

# CODE OF STUDENT CONDUCT

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## **Code of Student Conduct 2024-2025**

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# Introduction

As a Binghamton University student, you are a valued member of the University community. Through your words and deeds you contribute to building an inclusive community in which all can live and learn in an environment of academic freedom and respect that fosters the success and honors the rights of all students.

Binghamton University is committed to developing a community that invites respectful discourse, allowing all members to express themselves in a manner that enables others to feel personally safe and emotionally secure both in and out of the classroom. Students may exercise their rights of assembly and freedom of speech in demonstrating their care and commitment to creating an inclusive campus environment. However, while hateful and disrespectful speech can also be protected by our First Amendment rights, the Binghamton University community does not condone insensitive, discriminatory or other disrespectful comments. As a student, you must understand that your words and deeds impact the University community regardless of where they occur, including the online realm. Being a Binghamton University student is both a privilege and a responsibility.

It is the responsibility of all members of the Binghamton University community to uphold the values of the institution, which are unity, identity and excellence. Students are expected to conduct themselves in a manner that supports and respects the rights of others. Accordingly, student behavior should be consistent with University policy, as well as state and federal law, at all times. Student behavior that is not consistent with these standards, whether on or off campus, may be addressed through the Code of Student Conduct in an effort to educate students, manage safety and deter behavior that negatively impacts either the individual or the community.

## **Please Note for 2024:**

Binghamton University will apply its adopted 2024 Title IX Grievance Procedure for Student Sex-Based Harassment Complaints to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024 will be processed through the institution's 2020 Title IX Grievance Policy and/or Code of Student Conduct. Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of that Procedure, the Procedures in their entirety, or the invalidated elements of that Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under the 2024 Title IX Grievance Procedure for Student Sex-Based Harassment Complaint shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy and/or Code of Student Conduct.

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# Section 1: Definitions

1. The term **“Administrative Agreement”** means that the respondent acknowledges responsibility for violating the code of conduct and resolves the case with a Student Conduct Administrator by agreeing to an appropriate disciplinary sanction and signing the agreement to resolve the case. Administrative Agreements are negotiable until they are signed.
2. The term **“advisor”** means any person identified by a student to support or assist them through the student conduct process. Examples of advisors include but are not limited to: a representative of the CARE Team, parents, mentors and SA advocates. Refer to Appendix: Resources at the end of this document for a listing of available advisors and other resources.
3. The term **“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.
  - a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
  - b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - c. Consent may be initially given but withdrawn at any time.
  - d. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to give consent.
  - e. Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm.
  - f. When consent is withdrawn or can no longer be given, sexual activity must stop.
4. The term **“appellate board”** is a panel comprised of any persons authorized by the director of the Office of Student Conduct to consider an appeal from a Student Conduct Board’s determination that a student has violated the *Code of Student Conduct*.
5. The term **“appellate officer”** means the vice president for student affairs, or their designee, who is authorized to decide the outcome of an appeal of a student conduct case.

6. The term **“bias-related incident”** means intentionally selecting a person against whom an action is committed or intended to be committed because of a belief or perception regarding the race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, regardless of whether the belief or perception is correct.
7. The term **“board advisor”** means the individual(s) responsible for the overall implementation of formal hearing procedures and ensures that participants receive due process.
8. The term **“claimant”** means the person, victim or survivor, against whom the alleged violation was committed. Reporting individual, complainant and target are among other terms that can be used in addition to or as an alternative for victim or survivor.
9. The term **“dating violence”** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim(s). The existence of such a relationship shall be determined based on the reporting party’s(ies) statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. People may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.
10. The term **“disorderly conduct”** means breach of peace; or aiding, abetting or procuring another person to breach the peace.
11. The term **“distribution”** means to sell, exchange, give, make available or dispose of to another person or to offer or agree to do the same.
12. The term **“domestic violence”** means any felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person sharing a child with the victim, by a person cohabitating or who has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction 5 in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
13. The term **“harassment”** means intentionally annoying another person:
  - a. by following that person in or about a public place or by engaging in a course of conduct or repeatedly committing acts that place a person in reasonable fear of physical injury;

- b. by engaging in a course of conduct or repeatedly committing acts that alarm or seriously annoy another person and that serve no legitimate purpose;
- c. by communicating or causing a communication to be initiated with a person, by any means, electronic or otherwise, that conveys a threat to cause physical harm to a person or their property; and/or
- d. when intent to harass, annoy, threaten or alarm another person subjects that person to physical contact or threatens to do the same because of a belief or perception about that person's race, color, sexual orientation, gender, gender identity or expression, religion, age, disability, veteran status, marital status, national origin and/or ancestry.

Students found responsible for harassment that is targeted at a person or group based on factors such as perceived race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristic, military status, domestic violence victim status or criminal conviction may be subject to more severe sanctions.

14. The term **“hazing”** is defined as any action taken, or situation created, involving prospective or new members of a group, or as a condition of continued membership in a group (fraternity, sorority, team, club or another association or organization), that would be perceived by a reasonable person as likely to produce mental or physical harm, extreme or unusual stress, embarrassment, harassment or ridicule.

No policy can be so precisely written as to address all possible situations. When this policy does not address a specific behavior, students, organizations, teams and groups are expected to conduct themselves and their activities in the spirit of this policy and with respect for the dignity and well-being of others. The definition of hazing applies whether or not the participants consent to such activity or perceive the behavior as voluntary. The determination of whether a particular activity constitutes as hazing will depend upon the circumstances and context in which the activity is occurring. As a guiding principle, any activity required of new members that is not required of more senior members is likely to constitute hazing under this policy. Some examples of conduct that may constitute hazing when used to mistreat or humiliate the participant include the following:

- consumption of alcohol and/or drugs
- paddling in any form or other physical brutality
- creating excessive fatigue
- degrading or humiliating games or activities
- forced or excessive participation in physical activities

- psychological shock or abuse
- engaging in public stunts
- inappropriate scavenger hunts or road trips
- wearing of apparel or items likely to subject the wearer to embarrassment or ridicule
- activities that would unreasonably interfere with a student's other activities or obligations (academic, extracurricular, religious, family, etc.)
- activities that violate University policy, federal, state or local law
- any other activity devoid of legitimate educational value that subjects participants to humiliation

15. The term **"hearing board chair"** means the person designated by the director of the Office of Student Conduct to preside over a Student Conduct Board hearing.

16. The term **"informal resolution"** is voluntary and designed to provide students with a resolution that does not involve a full investigation and formal adjudication.

17. The term **"mediation"** is a voluntary process that requires mutual agreement and commitment of all involved parties. It is an alternative method to resolve conflict and is appropriate when a violation arises due to a dispute between students. It is generally reserved for first-time incidents and minor violations and conducted by a Student Conduct Administrator or designee assigned by the director of student conduct. The goal of mediation is to reach a written agreement to resolve a dispute and to prevent it from reoccurring.

18. The term **"No Contact Order"** is a written directive prohibiting contact with a protected individual, directly, through a third party and/or via electronic means, on and off campus. The written directive may be mutual. Additional information can be found under section IV.A.3

19. The term **"policy"** means the written regulations of the University as found in University published documents such as, but not limited to, the Student Handbook; the University Bulletin; Academic Program Handbook; the University Housing Agreement; Information Technology Services' Computer and Network Policy; Panhellenic Council Policies and Statements; parking rules and regulations; SUNY Board of Trustees policies; and policies pertaining to advertising on campus, use of facilities, student organizations and smoking.

