



**2018-2019  
Code of Conduct**

### **Expectations for Students**

Students are expected to abide by applicable laws and College policies and to conduct themselves in accordance with the guiding principles outlined herein, at all times. Explicit in these expectations is that students are responsible for making their own decisions and will accept the consequences of those decisions.

### **Expectations for the College**

The College, in general, will:

- View the student's first year as a transitional year.
- Intervene with appropriate measures when any student's health, safety and/or academic success are determined to be at risk.
- Provide timely support and intervention for students.
- Offer activities designed to support a safe and healthy campus culture.

### **Authority**

Authority over student conduct is vested in the Office of Student Life, specifically the Director of Residence Life and Student Conduct, who may take immediate action at his/her discretion for any violation of the College's Code of Conduct. Action taken by the Office of Student Life is final and closes the matter. The Director of Residence Life and Student Conduct may delegate and exercise it consistent with the College's Code of Conduct. The Director of Residence Life and Student Conduct has the authority to take appropriate, interim actions to protect the safety and well-being of the Elmira College community.

The Office of Student Life reserves the right to amend the College's Code of Conduct, as deemed necessary, in which case the Director of Residence Life and Student Conduct will notify the Elmira College community.

### **Jurisdiction**

The College defines students as both graduate and undergraduate students. A student who violates College policies or fails to uphold accepted standards is subject to conduct action. The student Code of Conduct applies to all properties owned, leased, or used by the College. Students are expected to abide by local, state, and federal laws. The institution will not provide sanctuary for those who violate such laws, and the College reserves the right to refer a student through the conduct process when a student has been charged with criminal violations. The college reserves the right to take conduct action for incidents that occur off campus that violate the College Code of Conduct and/or potentially could jeopardize the College's image, and/or the health and safety of the College's community. The College reserves the right to confiscate and dispose of any items which are deemed to violate the College's Code of Conduct. The College reserves the right to search a student's living space if deemed necessary.

### **Standard of Proof**

All student conduct cases will be decided on the burden of proof standard of a "preponderance of the evidence". Which means the determination will be made on the basis of whether it is "more likely than not" that a student violated the Code of Conduct.

Revised 8/1/18

## Prohibited Conduct

### Elmira College Policy Statements on Alcohol

Elmira College is committed to the education of students when it comes to the legal, responsible, and safe use of alcohol. The College seeks to maintain an academic environment that respects individual freedom and promotes the health, safety, and welfare of all members of its community. The College has established policies governing the consumption, possession, and sale of alcoholic beverages on its property, and which follow the laws of the State of New York. The College sponsors programs that promote awareness of the physical, psychological, social, and behavioral effects of alcohol consumption. The College also assists its members in finding alternatives to the use of alcoholic beverages for promoting social interaction and it provides services and resources for college students who are experiencing alcohol-related difficulties. Elmira College's alcohol policy and programs are intended to encourage its students to make responsible decisions about the use of alcoholic beverages, and to promote healthy, legal, and safe patterns of social interaction. The consumption of alcohol has potential for abuse, and the College community will not tolerate inappropriate use of alcoholic beverages, regardless of the age of the student.

Our main obligation is to preserve an atmosphere conducive to study and personal growth. Each student has the right to quiet conditions in a residential living area, weekends included. Students are to behave in a manner which does not disrupt the residence hall or infringe upon the rights of others to study or sleep, bring discredit upon themselves or the College, vandalize college property, or interfere with the rights, freedoms, and safety of others.

Elmira College is committed to educating students on risk reduction strategies related to alcohol and other drug usage. Elmira College staff will provide opportunities for students to develop a responsible approach to social challenges related to alcohol and other drugs. Additionally, the implementation of this policy will include campus-wide education on the symptoms of alcohol abuse, drug use, and overdoses (etc.). If students are experiencing alcohol-related difficulties, Elmira College staff will assist students on campus and/or connect them with the appropriate external resources as needed:

#### **On-campus:**

1. Clarke Health Center: (607) 735-1750 or extension 1750

#### **Off-campus:**

2. Alcoholics Anonymous: (607) 737-6733 or [www.aa.org](http://www.aa.org)
3. Alcohol Treatment Center (24-hour hotline): (877) 478-5777
4. Arnot Health St. Joseph's Hospital: "New Dawn" (607) 737-7802 (*inpatient*)
5. Trinity of Chemung County: (607) 737-5215 for *treatment*; (607) 737-5218 for *prevention* [www.trinityofchemungcounty.org](http://www.trinityofchemungcounty.org)

## **Alcohol Policy**

1. Possession or consumption of alcohol by a person under the age of 21 is prohibited. Students 21 years of age or older may possess alcohol for their personal use in their own residence hall room/living space. The maximum quantity allowed is no more than what's listed below. Any amount of alcohol beyond the stated quantity will be considered an Excessive Amount of Alcohol.
  - 18 containers of 12 oz. beer or equivalent, or
  - two 750ml bottles of wine, or
  - one liter of distilled alcohol per resident
2. Activities including drinking games or games that mimic drinking games and/or paraphernalia that encourage rapid consumption of alcohol are prohibited. (including, but not limited to, kegs, beer balls, mini-kegs, funnels, beer pong tables, bongos, bar set ups, etc.)
3. Overconsumption of alcohol.
4. Consumption of alcohol that requires medical evaluation or transportation to a medical facility.
5. Providing alcohol to an individual(s) under the age of 21.
6. Driving under the influence of alcohol.
7. Alcoholic beverage containers must be in a closed container when transported on campus.
8. Alcohol may not be consumed in any public area.
9. Engaging in acts of public drunkenness, vandalism, disorderly conduct, harassment, or infringement of the rights or privacy of others.

