as an advisor a person

whose schedule allows attendance at the scheduled date and time for the Student Conduct Board Hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor. TSC is not required to recess the hearing or allow the student to replace the banned advisor with a new advisor. TSC is not required to limit its capacity to conduct its judicial or conduct process due to scheduling or other delays (whether genuine or tactical) by an advisor of choice.

7. Student Conduct Board hearings must be conducted by Student Conduct Board members who do not have a conflict of interest and who have received annual training on issues related to 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, how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, TSC’s policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking and sexual assault.
8. Timeframes for hearings involving one or more charges may be extended for good cause upon written notice to the accuser and the accused.
9. At any hearing conducted by the Student Conduct Board, the respondent will be offered an opportunity to present evidence and testimony. TSC will try to arrange the attendance of witnesses who are members of the Sage community, if reasonably possible, and who are identified by the complainant, respondent, and/or the co-complainant, at least two weekdays prior to the Student Conduct Board Hearing.
10. Students will be provided with the opportunity to exclude (1) their own prior sexual history with persons other than the other party in the conduct process, and (2) their own mental health diagnosis and/or treatment from admittance in any stage of the disciplinary proceeding where responsibility is determined (including determinations by the Title IX Coordinator, Student Conduct Board, and Appeals Board). However, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in disciplinary stages that determine sanctions. Further, if a co-complainant engaged in sexual activity with more than one partner in a short time period (as reasonably determined by the institution) and TSC alleges that the co-complainant sustained injuries during non-consensual sexual activity with the accused, the fact of consensual or non-consensual sexual activity with the unrelated individual may be admitted for the limited purpose of addressing how injuries were sustained. Such evidence may not be used to show a pattern of engaging in sexual activity by the co-complainant or to allege that if the co-complainant consented to activity with the unrelated individual, she or he was also consenting to sexual activity with accused.
11. There shall be a single verbatim written record, an unofficial transcript, of all Student Conduct Board Hearings before a Student Conduct Board (not including deliberations). The record shall be the property of TSC. The respondent and complainant will be given reasonable access to the full and fair record of the hearing, and TSC will maintain a copy of the record for at least five years after the hearing. If a participant requests an

official transcript, TSC may choose to allow licensed court reporters to make transcripts of a hearing or proceeding, at the expense of the participant in the hearing who requests an official transcript. If one participant creates an official transcript, TSC may be required to provide that official transcript to the other participant(s) upon request.

12. At the conclusion of the Student Conduct Hearing, the parties will be informed, in writing, of the result of the investigation, any sanctions imposed, the rationale for the result and the actual sanctions imposed, and the findings of fact. They will also be informed of their right to appeal the decision to an Appellate Board within two (2) business days of the decision, pursuant to the procedures set forth in § VIII (E) (below).
13. Students have the option to choose whether to disclose or discuss the outcome of the Student Conduct Hearing.
14. Unless otherwise required by law, TSC will protect all information obtained about students during the course of the disciplinary process from public release, until the Appeals Board makes a final determination.
15. The co-complainant must be permitted to withdraw from TSC's Student Conduct proceeding process at any time. If the co-complainant chooses to withdraw, however, TSC may choose to proceed with Student Conduct charges, without the co-complainant's participation. If TSC continues an investigation or takes action after a co-complainant withdraws, the co-complainant has the right to participate as much or as little as the co-complainant wishes.

**D. Rules Applicable to Cases Involving Charges Other Than Sexual Offenses Only:**

1. There shall be a single verbatim record, which could include a tape recording, of all Student Conduct Board Hearings before a Student Conduct Board (not including deliberations). The record shall be the property of TSC.
2. When requested, a student must appear before a Student Conduct Board, Appellate Board, or College official for the purposes of providing information relevant to a Student Conduct Code proceeding. Failure to appear or willful failure or refusal to provide such information, unless it will result in self-incrimination, may result in student conduct action, at the discretion of the Student Conduct Administrator. The Student Conduct Board may draw a negative inference from the failure or refusal to provide information, even if such failure or refusal is due to concerns about self-incrimination.
3. Any co-complainant and the accused have the right to be assisted during a hearing by an advisor who is a member of the College community, but who is not an attorney. The co-complainant and/or the respondent is responsible for presenting his or her own information, and therefore, advisors are not permitted to speak or to participate directly in any Student Conduct Board Hearing before a Student Conduct Board. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Conduct Board Hearing because delays will not normally

be allowed due to the scheduling conflicts of an advisor. The selection of an advisor is the responsibility of the co-complainant or respondent.