20. The term **"preponderance of the evidence"** is the standard of proof used in all cases that asks whether it is "more likely than not" that the violation occurred.

21. The term **“rape”** is defined as the penetration, no matter how slight, of the vagina or anus with any body part or objects, or oral penetration by a sex organ of another person, without the affirmative consent of the victim.
22. The term **“reasonable person”** refers to the hypothetical person who exercises average care, skill and judgment in conduct and who serves as a comparative standard.
23. The term **“respondent”** means any student accused of violating this Code of Student Conduct. Alleged, perpetrator and defendant are other terms that can be used in addition to or as an alternative for respondent.
24. The term **“restorative justice”** is a voluntary process that requires mutual agreement and commitment of all involved parties. It is an alternative method to resolve conflict, dispute or policy violation(s) with 7 open dialogue that is healing and empowering to the participants. An essential requirement for restorative justice is that the person(s) of concern must acknowledge and accept responsibility for their offenses in an effort to repair harm and rebuild trust.
25. The term **“retaliation”** means adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes, but is not limited to, harassment and intimidation such as violence, threats of violence, property destruction or adverse educational or employment consequences.
26. The term **“sanction”** is a requirement or status that is imposed as a result of either accepting responsibility or being found responsible for violating the *Code of Student Conduct*.
27. The term **“sexual act”** means contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; 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; or the intentional touching, not through the clothing, of 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.
28. The term **“sexual assault”** is defined as a physical sexual act or acts committed against another person without affirmative consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as “rape” (including what is commonly called “date rape” and “acquaintance rape”), fondling, statutory rape and incest. For statutory rape, the age of consent is 17 years old in New York state.
29. The term **“sexual contact”** means 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.

30. The term **“sexual harassment”** means unwelcome conduct that is sexual in nature and sufficiently severe, persistent or pervasive that it interferes with, denies or limits someone’s ability to participate in, or benefit from, the University’s educational program and/or activities. Sexual harassment may be based on power differentials (quid pro quo harassment), the creation of a hostile environment or retaliation.
31. The term **“sexual violence”** means physical acts or sexual contact perpetrated against a person’s will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion.
32. The term **“shuttle diplomacy”** means negotiations conducted by a staff member of the Office of Student Conduct or designee within the context of an informal resolution who goes back and forth between two or more parties with the goal of reaching a mutual resolution to resolve a case.
33. The term **“stalking”** means engaging in a course of conduct (two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property) directed at a specific person that would cause a reasonable person to (1) fear for the person’s safety or the safety of others; or (2) suffer substantial emotional distress.
34. The term **“student”** means an individual who has been accepted to, or is taking courses through, the University on a full-time or part-time basis. Persons who are not officially enrolled for a particular term but who have previously enrolled and have a continuing relationship with the University or who withdraw after an alleged violation of the *Code of Student Conduct* are also considered students.
35. The term **“student conduct administrator”** means any person authorized by the director of the Office of Student Conduct to conduct a hearing or conference with a student to discuss allegations of misconduct.
36. The term **“Student Conduct Board”** means a group of persons authorized by the director of the Office of Student Conduct to determine whether a student has violated the Code of Student Conduct and to recommend sanctions that may be imposed when a rule violation has been committed. Student Conduct Boards are comprised of three members. Level I boards are comprised of students. Level II boards are comprised of faculty, staff and students.
37. The term **“student conduct hearing”** means the meeting the student will have with a University official or conduct board as a result of being documented in an incident involving alleged policy violations.
38. The term **“student organization”** means any number of persons who have complied with the formal requirements for University recognition.
39. The term **“University”** means Binghamton University.

40. The term **“University official”** includes faculty and staff of the University, student employees who are carrying out assigned work responsibilities and University Police officers.
41. The term **“University premises”** includes all land, buildings, facilities, OCCT buses and University-operated vehicles, and other property in the possession of, or owned, used or controlled by, the University, including adjacent streets and sidewalks.
42. The term **“weapon”** means any instrument, device or object capable of inflicting physical harm or death and designed or specifically adapted for use as a weapon, or possessed, carried or used as a weapon. This includes possession of an air gun, BB gun, paintball gun or other similar instrument. Per the University Housing Agreement, students are not permitted to have a knife longer than 6 inches in length in the residence halls.

*Note:* Per New York state law, persons over the age of 18 years, who have not been convicted of a felony or a crime of assault, may purchase and possess a pocket-sized self-defense spray. Self-defense sprays may contain oleoresin capsicum and no other substance as the active ingredient (pepper sprays).

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## **Section II: Rules of Student Conduct**

The following behavior is prohibited. Students engaging, attempting to engage or assisting in the following are subject to disciplinary sanctions:

1. Consumption, possession or purchase of alcoholic beverages by any person less than the minimum age allowed by law.
2. Distribution of alcoholic beverages to anyone less than the minimum age allowed by law.
3. Possession of more than one case of beer (288 oz. or 24 12-oz. cans or bottles) or two liters of wine or two liters of distilled spirits. Possession of bulk containers of alcohol.
4. Possession, personal use or purchasing of marijuana/cannabis, illegal drugs, prescription drugs prescribed to another person or controlled substances; or possession of drug paraphernalia containing drug residue.
5. Distribution of marijuana/cannabis, illegal drugs, prescription drugs prescribed to another person or controlled substances.
6. Theft of property or services or knowingly possessing stolen property.
7. Manufacture, sale or possession of altered or another person’s documents, including those used for identification. This includes fraudulent IDs and/or driver’s licenses.
8. Intentionally or recklessly destroying or damaging property.

9. Endangering, threatening, causing or attempting to cause physical harm to any person or causing reasonable apprehension of such harm.
10. Stalking.
11. Harassment.
12. Sexual harassment.
13. Domestic violence or dating violence.
14. Any form of sexual violence, sexual assault and/or rape.
15. Hazing.
16. Possession of weapons, dangerous chemicals or explosives.
17. Unauthorized entry into or use of University premises; unauthorized possession, duplication or use of keys, keycards or access devices to any University premises; entering a residence hall without being granted authorized access from the University or without being an invited guest of or accompanied by a current resident of the building.
18. Failing to comply with the directives of University officials acting in performance of their duties.
19. Failing to identify oneself, upon request, to University officials acting in performance of their duties.
20. Disorderly or disruptive conduct that interferes with the normal operations of the University or infringes on the rights of others.
21. Providing false or misleading information, including false identification, to the University or any University official.
22. Intentionally initiating or causing to be initiated any false report, warning or threat of fire, explosion or other emergency.
23. Tampering with fire safety equipment; intentionally, carelessly or recklessly causing a fire to be ignited; or intentionally interfering with or failing to follow emergency procedures.
24. Making or distributing unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy. Distribution of authorized nude or sexually explicit images without consent.
25. Violating any disciplinary sanction imposed in accordance with the Code of Student Conduct.
26. Taking an excessive number of copies of a campus newspaper, magazine or other publication in a way that interferes with the open distribution of that material.
27. Bringing an animal into any University building with the following exceptions:

- Service dogs
- Services for Students with Disabilities (SSD)-authorized emotional support animals (ESAs). ESAs are not allowed in any University building except for the residence hall room in which the student approved for the ESA resides.\*
- Small fish in residence halls
- Laboratory animals (must complete the proper training and documentation through the Laboratory Animal Resources)
- \*See University Housing Agreement for further restrictions and policies

28. Violations of published University regulations or policies.

- This includes all policies found within the University Housing Agreement, including the guest policy which states, “residents are responsible for the conduct of their guests (including without limitation any damage caused by guests) and must accompany their guests continuously for the duration of the visit.”