## **Good Samaritan Policy**

If Residence Life or Campus Safety staff members are contacted to provide an emergency care to an intoxicated individual, the individual who sought assistance for another student may receive no sanction if during the process of seeking help they intentionally or unintentionally revealed the fact that they were also in violation of the alcohol and/or drug policy.

## **Missing Student Policy**

It is the policy of Elmira College to investigate any report of a missing student who is enrolled and attending classes. This policy, with its accompanying procedures, establishes a framework for cooperation among members of the College community aimed at locating and assisting students who are reported missing.

A student will be deemed missing when reported absent from the College (including trips and athletic events) without any known reason. All reports of missing students must be directed to Elmira College's Office of Campus Safety at 607-735-1816. Campus Safety, in collaboration with various Student Life departments, will lead in investigating each report and make a determination whether the student is missing in accordance with this policy.

All students have the option to identify a confidential contact person or persons who will be notified within 24 hours in the event that a determination is made by the College that the student is missing. This contact information may be added through an online form found [here](#):

Revised 8/1/18

<https://goo.gl/forms/Ej1dctNcXpWwluv92>. Only those authorized by the Dean of Students and law enforcement officers in furtherance of a missing person investigation may have access to this information.

If a missing student is under 18 years of age, and not an emancipated individual, the institution will notify a custodial parent or guardian of the missing student not later than 24 hours after the determination that the student is missing.

Elmira College will contact local police and other law enforcement agencies no later than 24 hours after the institution receives a report that any student is missing.

Given the various housing options at Elmira College, there is no formal procedure or prescribed timelines for monitoring whether students are present in their assigned student housing. Student welfare and safety is paramount to Elmira College; however, the institution recognizes and makes known its limitations in obtaining accurate and timely information on the whereabouts of students.

The Office of Student Life shall have the responsibility to make the provisions of this policy and the procedures set forth below available to students.

**Procedures:**

Any report of a missing student, from whatever source, must immediately be directed to the Office of Campus Safety.

**When a student is reported missing the Office of Campus Safety will:**

1. initiate an investigation to determine the validity of the missing person report;
2. inform the Office of Student Life;
3. make a determination as to the status of the missing student;
4. notify local police or other appropriate law enforcement agencies within 24 hours after the institution receives a report that the student is missing;
5. If the student is missing from a trip sponsored by the institution, the Office of Campus Safety, in collaboration with the staff member on the trip, will contact local law enforcement.

**Upon determining the student is missing the Office of Student Life will:**

1. Notify the person(s) identified by the missing student as the confidential contact within 24 hours of making the determination that the student is missing;
2. if the missing student is under the age of 18, and not an emancipated individual, notify the student's custodial parent or guardian as contained in the institutions records within 24 hours of the determination that the student is missing;
3. inform Senior Officers as needed ; and
4. Initiate whatever other action is deemed appropriate under the circumstances to be in the best interest of the missing student.

The Office of Student Life shall initiate whatever action is deemed appropriate under the circumstances to be in the best interest of the missing student.

### **Student Contact Information:**

In addition to having the option to identify a “confidential contact person” as provided in this policy, all students are asked to submit emergency contact information and update it yearly. The Office of Residence Life will verify and collect emergency contact information from residential students during fall move in.

### **Student Notification of This Policy:**

- Included on the Student Life and Campus Safety webpages and on the student tab in MyEC Portal.
- Discussed during mandatory housing meetings at the beginning of each semester.
- Included in the Annual Campus Security and Fire Safety Report.

### **Arson**

The willful, intentional setting of a fire to a structure, property, or vehicle.

### **Bicycles**

Bicycles may be brought to campus and must be stored overnight in the Meier Hall archway bicycle storage room, but may be kept at a bicycle rack during the day. Please contact the Office of Campus Safety to register your bicycle and have access to the bicycle storage room added to your Student ID Card. Elmira College does not assume responsibility for lost or damaged items stored in these areas. Bicycles should not be chained to fences, light posts, or other public property or placed in public areas of College buildings. If bicycles are found in these improper locations, they will be removed.

### **Bullying**

Bullying, which may be present in both cyber and physical spaces, is the infliction of physical, verbal, or psychological distress by teasing, threat, intimidation, stalking, physical violence, harassment, or destruction of property.

### **Conduct that Threatens Health or Safety**

Conduct that threatens the health or safety of any person including, but not limited to:

1. Physical assault
2. Threats that cause a reasonable person to be in fear for one’s own safety or the safety of their family, friends, or property
3. Incidents involving the use or display of an object or weapon likely to cause great bodily harm
4. Intoxication or impairment through the use of alcohol or controlled substances to the point one is unable to exercise care for one’s own safety
5. Other conduct that threatens the health or safety of any person.