4. The respondent and the Student Conduct Board may arrange for witnesses to present pertinent information to the Student Conduct Board at the discretion of the Student Conduct Administrator. TSC will try to arrange the attendance of possible witnesses who are members of the Sage community, if reasonably possible, and who are identified by the complainant, respondent, and/or the co-complainant, at least two weekdays prior to the Student Conduct Board Hearing. Witnesses will provide information to and answer questions from the Student Conduct Board. Questions may be suggested by the respondent, co-complainant, and/or complainant to be answered by each other or by other witnesses. This will be conducted by the Student Conduct Board with such questions directed to the Student Conduct Administrator, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved at the discretion of the Student Conduct Administrator.
5. Pertinent records, exhibits, and written statements (including Student Impact Statements, written statements made by members of the Colleges' community dealing with the impact that the respondent's conduct has had on a particular student or students or upon TSC students in general) may be accepted as information for consideration by a Student Conduct Board at the discretion of the Student Conduct Administrator. The Board will hear one character witness and will accept one letter supporting the character of the respondent.
6. The complainant or co-complainant may be permitted to withdraw his or her complaint subsequent to its submission to the Vice President for Student Life, if, and only if, the Vice President for Student Life is satisfied that the co-complainant's decision is not the result of pressure or intimidation.
7. Admission of any person to the Student Conduct Board hearing other than the complainant, respondent, the co-complainant, and their advisor(s) shall be at the discretion of the Student Conduct Board and/or its Student Conduct Administrator.
8. In Student Conduct Board Hearings involving more than one respondent, the Student Conduct Administrator, at his or her discretion, may permit the Student Conduct Board Hearings concerning each student to be conducted either separately or jointly.
9. All procedural questions are subject to the final decision of the Student Conduct Administrator at his/her discretion.
10. If a complaint is withdrawn, no Student Conduct Board Hearing will be held. In the event that the complaint is allowed to be withdrawn after a Hearing has been completed, the Hearing shall cease and no determination will be made. In the event that the complaint is allowed to be withdrawn after the Hearing has been completed, any

determination or sanctions will be reversed automatically. If the Vice President for Student Life does not allow the complaint to be withdrawn, the Student Conduct Board Hearing will proceed under the normal process; the Board will disregard the attempted withdrawal of the complaint in making its determinations and recommending sanctions.

### ***XIII. Sanctions***

1. In each case in which a Student Conduct Administrator determines that a student has violated the Student Conduct Code, the sanction(s) shall be determined and imposed by the Student Conduct Administrator.
  2. In cases that do not involve Sexual Offenses that are decided by a Student Conduct Board, the recommendation of all members of the panel shall be considered by the Student Conduct Administrator in determining and imposing the sanction(s). Following the hearing, the Student Conduct Administrator or Student Conduct Board shall advise the respondent in writing of the determination and of the sanction(s) imposed, if any. The Vice President for Student Life shall receive a copy of this letter.
  3. In cases involving Sexual Offenses that are decided by a Student Conduct Board, the Student Conduct Board shall determine and impose the sanction(s). In cases involving a Sexual Offense charge or complaint, the respondent and complainant must be offered an opportunity to make an impact statement during the point of the hearing where the Student Conduct Board is deliberating on appropriate sanctions. Following the hearing, the Student Conduct Board shall advise the respondent and complainant simultaneously in writing of the determination and of the sanction(s) imposed, if any, the findings of fact, and the rationale of the Student Conduct Board for the decision and sanction. The Vice President for Student Life shall receive a copy of this letter.
1. The following sanctions may be imposed upon any student found to have committed any violation of the Student Conduct Code other than academic dishonesty:
    - a. **Warning**  
A notice in writing to the student that the student is violating or has violated institutional regulations.
    - b. **Disciplinary Probation**  
A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the period.
    - c. **Loss of Privileges**  
Denial of specified privileges for a designated period of time.
    - d. **Fines**  
Previously established fines may be imposed.