29. Violations of any federal, state or local law.

## **Section III: Code of Student Conduct Authority**

1. Students are responsible for their conduct from the time of application for admission through the awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year. The *Code of Student Conduct* applies even if the student withdraws while a disciplinary matter is pending. The *Code of Student Conduct* also applies to those who are not officially enrolled for a particular term, but who have a continuing relationship with the University.
2. The *Code of Student Conduct* applies on all University premises; at off-campus instructional sites, including the University's distance learning and education-abroad programming; on board OCCT buses and University operated vehicles; and in all University-operated housing areas both on and off campus. The Guidelines for Directors of Binghamton Programs Abroad specifies conduct requirements and adjudication procedures for students participating in Binghamton University-sponsored education-abroad programs.
3. Alleged off-campus violations, with sufficient information, may be pursued in exceptional cases that endanger the personal safety or property of members of the University community or others. Action may be taken in accordance with the *Code of Student Conduct*. The director of the Office of Student Conduct will consult the dean of students to determine if student conduct action is warranted under these circumstances. The University will use the following criteria in deciding when to take action for

violations of the *Code of Student Conduct* that occur off campus when there is sufficient information available to conduct a hearing and when:

- a. the incident involves endangering behavior (defined as violent assault, domestic violence, dating violence, sexual assault, rape, sexual harassment, stalking, arson, distribution of illegal drugs or other serious offenses that constitute a threat to the personal safety of others); and/or
- b. there has been significant loss of or damage to property; and/or
- c. alcoholic beverages are sold or made available to underage persons; and/or
- d. the incident involves hazing (as defined in Section I.14).

4. The *Code of Student Conduct* exists to foster a safe learning environment for all Binghamton University students. In order to promote and maintain this environment, violations of the *Code of Student Conduct* by any student may lead to University administrative actions and/or University disciplinary action.
5. Student groups and organizations recognized administratively or by student government and/or their officers may also be charged with, and held responsible for, violations of the *Code of Student Conduct*.
6. In addition to University actions, students may face criminal arrest when the incident is also a violation of local, state or federal law. Proceedings under the *Code of Student Conduct* may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the director of the Office of Student Conduct.
7. Good Samaritan actions: in cases of alcohol and/or prohibitive drug intoxication, the primary concern is the health and safety of the individual(s) involved. Individuals are strongly encouraged to call for medical assistance for themselves or for a friend/acquaintance who is suffering alcohol poisoning. No student seeking medical treatment for an alcohol or other drug-related overdose or other life-threatening medical emergency will be subject to University discipline for the sole violation of using or possessing alcohol or drugs. This policy shall extend to another student seeking help for the intoxicated student and/or the student who is facing a life-threatening medical emergency. Students should expect to hear from a University official for outreach purposes.
8. The health and safety of every student at the State University of New York and its state-operated and community colleges is of utmost importance. Binghamton University 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. Binghamton University strongly encourages students to report domestic violence, dating violence, stalking or sexual assault to

institution officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking or sexual assault to Binghamton University officials or law enforcement will not be subject to Binghamton University's *Code of Student 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.

9. Residential students who have non-Binghamton University guests are responsible for informing their guests of the *Code of Student Conduct* and University policies. Residential students can be charged and sanctioned if found responsible for violations of the Code committed by their guests. Student hosts must be present during their guests' visits. Students are responsible for violations committed by others that occur in their University-operated room, suite or apartment unless another Binghamton University student(s) takes responsibility for the violation.
10. Retaliation in any manner against individuals who file a complaint under the *Code of Student Conduct*, including Title IX complaints, who serve as a witness or who participate in a student conduct or Title IX 12 proceeding is prohibited. Participants who experience any form of intimidation, coercion, threats or discrimination as the result of their participation in an investigation should report the incident to the Office of Student Conduct and/or representatives of the University Title IX/Compliance Office or their designee(s).
11. The director of the Office of Student Conduct determines the composition of Student Conduct Boards and determines which Student Conduct Board, student conduct administrator and appellate officers hear matters (as outlined in Section IV).
12. The director of the Office of Student Conduct develops policies for the administration of the student conduct system and procedural rules for the hearings, assuring both are consistent with the provisions of the *Code of Student Conduct*.
13. Decisions made by a Student Conduct Board and/or student conduct administrator are final, pending the appeal process, when applicable.
14. The vice president for student affairs, associate vice president for student affairs or dean of students and director of the Office of Student Conduct may elect to appoint a designee to act on their behalf.

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## **Section IV: Code of Student Conduct Procedures**

### **A. Procedures for review of student conduct**

The University conduct system handles charges brought against any University student or student organization for alleged infractions of the Code of Student Conduct. In addressing charges, it is the responsibility of the hearing body to determine whether the alleged behavior constitutes a violation of the *Code of Student Conduct*.

This process emphasizes student involvement and relies on full and open discussion of cases with all parties concerned to determine a fair and appropriate outcome. The hearing bodies are not courts of law; hence, the formal rules of process, procedure and/or technical rules of evidence that are used in the courts do not apply. Students who are requested to provide testimony at a Student Conduct Board hearing are expected to participate.

## 1. Charges

- a. Allegations of misconduct must be submitted in writing to the Office of Student Conduct. Sufficient information is required to support an allegation of misconduct before the request for charges is accepted. If these two conditions are not met, the request is denied.
- b. Charges against students and student organizations must be presented in writing and with sufficient detail at least five days prior to a hearing. Individuals or student organizations charged with a policy violation will also be notified of their rights within the process and of the procedures to be followed. Charges to the respondent will be delivered primarily via email, and when necessary charges may be delivered in person or mailed to the most recently recorded address listed with the Office of Financial Aid and Student Records or permanent address if no local address is listed. Charges against student organizations will be delivered to the president of the organization. The Maxient database serves as the primary vehicle for correspondence between the Office of Student Conduct, student conduct administrators and students. Therefore, students are responsible for 13 information sent via Maxient, regardless of whether or not the correspondence is retrieved. Students must enter their B-Number to obtain their letter via Maxient.
- c. Generally, upon receipt of allegations of misconduct involving a claimant, the Office of Student Conduct will ask for input from the claimant regarding how they would like to proceed. In cases where there is risk to the campus community, the University has discretion to proceed with a course of action that honors the safety and well-being of the involved parties as well as the campus community.

## 2. Handling of Cases

### a. Level I Cases

- i. Cases in which possible sanctions include a conduct warning and up to four semesters of disciplinary probation are designated as Level I cases. Information regarding sanctions can be found in the University Sanctioning Guidelines.