### **Disorderly Conduct**

1. Any conduct which impacts or disrupts the normal function of the College.
2. Encouraging others to behave in a way that impacts or disrupts the normal function of the College.

### **Endangerment**

Any action that endangers the health, safety, or well-being of oneself, another person or group including: physical assault, unwanted touching of a non-sexual nature or actions that interfere with a student's academic success.

### **Failure to Comply**

1. Failure to comply with a directive from a College employee.
2. Failure to comply with a lawful request from a law enforcement officer.
3. Providing false information or lying to College officials or law enforcement agencies.
4. Failure to complete college issued conduct sanctions.

### **Falsification of Information**

Furnishing false or misleading information to the College or other similar forms of dishonesty including:

1. Knowingly making false statements to any College official or hearing body
2. Forgery
3. Alteration or misuse of College documents, records or identification, such as possessing a forged instrument.
4. Possession of a forged or false identification card or document.

### **Gambling**

Engaging in or offering any activity of chance for money or other gain that violates New York State law.

### **Hall Sports**

Participating in any type of sport(s) in the residence halls, including public space and stairwells.

### **Harassment**

Persistent conduct of a non-sexual nature, which creates an intimidating, hostile, or unsafe environment for another person.

### **Hazing**

Hazing is defined as any group or individual action or activity that endangers the mental or physical health or safety or which may demean, disgrace, or degrade any person, regardless of location, intent, or consent of participant(s). Although hazing is generally related to a person's initiation or admission into, or affiliation with, any group or organization, it is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the organization, for a charge of hazing to be upheld. The actions of active, associate, new, and/or prospective members of an organization may be considered hazing. Hazing includes, but is not limited to:

1. Unreasonable interference with a student's academic performance.
2. Forced or coerced consumption of food, alcohol, drugs, or any other substance.
3. Forced or coerced wearing of apparel which is conspicuous and/or inappropriate.
4. Forced or coerced exclusion from social contact.

5. Branding.
6. Creation of unnecessary fatigue (including but not limited to acts that stem from forced physical activity, such as calisthenics and deprivation of sleep).
7. Deprivation of food.
8. Beating, whipping, or paddling in any form.
9. Line-ups and berating.
10. Physical and/or psychological shocks.
11. Personal servitude.
12. Kidnapping or abandonment.
13. Unreasonable exposure to the weather.
14. Any activity that would be viewed by a reasonable person as subjecting any person to embarrassment, degradation or humiliation.
15. Expectation of participation in activities that are unlawful, lewd or in violation of College policy.

### **Illegal Drugs**

The unlawful dispensation, distribution, manufacturing, possession, or use of controlled substances on or off campus; the misuse of prescription drugs; and/or the possession of drug paraphernalia.

### **Parking**

#### **Permits / Registration**

All students and staff are required to register any vehicle which they have at the College. Vehicles must be registered within 24 hours after they are first brought to campus. Applications for vehicle registration may be obtained at the Campus Safety Office located on the terrace level of Tompkins Hall beginning on the first of August. All full-time students are required to park in College-provided parking lots.

The following requisites for registration must be met for a motor vehicle to be registered:

1. The applicant and the vehicle must meet all requirements prescribed by the N.Y.S. Vehicle and Traffic Law for legal operation.
2. The motor vehicle to be registered must be operated by the applicant and owned either by the applicant or a family member.

All parking on campus (except visitor areas) is by permit only. A parking permit (sticker) does not guarantee the holder a reserved space, only an opportunity to park within a specified area. Within each permit eligibility category, permits are issued on a first-come, first-served basis, and the College reserves the right to limit issuance so as to prevent exceeding the number of available spaces.

All vehicles except those with purple stickers (faculty and staff), must register annually with the College during the first week of Academic classes each Fall, or within one week of starting at the College. Parking stickers are valid only for the areas for which they have been specifically designated. They must be affixed (as designed) to a window on the driver's side of the vehicle as

far back as possible without being placed on the rear window/windshield of the vehicle. Parking stickers are not transferable. Lost or stolen stickers must be reported and replaced within 24 hours. The parking stickers issued by the College are the property of Elmira College. Any changes, tampering with, or misuses of the stickers may result in the withdrawal of the stickers. Gold (Student) Parking Stickers - permit valid in gold or any current decal lots only are issued to all students.

### **Parking Regulations**

Parking in the following places is prohibited at all times:

1. On the sidewalk or a crosswalk.
2. On the grass or lawn.
3. In front of a driveway, doorway, or steps.
4. In front or rear of Twin Towers.
5. In all service driveways, loading zones, and access roads.
6. Only people with a valid issued handicapped placard or state issued handicapped plate may park in handicapped spaces.

Also, no person shall park a vehicle on the grounds of the College in such a manner as to interfere with the use of a fire hydrant, fire lane, or other emergency zone; create any other hazard; or unreasonably interfere with the free and proper use of roadways.

Only authorized College vehicles and emergency vehicles (patrol cars, ambulances, fire trucks) are authorized to drive on the inner campus roadways and walks. Insurance and safety regulations forbid parking of automobiles, motor scooters, and motor bikes inside or under cover of any building or extension of such building.