- e. **Restitution**  
Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
- f. **Discretionary Sanctions**  
Work assignments, service to the Colleges, educational activities, written apology, or other related discretionary assignments.
- g. **Parental/Guardian Notification**  
In certain circumstances the College reserves the right to notify or require the student themselves to notify parents/guardians of dependent students when college policies have been violated.
- h. **Residence Hall Suspension**  
Separation of the student from the residence halls for a definite period of time, without refund, after which the student is eligible to return. Conditions for readmission may be specified.
- i. **Residence Hall Expulsion**  
Permanent separation of the student from the residence halls, without refund.
- j. **College Suspension**  
Separation of the student from the College for a definite period of time, without refund, after which the student is eligible to return. Conditions for readmission may be specified.
- l. **Expulsion**  
Permanent separation from the College, without refund.
- m. **Revocation of Degree**  
TSC may revoke an issued degree due to fraud, misrepresentation, or other violation of TSC standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- n. **Withholding Degree**  
TSC may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.
- o. **Prohibition from Professional Practice**  
TSC may take any and all steps it deems necessary to prohibit, limit, or monitor the current or future practice of a profession by an individual found to have committed misconduct (i.e. notifying the appropriate agency overseeing the profession).
- p. **Mandatory Transcript Notations**

If a student is found responsible for a crime of violence, TSC must make a notation on the student's transcript 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."

If a student withdraws from TSC while such conduct charges related to crimes of violence are pending against the student, and declines to complete the disciplinary process, TSC must make a notation on the student's transcript that he or she "withdrew with conduct charges pending." These transcript notations can be appealed by contacting the Provost see <https://www.sage.edu/academics/registrar/academic-record/transcript-request-notations/>.

Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for violence-related expulsions shall never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed.

4. Sanctions for academic dishonesty may include:
  - a. A written reprimand
  - b. A zero or "F" on the assignment(s) involved
  - c. An "F" in the class involved
  - d. Revocation or a change of grade
  - e. Suspension from the College for one term
  - f. Suspension from the College for one year
  - g. Permanent dismissal from the College
  - h. Revocation of degree
5. More than one of the sanctions listed above may be imposed for any single violation.
6. If a student is found responsible for repeat violations of the same or similar charges, sanctions issued will be more severe in light of the repeat nature of the offense.
7. The following sanctions may be imposed upon groups or organizations:
  - a. Those sanctions listed above in Section B1, (a) through (f).
  - b. Deactivation - Loss of all privileges, including TSC recognition, for a specified period of time.

#### *XIV. Appeals*

##### **A. Grounds for an Appeal**

1. Appeals can be requested for one or more of the following reasons:
  - a. To determine whether the penalty is inappropriate to the finding (including where a student admits to wrongdoing, and an agreement is reached on responsibility, but no agreement is reached regarding penalty);
  - b. To determine whether the finding is supported by the evidence;
  - c. To determine whether the student's procedural rights as specified in the Student Conduct Code were violated;
  - d. To determine whether new evidence, which was unavailable at the original proceeding, has been discovered;
  - e. To review a Title IX Coordinator's final determination that no Sexual Offense violation occurred; and
  - f. To review any portion of a Student Conduct Board's final determination regarding a Sexual Offense charge or complaint.