- ii. Level I cases are assigned to a student conduct administrator for initial inquiry, investigation and resolution. The student conduct administrator initiates the student conduct process by inviting the student to meet to discuss the allegation(s) and options for resolution.
- iii. The student conduct administrator may conduct an investigation to determine if the charges have merit and/or if they can be handled by an Administrative Agreement of the parties involved on a basis acceptable to the student conduct administrator. Such resolution is final and there will be no subsequent proceedings. Students who are offered an Administrative Agreement are given the opportunity to consider the agreement before signing it. If the student decides to sign the agreement, it should be submitted by the stated deadline.
- iv. If the matter cannot be resolved by Administrative Agreement, the case may be referred for an administrative hearing or to a Level I Student Conduct Board to determine whether the student violated the *Code of Student Conduct* and to recommend sanctions if appropriate. Absent any procedural error, the decision of the Level I Student Conduct Board is final and there is no further appeal.
- v. Level I hearings are recorded and conducted by a board of three students and a hearing board chair (in most cases a graduate student). The board chair fully participates in the hearing, including participating in the deliberations, but does not vote.
- vi. The hearing board reviews all information on file as of the date of the hearing and determines if there is a preponderance of evidence for responsibility.
- vii. Upon completion of the hearing, the board deliberates to decide on responsibility and recommendation for sanction (if applicable). The student charged is notified of the outcome of the hearing in writing.
- viii. If the student charged does not attend the hearing, the Student Conduct Board or administrator hearing the case will consider the information available and make a determination regarding the student's responsibility and sanctions, if any.

At times when the University is on extended breaks (winter and summer), the case may be resolved administratively by a student conduct administrator, referred to a Level I Student Conduct Board to determine whether the student violated the Code of Student Conduct and to recommend sanctions if appropriate, or the case may be delayed to be resolved in the semester when the student returns.

#### b. Level II Cases

- i. Cases in which possible sanctions include more than four semesters of disciplinary probation, final probation, suspension, expulsion or removal from University housing are designated as Level II cases. Information regarding sanctions can be found in the University Sanctioning Guidelines.
  - ii. Level II cases are assigned to a student conduct administrator for initial inquiry, investigation and resolution.
  - iii. Prior to meeting with the student conduct administrator, students may choose to attend a prehearing meeting with a staff member in the Office of Student Conduct or a representative of the CARE Team. During this meeting, the student conduct process, student rights and potential sanctions are explained. The Office of Student Conduct is located in Suite 3J of the Tuscarora Office Building in College-in-the-Woods. The office phone number is 607-7776210. The CARE Team is located in room 207A in the University Union West. The office phone number is 607-777-2804.
  - iv. The student conduct administrator may conduct an investigation to determine if the charges have merit and/or if they can be handled by an Administrative Agreement of the parties involved on a basis acceptable to the student conduct administrator. Prior to resolution, the respondent will be given the opportunity to review all available reports pertaining to the incident. Such resolution is final and there will be no subsequent proceedings. Students who are offered an Administrative Agreement are given the opportunity to negotiate the agreement before signing it. Signing the Administrative Agreement is a statement of responsibility.
  - v. If the matter cannot be resolved by an Administrative Agreement, a Level II Student Conduct Board hearing will be scheduled. The student conduct administrator is usually present at the hearing.
  - vi. Student Conduct Board hearings for Level II cases are conducted in accordance with Section IV.8 below.
- c. Cases involving allegations of sexual assault, sexual harassment, domestic violence, dating or sexual violence, or stalking.

Cases involving allegations of sexual assault, sexual harassment, domestic violence, dating or sexual violence, or stalking are considered Level II cases and are handled through the Level II process except as otherwise noted. Claimants have the right to request that student conduct charges be filed against the respondent. Conduct proceedings are governed by the procedures set forth in the Binghamton University *Code of Student Conduct* as well as federal and New York state law and the [!\[\]\(a48045bf840f60e99d28ce32cf91bb81\_img.jpg\) \*\*Title IX Grievance Policy\*\* \(.PDF\)](#), including the due process provisions of the United States and New York state constitutions. Participants in these cases are afforded the following additional rights in the student conduct 15 process.

Throughout conduct proceedings, the respondent and claimant will have:

- i. The right to a prompt response to any complaint. The right to have their complaint investigated and adjudicated in an impartial, timely and thorough manner by individuals who receive annual training in conducting investigations of sexual violence; the effects of trauma; impartiality; the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made; and other issues related to sexual assault, domestic violence, dating or sexual violence and stalking.
- ii. The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
- iii. The right to receive advance written or electronic notice of the date, time and location of any meeting or hearing they are required to or are eligible to attend. Respondents will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated and possible sanctions.
- iv. The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Code of Student Conduct.
- v. The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- vi. The right to offer evidence during an investigation and to review available relevant evidence in the case file or otherwise held by Binghamton University.
- vii. The right to present new evidence and testimony at a hearing when appropriate.
- viii. The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or participating with a room partition.
- ix. The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in the University disciplinary stage that determines

responsibility. Past findings of domestic violence, dating violence, stalking or sexual assault may be admissible in the disciplinary stage that determines any sanctions.

- x. The right to ask questions of the decision maker and, via the decision maker, indirectly request responses from other parties and any other witnesses present.
  - xi. The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
  - xii. The right to simultaneous (among the parties) written or electronic notification of the 16 outcome of a conduct proceeding, including the decision, any sanction(s) and the rationale for the decision and any sanction(s).
  - xiii. The right to written or electronic notification about the sanction(s) that may be imposed on the respondent based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements or expulsion/dismissal.
  - xiv. Access to at least one level of appeal of a determination before a panel, which may include one or more students, which is fair and impartial and does not include individuals with a conflict of interest.
  - xv. The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
  - xvi. The right to choose whether to disclose or discuss the outcome of a conduct hearing.
  - xvii. The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination, unless otherwise required by law.
- d. Informal resolution process for sexual misconduct cases
- i. For cases where the claimant desires a disciplinary outcome that includes a status sanction that is reportable and/or a transcript notation, the claimant will be informed of both informal and formal resolution options.
  - ii. If the claimant elects to proceed with an informal resolution without an investigation, this information will be presented to the respondent to determine if there is mutual agreement.
    - A. Respondents will be notified as to the general nature of the allegation and the wishes of the reporting individual to process the matter by informal resolution.
    - B. During this time any questions regarding processes and rights will be answered and resources shared.

- iii. If the claimant(s) and respondent(s) agree to proceed with an informal resolution without an investigation, shuttle diplomacy, wherein a representative of the institution communicates independently with each involved party, will be initiated.
- iv. Shuttle diplomacy occurs until/if there is a mutual agreement that can be reached.
  - A. This will include but is not limited to:
    1. An Administrative Agreement which includes a listed rule violation(s) and sanction(s) that is agreeable to the claimant(s), respondent(s) and the University; and/or
    2. An educational conversation with the respondent(s); and/or
    3. Imposition of a No Contact Order; and/or
    4. Attendance and participation of a workshop (if applicable) and/or
    5. Other mutually agreed upon outcomes
  - B. Once an informal resolution is reached and the claimant(s), respondent(s) and University representative provide their voluntary, written, consent to the informal resolution process, the matter is considered closed. Both parties are precluded from resuming a formal complaint under any University policy arising from the resolved incident(s).
- v. The Office of Student Conduct will engage in a reasonable amount of shuttle diplomacy which shall not typically exceed 30 calendar days.
- vi. The University will not ordinarily terminate the informal resolution process against the wishes of all parties involved, however, in cases where informal resolution cannot achieve a result that reasonably protects the health and welfare of members of the University community, the University reserves the right to terminate the informal resolution process and resume the conduct process following notice to the parties.
- vii. Claimant(s) and respondent(s) have the right to withdraw from the informal resolution process and resume the conduct process prior to reaching an informal resolution without consequence.
- viii. In the event that shuttle diplomacy fails, the Office of Student Conduct will notify the claimant(s) and respondent(s) that the conduct process is resuming from the point at which shuttle diplomacy had begun.

ix. If the claimant(s) and respondent(s) initially desire to proceed with an informal resolution and the case is removed from the formal resolution process, notice will be electronically sent to both parties.

x. If the conduct process is resumed the case will be assigned an investigator.