The fines may be imposed upon any person subject to these rules and regulations for any violations is listed on the parking ticket. The registering of a vehicle at the College is held to constitute an agreement on the part of the registrant to abide by the College rules and regulations with regard to traffic and parking. All fines are to be paid at the Business Office located in McGraw Hall. Tickets not paid within ten days of issuance will be charged a \$10 late fee.

### **Violation Appeals**

The imposition of fines and penalties set forth above may be initially appealed to the Director of Campus Safety. Such appeals must be made in writing within three days of the violation by the registrant on an appeal form available at the Campus Safety Office located in Tompkins Terrace Level. Appeals of the Director's decision are made through the Dean of Students.

### **City of Elmira Odd-Even Parking Ordinance**

The Elmira Police Department enforces an odd-even parking ordinance on city streets. Under this ordinance the following parking restrictions apply for the entire year:

- Between 2 a.m. and 7 a.m. on days with even numbers according to the calendar, vehicles may be parked only on the even (house numbers) side of the street.

- Between 2 a.m. and 7 a.m. on days with odd numbers according to the calendar, vehicles may be parked only on the odd (house numbers) side of the street.

Note: this does not apply where parking is otherwise restricted by signs and where parking is restricted or prohibited on one side of the street for a full city block. Questions may be directed to the Campus Safety or Elmira Police Department Traffic Bureau, 737-5640.

**Reserved Handicapped Parking** - Elmira College will only honor disability parking permits issued by the Department of Motor Vehicles or by Town Clerks.

**Temporary Permits** - permits valid in designated lot stated on the permit are issued to short-time staff and departments needing temporary parking in restricted areas.

**Visitor Spaces** – Parking spaces reserved for visitors are reserved 24 hours a day. Vehicles with current parking stickers are prohibited from parking in spaces reserved for visitors at all times.

### Pets

Pets are not permitted in the residence halls, with the exception of non-aggressive fish (in up to a 10 gallon aquarium), service animals, or approved assistance animals.

### Prohibited Items or Actions

1. No open fires or bonfires, open fire pits, or homemade fireplaces.
2. Grills are prohibited on campus.
3. No open flames, candles, incense, hot wax melters, or similar items.
4. No flammable liquids, lighter fluid, gasoline, charcoal, or propane.
5. Items that emit heat or have exposed coils including but not limited to toasters, hot plates, popcorn poppers, griddles, or irons.
6. Extension cords other than power strips with UL-Rated surge protection, circuit breaker, and 3-prong plug
7. Electrical outlet adaptors, plug extenders, or similar non-UL-rated 3-prong plug devices
8. Wood fires are permitted in designated indoor fireplaces only (Lounge fireplaces may be used after receiving written permission from a Residence Life Coordinator).
9. All fabrics on a vertical plane are prohibited under New York state law – this includes tapestries, flags, team jerseys, and/or any other fabric or similar material. These items are permissible only when placed in a closed frame. Posters are permitted as long as they do not cover more than twenty percent of the wall space. Nothing may hang from ceilings.
10. Fireworks.
11. Students are not permitted to attach or hang any decorations from the ceilings, smoke or fire detectors, or sprinklers of the room. This includes fishnet, posters, or any other flammable material. These items are potential fire hazards. No more than twenty percent of walls or doors may be covered by flammable materials (paper, magazine clippings, paper holiday wrap, etc.)

12. Halogen lamps, heat lamps, neon signs, and black lights
13. Dartboards or other games which may cause damage to College Property
14. Student constructed or provided loft assemblies are prohibited.
15. Bed risers with electrical outlets, or other items being used as bed risers (e.g. Cinder Blocks, Bricks, pieces of wood, etc.) are prohibited.
16. Bed tents or items that hang, drape, or conceal a bed are prohibited
17. Use of another student's ID card
18. Any items not listed that the College and/or New York State Fire law may deem as a health or safety concern.

### **Quiet Hours**

Each residence hall may establish and enforce its own additional quiet hours. However, the College defines quiet hours within Residence Halls as:

- 10 p.m. to 8 a.m. Sunday – Thursday
- 1:00 a.m. to 8 a.m. on Saturday and Sunday

Please understand 24 hour courtesy hours are always in effect. During the scheduled period for final examinations 24 hour study hours will be enforced in all residence areas.

Elmira City Code defines audible noise after 10:00 pm as a noise ordinance violation, therefore, any gatherings outdoors must end by 9:59 pm. This includes, but is not limited to:

1. Gatherings at the fountain
2. Gatherings behind the Cottages
3. Events on College quads and fields

### **Retaliation**

No person may harass or intimidate another person because of their participation in an investigation conducted by the College. Harassment or intimidation includes but is not limited to threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, taunting, bullying or ostracism.

### **Residential Guest Policy**

Guests are defined as:

1. Non-Students who must be college-age, and
2. Other Elmira College students in residence halls or rooms other than their own

Guests may remain on campus for a maximum of three nights in a seven day period, no more than twice each month, provided that there is no objection from roommates. The College reserves the right to deny or remove guests from campus at their discretion. Guests who perpetually violate the College Code of Conduct may be permanently banned from campus.