**B. Appeals From Decisions of a Title IX Coordinator or Student Conduct Administrator**

1. A final determination by a Title IX Coordinator or Student Conduct Administrator may be appealed by the respondent(s), the co-complainant, or the complainant to an Appellate Board within two (2) business days of the decision. Such appeals shall be in writing and shall be delivered to the Vice President for Student Life. Upon receipt of an appeal, the Vice President for Student Life will confirm that the appeal is supported by one of the reasons listed in section XIII(A)(1)(a)-(f), above.
2. If no appeal is submitted to the Vice President of Student Life within two (2) business days of the decision, the determination of the Title IX Coordinator or Student Conduct Administrator will become final, unless:
  - a. An appeal is filed by the respondent(s), the co-complainant, and/or the complainant after the deadline, and
  - b. The appellant can establish good cause for the delay in filing the appeal.
3. If a proper appeal and submission are filed, the Vice President for Student Life shall appoint an Appellate Board. The transcripts and all case documentation shall be delivered to each member of the Appellate Board.
4. The Vice President for Student Life shall convene an Appellate Board within ten (10) days of receiving the appeal. The Appellate Board shall reach a determination within ten (10) business days of receiving the appeal.

5. In cases involving appeals by respondents to the Appellate Board, review of the sanction by the Appellate Board may not result in more severe sanction(s) for the respondent.
6. In cases involving appeals by persons other than students accused of violating the Student Conduct Code, the Appellate Board may, upon review of the case, find that a violation of the Student Conduct Code did occur, reduce or increase the sanctions imposed by the Student Conduct Board, remand the case to the original officer or Student Conduct Board, recommend the appointment of a new Student Conduct Administrator or Board, affirm or reverse the judgment of the original Student Conduct Administrator or Board, or dismiss the case in its entirety.
7. In cases involving Sexual Offenses, the parties will be informed, in writing, of the result of the appeal, the Appellate Board's recommended sanctions, the rationale for the result and for the Appellate Board's recommended sanctions, and the Appellate Board's findings of fact. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

### **C. Appeals From Decisions of a Student Conduct Board**

1. A final determination by a Student Conduct Board may be appealed by the respondent(s), the co-complainant, or the complainant to an Appellate Board within two (2) business days of the decision. Such appeals shall be in writing and shall be delivered to the Vice President for Student Life. Upon receipt of an appeal, the Vice President for Student Life will confirm that the appeal is supported by one of the reasons listed in section XIII(A)(1)(a)-(f), above.
2. If no appeal is submitted to the Vice President of Student Life within two (2) business days of the decision, the determination of the Title IX Coordinator or Student Conduct Administrator will become final, unless:
  - a. An appeal is filed by the respondent(s), the co-complainant, and/or the complainant after the deadline, and
  - b. The appellant can establish good cause for the delay in filing the appeal.
3. If the Vice President for Student Life determines that the appeal falls within one of the above-listed categories, a copy of the official record of the hearing will be made available to the appellant as soon as it is available.
4. Once the appellant receives the hearing record, the appellant will have five (5) business days from his or her review of the hearing record to present his/her reasons for the appeal with supporting documentation. The other party must be provided with notice of the appeal, with access to the same evidence made available to the appellant (including the hearing record), and with the same opportunity to submit supporting

documentation. However, the other party is not required to submit supporting documentation.

5. If the appellant fails to submit supporting documentation within five (5) business days after review of the hearing record, the determination of the Title IX Coordinator, Student Conduct Board, or Student Conduct Administrator will become final, unless:
  - a. The appellant's submission is filed after the deadline, and
  - b. The appellant can establish good cause for the delay in filing the submission.
6. If a proper appeal and submission are filed, the Vice President for Student Life shall appoint an Appellate Board. The submission, hearing record, and all case documentation shall be delivered to each member of the Appellate Board.
7. The Vice President for Student Life shall convene an Appellate Board within ten (10) days of receiving the appellant's submission. The Appellate Board shall reach a determination within ten (10) business days of receiving the appellant's submission.
8. In cases involving appeals by respondents to the Appellate Board, review of the sanction by the Appellate Board may not result in more severe sanction(s) for the respondent.
9. In cases involving appeals by persons other than students accused of violating the Student Conduct Code, the Appellate Board may, upon review of the case, find that a violation of the Student Conduct Code did occur, reduce or increase the sanctions imposed by the Student Conduct Board, remand the case to the original officer or Student Conduct Board, recommend the appointment of a new Student Conduct Administrator or Board, affirm or reverse the judgment of the original Student Conduct Administrator or Board, or dismiss the case in its entirety.
10. In cases involving Sexual Offenses, the parties will be informed, in writing, of the result of the appeal, the Appellate Board's recommended sanctions, the rationale for the result and for the Appellate Board's recommended sanctions, and the Appellate Board's findings of fact. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