A. The process would then proceed as outlined in Section IV. *Code of Student Conduct* Procedures B. Level II cases.

B. The conduct process will continue until there is a final outcome via Administrative Agreement or a *Code of Student Conduct* hearing occurs.

xi. Informal resolution will remain an option until a student conduct hearing begins.

#### e. Organizational Misconduct

##### i. Fraternity and Sorority Life

The Office of Student Conduct and Fraternity and Sorority Life have a longstanding, cooperative relationship. In general, for matters pertaining to academic or other administrative issues covered by the University's Relationship Agreement, the Office of Student Conduct will defer to Fraternity and Sorority Life to review organizational conduct and sanction accordingly.

In such instances that the alleged behavior of an organization and/or its member(s) is specifically prohibited by the *Code of Student Conduct*, the Office of Student Conduct will investigate and adjudicate the alleged behavior. While some incidents may require a more tailored approach, allegations covered by the *Code of Student Conduct* will be handled in this general manner:

A. When an allegation of misconduct is received, Fraternity and Sorority Life will provide any incident report(s), rosters, contact information and documentary evidence to the Office of Student Conduct. Fraternity and Sorority Life staff members may also provide supplemental support to the investigation.

B. The Office of Student Conduct will contact all involved students. In instances where there is an immediate concern for the well-being of involved students, some interviews may be conducted with short notice and in group settings. If students are called to interviews, they may be asked to turn off electronic devices during this time. Interviewees will be assigned anonymous numbers within the investigation packet to help preserve anonymity. The Office of Student Conduct considers the chapter

president to be the official representative of any organization going through the conduct process; if the chapter does not have a president, then the official representative will be the next highest ranking undergraduate member of the chapter's executive board.

- C. When the conduct of an organization or its members presents a clear, present or imminent danger to the University community, the vice president for student affairs or their designee may impose an interim action. Interim actions can involve social suspension, complete chapter suspension, suspension of new member activities or other actions deemed appropriate. Notification of any interim action will be sent to the executive board of record. It will be the responsibility of the chapter leadership to notify its full membership of the chapter's interim status. Interim actions, in general, will be in place for 21 calendar days but will be extended as needed by the vice president for student affairs or their designee. Any appeal to interim action(s) must be appealed in writing within 24 hours to the vice president for student affairs and/or their designee.
- D. Depending on the nature of the incident and the relationship with the national headquarters of any organization, the Office of Fraternity and Sorority Life will notify the national headquarters of pending conduct action at a time deemed appropriate by the director of fraternity and sorority life. In any case, the national headquarters will be contacted by the Office of Fraternity and Sorority Life prior to a formal conduct charge being issued.
- E. Charged individuals and organizations may resolve conduct charges through an Administrative Agreement or a Level II Student Conduct Hearing Board. The Office of Fraternity and Sorority Life will serve as a resource to any chapter considering an Administrative Agreement or preparing for a hearing.
- F. Leading up to a student conduct hearing, the Office of Student Conduct will assemble a hearing board from its pool of trained hearing board members. All investigatory materials will be compiled into a hearing packet that will be distributed to the charged parties and the hearing board prior to the hearing.
- G. Fraternity and sorority misconduct cases will be processed through the Level II Hearing process detailed in the *Code of Student Conduct* on page (14). The chapter president will be responsible for representing the organization in a hearing.
- H. Charged parties have the right to have an advisor present during the hearing. However, the advisor cannot speak on their behalf and may not interject in the proceedings. Advisors may not be members of the organization, serve as a witness, or be a charged individual.

- I. After an admission or finding of responsibility, sanctions will be crafted in consultation with the Office of Student Conduct, the Office of Fraternity and Sorority Life, and the national headquarters of the organization. The Office of Fraternity and Sorority Life will communicate with the national headquarters in completing any sanctions imposed.
- J. Sanctions will be tailored to the nature of the violation and the individual culture of the organization and/or prior disciplinary history: typical sanctions range from organizational probation status up through loss of recognition, membership reviews, as well as educational sanctions. Chapter disciplinary status will be listed in University publications at the discretion of the director of fraternity and sorority life.
- K. At the discretion of the vice president for student affairs and/or their designee, the Office of Student Conduct may charge individual members with violations of the *Code of Student Conduct*. This can be both in lieu of and in combination with organizational misconduct charges.

ii. Intercollegiate athletics

In general, for matters pertaining to academic or other administrative issues, the Office of Student Conduct will defer to intercollegiate athletics to review organizational conduct and sanction accordingly.

- A. In such instances that the alleged behavior of a team or multiple members of a team are acts of hazing or Title IX accusations, the Office of Student Conduct will investigate and adjudicate the alleged behavior.
- B. Other alleged violations will be investigated by intercollegiate athletics, the Office of Student Conduct or both. Information may be shared between University offices.
- C. When the Office of Student Conduct is conducting the investigation, intercollegiate athletics will assist where possible including providing any incident report(s), rosters, contact information and documentary evidence to the Office of Student Conduct. Intercollegiate athletics can still take interim action as allowed in the Student-Athlete Handbook.
  - 1. After an admission or finding of responsibility, the Office of Student Conduct will craft sanctions in consultation with Intercollegiate Athletics administration. Sanctions will be tailored to the nature of the violation and/or prior disciplinary history.

- D. When intercollegiate athletics is conducting the investigation, student-athletes should refer to the Student-Athlete Handbook.
- E. The Office of Student Conduct may charge individual members with violations of the *Code of Student Conduct*. This can be both in lieu of and in combination with organizational misconduct charges.
- F. When the conduct of an organization or its members presents a clear, present or imminent danger to the University community, the director of athletics may impose an interim action.

### iii. Club Sports

The Office of Student Conduct and Club Sports have a partnership based on mutual goals. In general, for matters pertaining to academic or other administrative issues covered by the University's Relationship Agreement, the Office of Student Conduct will defer to Club Sports to review organizational conduct and sanction accordingly.

In such instances that the alleged behavior of an organization and/or its member(s) is specifically prohibited by the *Code of Student Conduct*, the Office of Student Conduct will investigate and adjudicate the alleged behavior. This includes severe acts of hazing and Title IX accusations. While some incidents may require a more tailored approach, allegations covered by the *Code of Student Conduct* will be handled in this general manner:

- A. When an allegation of misconduct is received, the Club Sports Rules Committee and /or the senior assistant director for sports programs will provide any incident report(s), rosters, contact information, and documentary evidence to the Office of Student Conduct. Club Sports office staff members may also provide supplemental support to the investigation.
- B. The Office of Student Conduct will contact all involved students. In instances where there is an immediate concern for the wellbeing of involved students, some interviews may be conducted with short notice and in group settings. If students are called to interviews, they may be asked to turn off electronic devices during this time. Interviewees will be assigned anonymous numbers within the investigation packet to help preserve anonymity. The Office of Student Conduct considers the team captain to be the official representative of any organization going through the conduct process.
- C. When the conduct of an organization or its members presents a clear, present, or imminent danger to the University community, the vice president for student affairs or their designee may impose an

interim action. Interim actions can involve social suspension, complete team suspension, suspension of new team member activities or other actions deemed appropriate. Interim actions, in general, will be in place for 21 calendar days but will be extended as needed by the vice president for student affairs or their designee.