Other guest policies are as follows:

1. No one may sleep in public areas of the residence halls.
2. Overnight guests are required to follow all policies outlined in the College Code of Conduct. Elmira College students must assume responsibility for informing guests of the College's regulations and are responsible for the actions of their guests.

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3. Accommodations are not available in the residence halls for parents or children.
4. Non-student guests are expected to be escorted by their host at all times.
5. No non-student guests are permitted during finals week, summer break, or when deemed appropriate by the College.

### **Room Responsibility**

The residents of a room/suite/cottage are responsible for actions taking place in the room or items found in their room.

### **Sexual Assault/Misconduct**

Please see the Policy Against Gender Discrimination and Sexual and Other Misconduct at the end of this document.

### **Smoking & Electronic/Vapor Smoking Policy**

1. Smoking is not permitted within 50 feet of a building entrance.
2. Smoking is prohibited in all Elmira College buildings and outdoor areas covered by a permanent roof.
3. No hookahs are permitted on college property.

### **Solicitation**

No organization or individual may solicit funds from or sell or promote at any time to the campus community, or anywhere on College property, without the prior written authorization from the Office of Student Life. Students are not permitted to operate a business out of their residence hall room.

No Elmira College student organization may solicit funds from off-campus individuals, groups, businesses, or organizations without the prior written approval of the Office of External Relations.

### **Tampering with Safety Equipment**

The misuse, tampering with or false activation of safety equipment is prohibited. This includes but is not limited to:

1. Tampering with fire alarms, extinguishers, sprinkler heads, or the activation of false fire alarms.
2. Destruction of emergency exit signs.
3. Destruction or deactivating proximity card access points or door locks.
4. Tampering or deactivating security cameras.
5. False or misuse of emergency phones.
6. Tampering with any device installed by the College that is deemed a safety device.
7. Any other action that could pose or put in jeopardy the health and safety of fellow Elmira community members.

As the safety of our students is paramount, students found violating this policy will face conduct actions as well as College and potential civil fines.

### **Theft**

1. Unauthorized removal or possession of another student's property without their permission, including the use of other students ID card.
2. Possession of stolen property.

### **Unauthorized Use, Entry, or Exit**

1. Unauthorized entry into prohibited areas.
2. Climbing on structures, fountains, or statues.
3. Improper use of doors and/or windows.
4. Moving into a residence hall room other than the assigned room.
5. Squatting or allowing guests to reside in your room for a prolonged period of time.
6. Propping doors or using propped doors to access a building
7. Use of another student's ID/key to gain entrance into a building or room

### **Vandalism**

1. Damage or destruction to College Property.
2. Damage or destruction to a fellow student's property.
3. Damage or destruction to community property or that of our neighbors.

### **Weapons, Firearms and Explosives**

1. All potentially dangerous weapons (i.e. firearms, replicas of firearms, bows and arrows, paintball guns, air rifles, pyrotechnics, knives, air pistols, firecrackers, fireworks, pellet guns, stun guns, Tasers, imitation weapons martial arts equipment, etc.) are prohibited everywhere on campus.
2. The use of any objects (causing them to be a weapon or to place others at risk) directed at people or buildings (i.e. throwing water balloons, snowballs, cans, bottles, swinging objects, etc.) that could result in injury is prohibited.

### **Conduct Referral**

When a potential violation of College policies occurs, a College staff member writes a report documenting all individuals present and facts that were observed. After the report has been submitted, the student(s) involved will receive a charge letter outlining their potential policy violations, information regarding the conduct process, and name and contact information of the conduct officer/board hearing the case.

Incident reports from members of the College community may be made on the College's website. A link to the reports can be found under the Student Life tab, or you may follow the following link: <https://cm.maxient.com/reportingform.php?ElmiraCollege&layout>

The incident reports are expected to include information setting forth the basics of the situation that is being reported for possible conduct action. It should specify:

- the individual(s) involved,
- the conduct or situation that is being referred,
- the day, date, time, and place of the violation.

The Director of Residence Life and Student Conduct or his/her designee will review the incident report for the purpose of determining the appropriate tier of the conduct system to adjudicate the incident reports.

### **Conduct Process**

The College Conduct System is adjudicated in various forms, including 1-on-1 meetings, group meetings, and Conduct Committee Hearings. The Director of Residence Life and Student Conduct will make the determination of what type of hearing each student will have following the documentation of an incident.

#### **1. Administrative Hearings**

Administrative hearings are conduct hearings heard by a designated conduct officer. Conduct Officers are members of the College's administration who have been trained to investigate, adjudicate, and sanction violations of the Code of Conduct. The purpose of an administrative hearing is to allow the conduct officer an opportunity to gather information about an incident, make decisions regarding how to manage the aftermath of the incident, and have an educational conversation with a student who is accused of violating the College's Code of Conduct

#### **2. Conduct Committee**

The Conduct Committee is authorized to deal with violations of the College's rules and regulations. The Conduct Committee is authorized to impose sanctions, including expulsion (as hereinafter defined) in appropriate situations. The Conduct Committee is comprised of members of the College's Faculty and Administration who have been trained to investigate, adjudicate, and sanction violations of the Code of Conduct.