**D. Appeals From a Faculty Member Decision on Grading**

See appendix A.

***XV. Academic Records***

1. Other than cases involving College suspension or expulsion, prohibition from professional practice or revocation of degree, or crimes of violence (including but not limited to Sexual Offenses), disciplinary sanctions shall generally not be made part of

the student's permanent academic record, but shall become part of the student's confidential record. Upon graduation, the student's confidential record may be expunged of disciplinary actions other than actions related to crimes of violence, residence-hall expulsions, College suspensions, or College expulsions, upon application to the Vice President for Student Life. Cases not involving crimes of violence, including a Sexual Offense, residence hall expulsions, College suspensions, or College expulsions shall generally be expunged from the student's confidential record 2 years after final disposition of the case or upon graduation-whichever shall last occur.

2. In situations involving both a respondent(s) and a student(s) claiming to be the victim of another student's conduct, other than situations involving a Sexual Offense charge or complaint, the records of the process and of the sanctions imposed, if any, shall be considered to be the educational records of both the respondent and the student claiming to be the victim because the educational career and chances of success in the academic community of each may be impacted.

#### ***XVI. Interpretation and Revision***

1. Any question of interpretation regarding the Student Conduct Code shall be referred to the Vice President for Student Life for final determination.
2. The Student Conduct Code shall be reviewed every three years in consultation with appropriate College official(s) under the direction of the Vice President of Student Life. Recommendations for changes in policies or regulations, or in their enforcement, may be addressed to the Vice President for Student Life.

Adapted from *The Journal of College and University Law*, Volume 31, Fall 2004. Revised: May 2005, July 2008, June 2009, June 2010, July 2011, June 2012, July 2013, May 2014, May 2015, July 2015, July 2016, September 2017, July 2018

## Appendix A

### Academic Honesty

Academic honesty is a core value at The Sage Colleges and is a necessary element to the learning process. It is also fundamental to the atmosphere of inquiry and intellectual curiosity that TSC seeks to foster. It is an assumption that learning is taken seriously by students and that the academic work that students produce is a direct result of the commitment of the student toward learning as well as the personal knowledge gained. As part of the Student Code of Conduct that all students are responsible to uphold, the following is the section related to academic integrity.

### Academic Dishonesty/Misconduct

Academic dishonesty and misconduct violate the essential mission of an academic institution. Academic dishonesty and misconduct in any of its forms will not be tolerated at The Sage Colleges. Examples of academic dishonesty/misconduct include:

- a. Using material not authorized by the instructor to complete an exam;
- b. Knowingly doing another person's academic work;
- c. Presenting the written ideas, representations, or words of another without citing the appropriate sources;
- d. Failing to cooperate in the investigation of any student being accused of academic dishonesty/misconduct.

### Academic Dishonesty/Misconduct Definitions:

#### 1. Cheating

Obtaining or attempting to obtain, or aiding another to obtain credit for work, or any improvement in evaluation of performance, by any dishonest or deceptive means. Cheating includes, but is not limited to: lying; copying from another's test or examination; discussion at any time of answers or questions on an examination or test, unless such discussion is specifically authorized by the instructor; taking or receiving copies of an exam without the permission of the instructor; using or displaying notes, "cheat sheets," or other information devices inappropriate to the prescribed test conditions; allowing someone other than the officially enrolled student to represent same.