- D. Charged individuals and organizations may resolve conduct charges through an Administrative Agreement or a Level II Student Conduct Hearing Board. The senior assistant director for sport programs will serve as a resource to any team considering an Administrative Agreement or preparing for a hearing.
- E. After an admission or finding of responsibility, sanctions will be crafted in consultation with the Office of Student Conduct and the senior assistant director for sport programs. The senior assistant director for sport programs will communicate with the specific club sport in completing any sanctions imposed.
- F. Sanctions will be tailored to the nature of the violation and the individual culture of the organization and/or prior disciplinary history: typical sanctions range from a probation status up through loss of recognition, membership reviews, as well as educational sanctions.

### 3. No Contact Orders

A student may request to have the University issue a “No Contact Order,” meaning that continuing to contact the individual(s) is a violation of college policy subject to additional conduct charges; if the parties involved observe each other in a public place, they should not make direct or indirect contact. When a No Contact Order is put in place, in cases involving domestic violence, dating violence, sexual assault or stalking, both the respondent and the claimant may request a prompt review of the need for and terms of the No Contact Order, consistent with Binghamton University policy. Parties may submit evidence in support of their request. Details regarding No Contact Orders will be explained by the issuing University office or department. No Contact Orders can be requested with the Office of Residential Life, Office of the Dean of Students or the Office of Student Conduct.

### 4. Timelines

The University strives to reach a resolution within 60 days after the receipt of the initial report. Timelines may vary based on the complexity of the case, number of witnesses and the nature of the academic calendar. Should the University foresee a need to exceed the 60-day guideline, it shall inform the involved parties and reasonable efforts will be made to seek timely resolution. In general, participants can expect that the investigative phase will take up to 21 days to complete. Upon conclusion of the investigation, both parties will be presented with the investigative report within five days and next steps in the process will be

outlined. If warranted, a hearing will be conducted, usually within five to 10 days. Appeals are usually resolved in 30 days. Should a student need a delay in the process, a request must be submitted to the Office of Student Conduct electronically. The request should include the reasoning for the delay as well as how much time the student is requesting. Upon receipt, the Office of Student Conduct will consider the delay and respond electronically with a response.

## 5. Accommodations

If you have a disability that impacts your ability to effectively participate in the conduct process, contact Services for Students with Disabilities at [607-777-2686](tel:607-777-2686) or [ssd@binghamton.edu](mailto:ssd@binghamton.edu) (<mailto:ssd@binghamton.edu>) 3-5 days in advance of your meeting to discuss appropriate accommodations.

## 6. Advisors

Any party may be accompanied by an advisor at any point in the process. Advisors may assist and advise their advisee throughout the process including at any related hearings or meetings. Advisors are not permitted to speak or to participate directly in any part of the conduct process. Students involved in a case are not allowed to serve in the capacity as an advisor for other students in the same case. Advisors may play a different role in cases that fall under the Title IX Grievance Policy. Refer to the University Title IX Grievance Policy for more information.

## 7. Basis for Decisions

Determinations of responsibility will be made on the basis of whether there is a preponderance of evidence that the student charged violated the *Code of Student Conduct*.

## 8. Student Conduct Board Hearings for Level II Cases

- a. When the charges cannot be handled administratively by mutual agreement, or the respondent chooses not to meet with the student conduct administrator, a Student Conduct Board hearing is conducted. The Office of Student Conduct establishes Student Conduct Boards to hear Level II cases.
- b. For cases involving sexual assault, sexual harassment, domestic violence, dating or sexual violence, or stalking, all procedural rights outlined in this document are granted to both the claimant and the respondent.
- c. Each case is heard by a Student Conduct Board consisting of three board members drawn from the pool of trained faculty/retired faculty, staff/retired staff and student board members except as noted in letter d) below. Board members are assigned by the director of the Office of Student Conduct.

- d. One member of the board is appointed chair by the Office of Student Conduct. The chair participates fully in the hearing and is a voting member of the board. The chair is responsible for ensuring that the hearing is conducted in accordance with the *Code of Student Conduct*.
- e. The director of the Office of Student Conduct may appoint a special hearing chair in complex cases or in cases involving sexual assault, sexual harassment, domestic violence, dating violence and/or stalking. The special hearing chair will fulfill all of the duties of the hearing chair including participating in deliberations, but shall not vote.

In cases where a special hearing chair is appointed, an additional hearing board member shall also be appointed so that the number of voting members is the same as in other hearings.

The special hearing chair may be a member of the University community, outside consultant and/or an attorney licensed to practice in the state of New York who is trained in the *Code of Student Conduct* and relevant sources of law (e.g., rape shield law).

The hearing board chair shall:

1. make decisions concerning information presented at the hearings. In so doing, the board chair shall respect the rules of privilege and confidentiality, but may otherwise admit into the record any information deemed by the board to be relevant;
2. make decisions regarding participation in the hearing in accordance with the *Code of Student Conduct*; and
3. otherwise conduct the hearing in accordance with the hearing procedures specified in the *Code of Student Conduct*.

- f. The director of the Office of Student Conduct or their designee will serve as hearing advisor in order to respond to issues pertaining to student rights, hearing procedures and University policy.
- g. Student Conduct Board hearings are normally closed to the public. Exceptions are made at the sole discretion of the director of the Office of Student Conduct in consultation with student affairs leadership and/or University legal counsel.
- h. In cases involving more than one student charged, the director of the Office of Student Conduct, at their discretion, may permit the Student Conduct Board hearings concerning each student to be conducted separately or jointly. Students charged may submit a written request for an individual hearing to the director of the Office of Student Conduct.

- i. The student conduct administrator and the respondent may identify witnesses to present pertinent information to the Student Conduct Board. The Office of Student Conduct will notify witnesses of the hearing when those witnesses are members of the University community and have been identified at least three calendar days in advance of the hearing.
- j. The student charged has the right to be present (in person or via electronic means) when information is being presented, to respond to and ask questions or to refuse to answer questions. Refusal to answer questions is not considered an admission of responsibility.
- k. The student charged has the right to review any written documents presented. If such documents are available prior to the hearing, the student charged will have the opportunity to review them before the hearing. If they are presented at the hearing, the student charged will have the opportunity to review them at that time.
- l. Presentation of information and questions must be relevant to the case and will be considered by the board at the discretion of the chair of the Student Conduct Board.
- m. At the discretion of the board chair, questions will be directed to the board chair rather than directly to any party or witness.
- n. All procedural questions raised during the hearing are subject to the final decision of the board chair of the Student Conduct Board.
- o. Following the hearing, the Student Conduct Board will determine whether the student charged has violated the specified section of the *Code of Student Conduct* and recommend appropriate sanctions, if any. Votes by the Student Conduct Board are by simple majority.
- p. The Office of Student Conduct will make a video and/or audio recording of all Student Conduct Board hearings (not including deliberations). Students may have access to their hearing record for appeal purposes. Stenographers or additional recording devices are not permitted.
- q. If a student is not present, the hearing is held in the student's absence. The Student Conduct Board considers the information available and bases its decision on this information. The absence of the student charged is not an admission of responsibility and the absence of a claimant does not dismiss the charge(s).
- r. The Student Conduct Board may accommodate concerns for the personal safety and well-being of both those involved in the hearing and of the campus community. Appropriate accommodations will be determined at the sole discretion of the director of the Office of Student Conduct and may include, but are not limited to, pat downs prior to entry into the hearing room, moving hearings to an off-campus location and allowing parties to participate from remote locations via electronic means.