When an incident report is submitted the following process is implemented:

- 1.** The Director of Residence Life and Student Conduct determines where or who to refer the incident report to for purposes of hearing and adjudicating the case.
- 2.** The Hearing Officer sends a written notice to the student(s) being referred to them to set the time, date and location of the hearing regarding the incident. The purpose of the written notice is to provide sufficient information regarding the accusation to permit the student being referred to understand the accusation and enable the student to prepare a response.
- 3.** An accused student is required to attend any Conduct hearing. Failure to appear, without reasonable prior notice of extenuating circumstances, will result in the hearing process proceeding in the absence of the accused student. The failure to appear may also result in the imposition of sanctions against the student by the Committee or Hearing Officer.
- 4.** All hearings are closed to the public. The goal of the hearing process is to ensure basic fairness to all participants and to insure that the rules are applied equally to all persons in similar circumstances.
- 5.** Witnesses, who are determined to have relevant information, may make statements at Conduct Committee hearings. Accused students who wish to bring witnesses must discuss their relevance with the Director of Residence Life and Student Conduct at least

24 hours prior to the hearing. In administrative hearings, the Hearing Officer will contact witnesses and meet with them to obtain information relevant to the outcome of the case, as needed.

6. Additional information provided during any conduct-related hearing may lead to an adaptation of the charges against a student.
7. The Hearing Officer or Conduct Committee will provide written notification of the outcome of the case, along with a rationale for why the student was found “responsible” or “not responsible” for violations of College policies, and what sanctions are imposed as a result.

In any conduct hearing the session should provide ample opportunities for:

- a. The alleged violator to freely present their version of the event.
- b. Both sides to have an opportunity to make summary statements to the Conduct Board/Hearing Officer, if applicable.

### **Role of the Advisor**

If students so desire, they may seek the help of one single advisor of their choice in conduct proceedings. This can be but is not by default the student's academic advisor or coach. Students may request the assistance of the Advisor in reviewing information before a conduct hearing and may wish to invite the Advisor to be present during a conduct meeting. Advisors are not automatically included in Conduct Committee proceedings. It is the accused student's responsibility to invite an advisor to participate.

Advisors, may be given access to conduct records, if granted that access in writing by the involved student. Advisors do not participate in the decision-making process of the Conduct Committee hearing. The Advisor may assist the student in preparing for a Conduct Committee meeting; however, the burden of presentation of information at the meeting rests with the accused student. The Advisor may sit through the Conduct Committee meeting but will not be called upon to make a presentation. Students are reminded that an Advisor can serve in an important support role in a Conduct Committee proceeding and are urged to use their help in this manner. More details on this topic can be obtained by meeting with the Director of Residence Life and Student Conduct.

### **Suspension in Lieu of a Hearing**

The Dean of Students or the Director of Residence Life and Student Conduct may suspend or expel a student without a hearing if there is reasonable cause to do so.

### **Administrative Hearing Officer**

An Administrative Hearing Officer serves as a conduct agent of the College. The Director of Residence Life and Student Conduct may appoint individual college administrators to serve in the capacity of Administrative Hearing Officers. Individuals serving in such a position may make conduct decisions and impose sanctions up to conduct probation (as hereinafter defined). Administrative Hearing Officers are annually appointed by the Director of Residence Life and Student Conduct.

Revised 8/1/18

### **Common Conduct Sanctions**

The level of sanction will depend on the nature of the violation and will also take into account the individual's conduct history. The following list of sanctions is not exhaustive. Conduct agents may impose any single sanction, a combination of sanctions, or any not prohibited by State and Federal Law.

1. **Judicial Educator module**
2. **Housing relocation**
3. **Housing removal**
4. **Housing probation**
5. **Creation of an educational program on a specific topic**
6. **Warning**
7. **Disciplinary probation**
8. **Suspension**
9. **Expulsion**
10. **Deferred Suspension**
11. **Restriction from places, activities, events, or things**
12. **Restitution through community Service**
13. **Fines**
14. **Referrals to on-campus or local health service providers**
15. **Loss of privileges**
16. **Loss of parking**
17. **No contact orders**
18. **Mandated counseling**
19. **Educational essay**
20. **Random drug testing**
21. **Transcript notation**

### **Transcript Notation for Violent Offenses**

Transcript Notation Process. As required by the Read Bill effective October 5, 2015 all colleges and universities in New York are required to denote conduct outcomes on academic transcripts of students found in violation of any policy violation that is deemed a violent offense as defined by CLERY reportable crimes. Transcript notations are applied at the conclusion of the conduct proceedings and appeals processes. The following are examples of language that may appear on an academic transcript:

- “Expelled after a finding of responsibility for a code of conduct violation”
- “Suspended after a finding of responsibility for a code of conduct violation”
- “Withdrew with conduct charges pending”

Transcript notations for a student suspended or who choose to withdraw pending conduct investigation will remain on a transcript for a minimum of one year. After one year's time, a student may request to have the transcript notation removed by filing an appeal with the Dean of Students or Vice President of Enrollment Management. If an appeal is not filed, the notation will be removed after seven years.

### **Transcript Notation Appeals Process**

To file an appeal to have the transcript notation removed from an academic transcript a student must submit in writing to the Dean of Students or Vice President of Enrollment Management the following:

- A statement describing the incident and what was learned over your time away from the institution.