Cheating includes, but is not limited to:

- a. Use of any unauthorized assistance in taking quizzes, tests, or examinations;
- b. Consulting or copying from any source beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
- c. The acquisition, without permission, of tests or other academic material belonging to a member of TSC community;
- d. Disclosing, distributing, making accessible, or improperly accessing confidential information acquired in the conduct of course work, on- or off-campus employment, internships, field placements, or serving as a research assistant;

- e. Failing to obtain Institutional Review Board (IRB) approval before beginning any research, including surveys or questionnaires, with human subjects, or failing to comply with IRB requirements;
- f. Unauthorized use of computer equipment or software.

## **2. Plagiarism**

The act of using the ideas or work of another person or persons as if they were one's own without giving proper credit to the source. Such an act is not plagiarism if it is ascertained that the ideas were arrived through independent reasoning or logic or where the thought or idea is common knowledge. Acknowledgement of an original author or source must be made through appropriate references; i.e., quotation marks, footnotes, or commentary.

Examples of plagiarism include, but are not limited to the following:

- a. the submission of a work, either in part or in whole completed by another;
- b. failure to give credit for ideas, statements, facts or conclusions which rightfully belong to another;
- c. failure to use quotation marks (or other means of setting apart, such as the use of indentation or a different font size) when quoting directly from another, whether it be a paragraph, a sentence, or even a part thereof; close and lengthy paraphrasing of another's writing without credit or originality;
- d. use of another's project or programs or part thereof without giving credit.

## **3. Multiple Submissions**

Submitting substantial portions of the same academic work for credit more than once without authorization.

## **4. Complicity in Academic Dishonesty/Misconduct**

Intentionally helping or attempting to help another commit an act of academic dishonesty/misconduct; unauthorized collaboration on any academic work.

## **5. Abuse of Materials**

Damaging, destroying, stealing, or in any way obstructing access to library or other academic resource material or academic record.

## **6. Alteration**

Changing or attempting to change a grade or signature given by an instructor.

## **Process for Responding to Academic Dishonesty/Misconduct**

1. A faculty member may take any of the following disciplinary actions when a student engages in an act of academic misconduct:
  - a. A written reprimand;
  - b. A zero or “F” on the assignment(s) involved;
  - c. An “F” in the class involved;
  - d. Revocation or a change of grade.

Any sanction, other than those listed here, may be issued by TSC only, not by an individual faculty member. A faculty member imposing discipline on a student for academic dishonesty/misconduct should take the following steps:

- a. Determine whether it is more likely than not that the student is responsible for academic dishonesty and/or misconduct.
  - b. Faculty members are encouraged to consult with the respondent in an effort to informally address the alleged academic dishonesty/misconduct.
  - c. Notify the respondent of the charge of academic dishonesty/misconduct. The student must be notified in writing with a copy to the Academic Dean and the Dean of Students. The written notification should include a brief description of the alleged misconduct that forms the basis of the charge, the sanction to be imposed (limited to the four (4) penalties listed above), and a description of the appeal options available to the student.
2. If the violation warrants consideration of a more severe remedy, the faculty member should contact the Vice President for Student Life to file formal charges and request the initiation of the student conduct hearing process.
3. In cases where more than two students are involved in the same alleged violation, the faculty member **must** forward the case directly to the Vice President for Student Life. The Vice President for Student Life will review the matter and determine if it is of an extraordinary nature. After review, the Vice President for Student Life will either refer the case back to the faculty member for immediate action, or refer it to a Student Conduct Board. **In either case, the assignment of final grades is determined by the faculty member.** As with all other grades, the academic appeal process is available to a student who wishes to question the grade assigned.
4. If the matter is referred to a Student Conduct Board, the faculty member and the College will serve as co-complainants and the matter will move forward as described in the Student Code of Conduct.
5. In the case of repeat academic dishonesty/misconduct, the Academic Dean of the College may contact the Vice President for Student Life to request that charges be filed against the student. The Dean of the College may serve as co-complainant in any resulting Student Conduct Board Hearing.