## B. Sanctions

1. When violations of the *Code of Student Conduct* are addressed, the University conduct process attempts to create an active and educational response, taking into consideration the interest of the claimant, interest of the respondent and the overall well-being of the University community.
2. Sanctions are intended to deter any subsequent violations and to promote a safe and secure living/learning environment conducive to the success of all students.

Conduct Warning, Disciplinary Probation, Final Probation, Suspension and Expulsion are all reportable on a student's disciplinary record.

To restore community, sanctions will be appropriately tied to the offense and tailored to repair actual harm done. Students who have prior conduct cases in which they were found responsible, may receive increased sanctions for a new conduct case if found responsible.

3. Sanctions for incidents involving sexual harassment, sexual assault, domestic violence, dating or sexual violence, or stalking include suspension or expulsion from the University. Where facts and circumstances justify mitigating to a lesser sanction of probation, students found responsible may also be subject to required educational activities, limitations on campus activities, change in living situation, restricted access to campus and/or other sanctions.
4. For cases in which students are found responsible for sexual assault consistent with the federal definition of 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 consent of the victim), the available sanctions are suspension with additional requirements and expulsion/dismissal. Consent for these purposes is the consent definition in these policies.
5. The following outcomes may be imposed:
  - a. **Educational Conversation** — An educational conversation may take place between the student and the student conduct administrator. No determination is made regarding if the student is responsible for a violation of University policy, and there is no sanction indicated on the student's record. An educational conversation is an opportunity to clarify the University expectations of students and remedy behavior that may potentially violate the *Code of Student Conduct* in the future.
  - b. **Conduct Warning** — A conduct warning is an official acknowledgement that one or more rules have been violated and is considered a low-level sanction. A conduct warning serves as a notice to a student that the behavior is counter to the

expectations in the *Code of Student Conduct*.

- c. **Disciplinary Probation** — Disciplinary probation is a serious and active response to a violation of rules and may include educational sanctions or other requirements as a term of the probation. This is imposed for serious violations or a pattern of violations of the *Code of Student Conduct*. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found responsible for further violations of the *Code of Student Conduct* during the probationary period. While on probation, students may be ineligible to receive certain University awards or scholarships. At the discretion of campus offices and programs, students on probation may be ineligible for employment and/or participation in certain campus programs.
- d. **Loss of Privileges** — Loss of privileges is the loss of specified privileges such as use of a particular facility, visitation to a residence hall, housing priority, contact with an individual or other privileges for a designated period of time.

Housing relocation or removal from University housing can be applied as a sanction.

Students who have a serious violation of the community standards set in the *Code of Student Conduct* or the Housing Agreement, or because of a series of breaches of the community standards in the residence halls, will be asked to relocate or leave all University housing. Removal from housing typically includes the loss of visitation privileges to specific residential areas and penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs.

- e. **Educational projects and community services** — These sanctions involve the completion of projects, assignments, essays, service to the University, or facilitation of or participation in programs or other related assignments.
- f. **Restitution** — Restitution may include payment to the University to cover the cost of damage, destruction, defacement, theft or unauthorized use of property.
- g. **Relocation** — Relocation is the reassignment of a student from one living space to another within University housing.
- h. **Final Probation** — Final probation is imposed only in very serious cases or cases where students are currently under a significant sanction. Final probation may include removal from all University housing and loss of visitation privileges to buildings or areas of campus and is imposed for a specified period of time. Students found responsible for any further violation of the *Code of Student Conduct* while on final probation may be suspended or expelled from the University.
- i. **Suspension** — Suspension is the separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. Students who have been suspended are

unable to register for and attend classes or be present on University property without specific, written permission of the dean of students or designee.

j. **Expulsion** — Expulsion is the permanent separation of the student from the University. Students who have been expelled may not be on campus without specific, written permission of the dean of students or designee.

6. More than one of the previously listed sanctions may be imposed for any single violation.

7. Following a Student Conduct Board hearing, the board in consultation with the board advisor completes a summary report of its findings and recommendations and forwards it to the Office of Student Conduct. The director of student conduct certifies that the sanction(s) is(are) appropriate based on the sanctioning guidelines. The director will make adjustments as necessary to ensure that the sanction(s) is(are) appropriate.

The Office of Student Conduct forwards the final outcome to the student charged and the student conduct administrator. For cases involving sexual assault, sexual harassment, domestic violence, dating violence or stalking, both parties will be notified of the outcome simultaneously and in writing.

8. Any student found responsible for a violation of the *Code of Student Conduct* who has targeted a person or group based on factors such as perceived race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristic, military status, domestic violence, victim status or crime conviction may be subject to a more severe sanction than would ordinarily accompany that violation.

9. The director of student conduct will place an administrative hold on a student's University records when the student fails to complete the sanction(s) by the assigned deadline. The hold will remain in effect until the assigned sanction(s) are completed.

10. There are significant financial implications that you should consider prior to confirming your enrollment for any semester during a student conduct hearing and appeal process. If you are suspended or expelled, you will be responsible for 100% of the applicable tuition and fees for the semester(s) attended per SUNY policy.

### C. Appeals

1. An appeal must be submitted in writing by the student charged to the Office of Student Conduct within 10 calendar days after receiving notification of the outcome of the hearing.

2. Hearing board decisions for Level I cases are final. Absent procedural error, Level I cases may not be appealed.

3. For cases involving any form of harassment or sexual violence, sexual assault, sexual act, domestic violence, dating or sexual violence or stalking, the same right of appeal will be extended to both parties. The non-appealing party will be notified of the

appeal and may submit a statement of their position with respect to the appeal. Appeals for these cases will be considered by a trained interpersonal violence panel. Either party may appeal the decision of the panel. Appeals of panel decisions are decided by the vice president for student affairs or designee. Appeal decisions of the vice president or designee will be made utilizing the same standards. Decisions of the vice president or designee are final and there is no further appeal.

4. The appeal must specify the reason(s) for the appeal. The student charged may appeal on any or all of the following grounds:
  - a. the finding that the student violated the *Code of Student Conduct*;
  - b. the sanction imposed; and
  - c. on the basis of specified procedural errors in the disciplinary process.
5. Failure to appeal within the allotted time will render the original decision final and conclusive.
6. Appeals of all conduct cases are reviewed by either the vice president for student affairs or designee. Appeals may be referred to a three-member appeals board at the discretion of the appeals officer. This board will have the responsibility of making a recommendation on the merits of the appeal. Appeals boards, when used, will consist of at least one student and at least one staff person.
7. Appeals will be decided upon the record of the original proceeding and upon written materials submitted by the parties. New hearings will not be conducted except in accordance with 9.b) of this section. The decision of the appeals officer will be final and there shall be no further appeal.
8. The person(s) reviewing an appeal may:
  - a. Affirm the finding and the sanction imposed by the original board.
  - b. Affirm the finding and reduce, but not eliminate, the sanction, in accordance with 9.a) of this section.
  - c. Assign the case to a new hearing board in accordance with 9.b) of this section.
  - d. Dismiss the case, in accordance with 9.c) of this section.
  - e. In situations wherein an appeal is lodged by a claimant in a sexual misconduct case, the person(s) reviewing the appeal may also affirm the finding and increase the sanction.
9. Deference shall be given to the determinations of the hearing board:
  - a. Sanctions may only be reduced if found to be disproportionate to the offense.