- Documentation of successful completion of an in/out patient program or therapy to address the conduct.
- Students who withdrew from the College prior to resolution of the conduct process will need to fulfill the sanctions found in absentia before being permitted to appeal.
- Transcript notations for students expelled are permanent and cannot be appealed.

Appeals will be read and a decision will be provided in writing within thirty days of submission.

### **Withdrawal Prior to Conduct Case Adjudication**

A student who withdraws from the institution prior to an outcome of a pending conduct case should understand that the investigation will continue without their participation. A student can still be found responsible in their absence. Withdrawal from the institution will not protect a student from possible criminal or civil action(s).

### **Sanction Appeals Process**

A request for an appeal must be submitted in writing within three business days of the outcome notification. The request for an appeal must clearly state the grounds on which an appeal is being requested and shall contain all appropriate supporting information to be considered as defined below.

### **Requests for an appeal may only be filed on the following grounds:**

1. That the initial hearing body substantially failed to observe the procedural requirements of the *Student Code of Conduct* and such failure had an adverse effect on the outcome.
2. New evidence that significantly alters the findings of fact, that was previously unknown to the respondent, has been discovered or verified and is now available during the appeal process.

A request for an appeal of decisions and sanctions imposed by an Administrative Hearing Officers are made to the Director of Residence Life and Student Conduct. Requests for an appeal of decisions and sanctions imposed by the Director of Residence Life and Student Conduct or the College's Conduct Committee are made to the Dean of Students, unless otherwise noted. The results of the request will be sent in writing to the student within three business days of the date of the appeal. In instances when a decision to process an appeal request cannot be made within three business days, notification will be sent to the requestor.

When a request for an appeal is submitted, the Director of Residence Life and Student Conduct or the Dean of Students will determine if the request meets the threshold for an appeal. The default position is "No", thus the burden rests with the requestor to substantiate that the grounds for an appeal exist. When the request for an appeal is made, the hearing officer and/or conduct committee that heard the case and imposed the sanction will be notified of the appeal and have the ability to respond to the claim they failed to follow the procedural requirements, or that there is new evidence available that was previously unavailable. The hearing officer/conduct committee will conclude whether or not the new information presented would have impacted their finding of the outcome. Based on this information, the decision to accept or deny the request for an appeal can be made. If accepted, the Director of Residence Life and Student

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Conduct or Dean of Students may choose to uphold the decision of the previous hearing body, adjust the initial sanction, or remand the case back to the initial hearing body for a new investigation, a new hearing, or to make a new decision on the sanction.

The Director of Residence Life and Student Conduct or the Dean of Students, or designee, when acting as the appeal administrator, is authorized to lessen or increase the sanction, dismiss the appeal, overturn the action of the initial hearing body, or affirm the actions of the initial hearing body. All appellate decisions are final. Although a request to appeal a conduct sanction can be submitted as noted above, the sanction must be followed until such time as a response to the appeal is decided.

### **Interim Actions and Request for Appeals**

Students documented as being involved in a potential violation of the *Code of Conduct* may be subject to an Interim Action. An interim action is a decision by an Administrative Hearing Officer or the Director of Residence Life and Student Conduct that limits or restricts a student's ability to participate in College functions to stop and prevent future incidences from occurring, and includes but is not limited to contact restrictions with other students, room changes, and removal from the College campus without the ability to attend College functions. Interim actions remain in place and must be followed until the outcome of an Administrative or Conduct Hearing determines an appropriate way to proceed. Students will be notified of an interim action in writing, which will include rationale for why it is in place.

If a student feels an interim action has been unnecessarily put in place they may request for an appeal the rationale behind the decision in writing, to the Director of Residence Life and Student Conduct within two business days of notification of the interim action. In situations where the Director of Residence Life and Student Conduct assigns the interim actions, appeals of the rationale for the decision should be made to the Dean of Students. Please note: this appeal is not an appeal of the allegations against a student, but only of the rationale given for an interim action. A response or alterations to the appeal of interim actions will be given in writing within 3 business days of the receipt of the appeal, or notification of a delay in the process will be sent to the requestor.

### **Academic Dishonesty**

Honesty is essential to the proper functioning of an academic community and is the responsibility of each individual member. Therefore, this academic community must establish and enforce rules governing violations of the principles of academic honesty.

### **Definition and Examples of Academic Dishonesty**

Academic dishonesty is any treatment of, or representation of work as if one were fully responsible for it, when it is in fact the work of another or work in which one has received unacknowledged assistance from others. Academic dishonesty is also any collusion or cooperation in the academically dishonest activities of someone else; an accomplice in academic dishonesty is also guilty of academic dishonesty and subject to the same sanctions.

Academic dishonesty is a serious violation that is counter to the purposes and aims of Elmira College. Ignorance of what constitutes academic dishonesty is no excuse for violating the policy.

**Examples:**

- Submitting any fraudulent or plagiarized academic work, or knowingly cooperating in such activity. Specific examples include, but are not limited to:
- Verbatim use of a quotation without quotation marks.
- The use of another person's idea or work in one's own work without acknowledging its use.
- Submission of a paper prepared by another person as one's own work.
- Submission of the same piece of work (or significant portion thereof) for credit in more than one course without the approval of all instructors.
- Knowingly providing work to another person for submission as his or her own work.
- Materials plagiarized from the Internet.
- Giving or receiving answers and-or using or knowingly providing any materials pertinent to an examination without the permission of the instructor.
- Stealing, manipulating, or interfering with any academic work of another student.
- Falsification of attendance at any event required for a course.