## Appeals

1. If a student wishes to appeal a grade assigned by a faculty member, based on a finding that the student engaged in academic dishonesty/misconduct, the student may utilize the academic appeals process. The process is as follows:
  - a. The student should submit a formal written appeal, with rationale, within 2 business days of receiving the decision from the faculty member to the department chair/program coordinator in the subject area. The department chair/program coordinator has 10 days to make a decision on this appeal.
  - b. If the student is not in agreement with the decision from the department chair/program coordinator, they may appeal, within 2 business days, to the Dean of the College in which the course resides. The Dean has 10 days to make a decision on this appeal.
  - c. If the student is not in agreement with the decision from the Dean, a final appeal may be made, within 2 business days, to the Provost of The Sage Colleges.
2. If a student wishes to appeal a sanction imposed through the Student Conduct Board Hearing process, the student may utilize the appeals process set forth in the Student Conduct Code in Section XIII.

## Appendix B

### *A Plain Language Explanation of Distinctions Between the New York State Penal Law and TSC's Disciplinary Processes<sup>1</sup>*

	<b>Criminal Justice System</b>	<b>TSC Disciplinary System</b>
<b>Goals.</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
<b>Governing Law.</b>	New York State Penal Code; New York State Rules of Criminal Procedure (or another state's rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular colleges and universities.
<b>How to report and whether there must be action once a report is made.</b>	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various college employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution's obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.

<sup>1</sup> Originally published by Chantelle Cleary, Title IX Coordinator, University at Albany; Lori Fox, General Counsel, Teachers College; Rachel J. Nash, Associate General Counsel, City University of New York; Andrea Stagg, Deputy General Counsel, Barnard College; and Joseph Storch, Associate Counsel, State University of New York on October 28, 2015.

<b>Who investigates?</b>	Police or other law enforcement officials.	Investigators employed or retained by TSC; these individuals may work for different departments within TSC, including, but not limited to, the police/public safety department, student affairs and academic affairs.
<b>Procedures</b>	See Governing Law. Procedures established by police departments, prosecutors' offices, etc.	TSC policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.
<b>Standard of Evidence.</b>	Crimes must be proven "Beyond a Reasonable Doubt"	A violation of disciplinary rules must be found by a "Preponderance of the Evidence" (more likely than not)
<b>Confidentiality.</b>	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	TSC offers confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
<b>Privacy.</b>	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.
<b>Who are the parties?</b>	The prosecution and defendant. The victim/survivor is not a party, but often the critical witness for the prosecution	TSC and the respondent are parties, and the reporting individual has certain rights to participate, as the law provides.
<b>Participation in the process.</b>	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual's participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the TSC process. However, TSC will be limited in its ability to respond if a reporting individual does not participate.

<b>Who initiates the proceedings?</b>	A prosecutor, acting on behalf of the state (or the United States in federal cases).	TSC initiates proceedings. While rules vary from school to school, they most provide an active role for the reporting individual.
<b>Testimony.</b>	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	TSC provides for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.
<b>Role of attorneys.</b>	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Parties may be advised by attorneys, but the attorneys' roles are limited to quietly speaking with their clients or passing notes.
<b>Mental Health and Sexual History.</b>	In New York, a reporting individual's prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.
<b>Possible Results.</b>	<p>If a prosecution takes place, the defendant may</p> <ul style="list-style-type: none"> <li>• plead guilty or "no contest"</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found "guilty" or "not guilty" by a judge or jury</li> </ul>	In cases that do not involve sexual assault, mediation or similar procedures are permitted if the parties agree. If there is a formal proceeding, the respondent may be found "responsible" or "not responsible" for violations of the institution's rules. Respondents may also accept responsibility before a finding by an adjudicator.

<b>Sanctions.</b>	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating TSC policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.
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