- b. Cases may be assigned to a new hearing board if specified procedural errors or errors in interpretation of University regulations were so substantial as to effectively deny the charged student a fair hearing, or if new and significant evidence became available that could not have been discovered by proper diligence before or during the original hearing. When a new hearing is granted, no indication or record of the previously conducted hearing will be introduced or provided to members of the hearing board except to challenge contradictory testimony at the discretion of the hearing board chair. The board will be directed not to repeat the specified errors that caused the case to be reheard.
- c. Cases may be dismissed only if the finding is determined by the appeals officer to be arbitrary and capricious.
- d. Decisions altering the determinations of any hearings shall be accompanied by a written explanation.

10. The imposition of sanctions will normally be deferred while appeals are pending, except that interim actions will continue until there is a final outcome.

11. Appeals will ordinarily be expected to be decided within 30 calendar days.

#### **D. Interim action**

1. Pending final action on a charge (including the appeals process), the status of the student is not altered unless the continued presence of the student would constitute a clear and present danger to themselves, to the safety of others or to the property of the University.
2. When the continued presence of the student on campus is deemed to constitute a clear and present danger to the safety of others or to the property of the University, interim action may be taken. Interim action may include loss of contact with individuals, denial of access to facilities or suspension from the University pending the outcome of a Student Conduct Board hearing.
3. Students under interim action may be required to leave University facilities or property immediately and will be considered trespassing if they return.
4. Students under interim action may request a meeting with the vice president for student affairs or designee in order to appeal the interim action. This request must be made no later than 5 p.m. of the business day following the date the student is sent the letter of interim action, including days when classes are not in session.
5. In cases involving domestic violence, dating or sexual violence, sexual assault, a sexual act or stalking, both the respondent and the claimant shall, upon request and consistent with Binghamton University policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any interim measure that directly affects them, including potential modification, and shall be allowed to submit evidence in support of their request.

6. Students who have appealed an interim action must abide by the terms of this action pending the outcome of the appeal.
7. Students will receive written notice of the outcome of their appeal.
8. Students under interim action must have written permission from a designated University official in order to have access to facilities, property or services of the University.

#### **E. Student Records**

1. Case referrals will result in the development of a student conduct file in the name of the respondent. Students who are found not responsible will not be reported as having a student conduct record.
2. The files for cases involving sanctions (conduct warning, probation and suspension) are reportable for up to seven years following the end of the academic year in which the matter was resolved, consistent with SUNY Records Retention Policy 6609.
3. Disciplinary files may not be sealed; however, students who are expelled may submit a written petition to the Office of Student Conduct for review and consideration for their transcript notation to be removed.

Factors to be considered in review of such a petition include:

- a. the present character of the student including positive contributions to the University community;
  - b. the behavior of the student subsequent to the violation including demonstrated personal reflection and growth;
  - c. the nature of the violation and the severity of any damage, injury or harm resulting from it.
  - d. The vice president for student affairs shall consider information about the present character of the requestor, such as the degree to which the requestor's subsequent behavior and community contributions demonstrate maturity, understanding of the nature of the violation, the severity of harm resulting from it and the ability to uphold the standards of a respectful community. Petitions will only be considered if at least seven years have passed from the date of the expulsion.
  - e. In accordance with NYS law and SUNY guidance, requests that pertain to cases that involve any of the crimes listed in E. (10 and 11) below are not eligible for the removal of the transcript notation.
4. Records of suspension are reported for seven years after the end of the academic year in which the matter was resolved. If the student does not graduate, the file is reported as a permanent record.

5. Students who are suspended have the following statement placed on their transcript: "Disciplinary Suspension." The suspension notation is removed when the suspension period expires.
6. Students who have been placed on interim suspension will have a student conduct hold placed on their University records until such time as there has been a final outcome of the charges. Upon final outcome, the hold will be lifted and a notation will be placed on their transcript if warranted.
7. In order to verify compliance with the Clery Act, all disciplinary referrals for major *Code of Student Conduct* violations and alcohol and drug policy violations are retained for seven years.
8. Records of expulsion are not destroyed.
9. An official audio recording will be made of the proceedings. This recording is maintained by the Office of Student Conduct and generally will not be duplicated or released. Participants are prohibited from making their own recording during the hearing (including but not limited to audio, video, photographic and/or written recording). The respondent and reporting party may submit a written request to the Office of Student Conduct for permission to review the official audio recording.
10. Records of hearings for cases involving domestic violence, dating violence, stalking or sexual assault will be maintained for five years from the date of the hearing regardless of the outcome of the hearing. Records for students sanctioned for cases involving domestic violence, dating violence, stalking or sexual assault are retained for seven years after the end of the academic year in which the matter was resolved.
11. Notwithstanding section E. (12) below, students who are expelled have the following statement placed on their transcript:  
"Disciplinary Expulsion."

Ordinarily, notation of expulsion is a permanent notation on the transcript. After seven years from the date of the expulsion, expelled students may submit a written petition to have the notation removed from their transcript. The petition is submitted to the associate vice president for student affairs or designee and must outline the reasons for the request and provide documentation of activities (work, education, etc.) since the student's expulsion from Binghamton University.

12. In accordance with NYS law and SUNY guidance, for crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), (crimes covered under the legislation that require a transcript notation are: murder; rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; and arson) a notation will be placed on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who

withdraws from the institution while such conduct charges are pending and declines to complete the disciplinary process, a notation will be made on the transcript that they “withdrew with conduct charges pending.” Appeals seeking removal of a transcript notation for a suspension should be submitted, in writing, to the associate vice president for student affairs or designee.

Such notation shall not be removed prior to one year after conclusion of the suspension. Notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

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## Section V: Interpretation and Revision

1. Any question of interpretation or application of the *Code of Student Conduct* shall be referred to the director of the Office of Student Conduct for final determination.
2. Section 356 of the Education Law of the State of New York directs councils to establish regulations governing the conduct and behavior of students. A committee of the Binghamton University Council reviews the University's *Code of Student Conduct* each “spring, and changes are brought to the full council for ratification before the *Code of Student Conduct* is published. After ratification, these regulations are filed with the appropriate state agencies. Students are expected to refer to this publication for a better understanding of the code of standards and behavior expected of them.”

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## Section VI: Students’ Bill of Rights

The Students’ Bill of Rights that appears at [https://www.binghamton.edu/services/title-ix/help/bill-of-rights.html \(/services/title-ix/help/bill-of-of-\)](https://www.binghamton.edu/services/title-ix/help/bill-of-rights.html (/services/title-ix/help/bill-of-<u>of-</u>)) is incorporated herein by reference.

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## Appendix

Binghamton University has many resources available on campus to provide a supportive environment enabling students to address various concerns and receive assistance. All offices listed under [resources \(/student-conduct/resources/\)](/student-conduct/resources/) can provide students with on- and off-campus resource information and available reporting options. Binghamton University students will be treated with respect and dignity in each and every office. The offices listed under [resources \(/student-conduct/resources/\)](/student-conduct/resources/) may be accessed by visiting the office in

person, by phone or by email during traditional business hours. The University Police Department, Harpur's Ferry and off-campus resources listed are available 24 hours a day, 7 days a week. These resources are not charged financially to a student, unless otherwise noted.

[VIEW ALL RESOURCES \(/STUDENT-CONDUCT/RESOURCES/\)](/STUDENT-CONDUCT/RESOURCES/)

**Important note: email is not guaranteed to be confidential, so consider this when communicating.**

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### **Contact**

Office of Student Conduct, Division of Student Affairs,  
Binghamton University [607-777-6210](tel:607-777-6210)