**I. Procedure for Reporting Alleged Incidents of Academic Dishonesty**

- a. When academic dishonesty is suspected, the instructor shall attempt to ascertain the facts and meet with the accused student(s).
- b. If the instructor believes that academic dishonesty has occurred, a written report of the incident shall be made, with one copy for the student and one for the Provost.
  1. The instructor's report shall indicate whether the student admits or denies responsibility for the incident; it shall be accompanied by all relevant information (i.e., crib notes, copy of plagiarized materials, exams, statements of witnesses, etc.) and summarize the circumstances surrounding the incident.
  2. The instructor's report shall indicate what sanctions will apply regarding the assignment of grade (see III below) and status in the course. The instructor may also recommend that further sanctions be considered for imposition by the Conduct Committee such as placement of the student on conduct probation for up to one year, removal from academic honors such as the Dean's List, the list of Honors Scholars, and from the Honors Program, suspension or loss of merit scholarship, or review by the Conduct Committee (as described below) for possible suspension or dismissal from the College.

**II. Assignment of Grade When Academic Dishonesty is Involved**

- a. Should the course end before an instructor can meet with the student(s) to reach a decision on dishonesty, or before the appeal process is completed, an "I" shall be assigned for the course.
- b. A grade of "F" may be assigned for a course in which academic dishonesty has been substantiated, but an instructor may also assign a zero ("0") to the piece of work, assignment, or exam in question, in which case the appropriate course grade may be

assigned. The student may be asked to redo the assignment or retake an exam if the circumstances warrant, in which case, an “I” would be the appropriate grade.

- c. When the instructor believes that academic dishonesty has taken place but the student denies the allegation, the student should be allowed to continue in the course without prejudice, pending appeal.

### **Appeal and Hearing Processes**

- a. If a student disagrees with the instructor’s determination of dishonesty or appropriate sanctions, the student may appeal in writing to the Provost.
- b. The Provost or his designee shall review the instructor’s report and the student’s written appeal. He may consult with the parties involved and collect other relevant material. He will provide copies of any added materials to the student, instructor, and Conduct Committee.
- c. The Provost or his designee shall inform the student about the Conduct Committee process which permits both the student and the instructor to present materials relevant to the complaint and to call and question individuals before the committee.
- d. The Conduct Committee shall be the final route of appeal for the student who disagrees with the instructor in a case involving academic dishonesty.
- e. The student has the right to appeal the Committee decision as outlined in Tier IV of the Conduct System section of the *Student Handbook*.

### **III. Documentation Concerning a Case of Academic Dishonesty**

- a. In the event that a student is found not responsible for academic dishonesty, all documents concerning the case shall be destroyed.
- b. In the event that a student is found responsible and sanctions applied, the documents shall remain on file in the Office of the Provost for six years after a dismissed student leaves the College, or until the student graduates.
- c. The Provost shall maintain a list of the students for whom academic dishonesty was determined.
- d. In the event of a second substantiated charge, the Provost or his designee may refer the matter to the College Conduct Committee. Sanctions up to and including suspension or expulsion could be applied.

## **Policy Against Sex and Gender Discrimination and Sexual and Other Misconduct**

### **I. Overview and Policy Summary**

As an educational institution, Elmira College is committed to promoting a campus environment where sex and gender discrimination, including sexual harassment, sexual assault, and other inappropriate sexual contact, as well as dating violence, domestic violence and stalking, where it impacts or has the potential to impact the educational or employment environment of any member of the College community (collectively referenced for purposes of this policy as “Misconduct”) is not tolerated, and where survivors of Misconduct of all kinds are

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provided with support and avenues of redress. Many activities prohibited by this policy are unlawful, and all are antithetical to the mission of the College. Elmira College will take reasonable and appropriate remedial action to prevent Misconduct, eliminate a hostile environment, prevent its recurrence, and correct its discriminatory effects on the complainant and others.

Elmira's process to address cases of alleged Misconduct is designed to:

- Consider the rights of the complainant, the rights of the respondent, the safety of the community, and applicable laws and College policies;
- Conduct a timely, fair, impartial, and equitable investigation and adjudication process with thoroughness and respect for all involved parties;
- Protect the privacy of all parties to the extent practical, while balancing the need to perform an investigation, follow the procedures outlined, comply with applicable law, and maintain campus safety;
- Hold those found to have violated Elmira College policies accountable for their actions and provide appropriate remedies to address the effects of Misconduct on the complainant and others.

As a recipient of federal funds, Elmira College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. & 1681 et seq., which prohibits discrimination on the basis of sex in education program or activities. Pursuant to the Violence Against Women Act ("VAWA"), the College also prohibits domestic/dating violence and stalking where it impacts or has the potential to impact the educational or employment environment of a College community member. The College will advise complainants of their rights under Title IX and will take steps necessary to prevent harassment and to correct its discriminatory effects, as appropriate.

Misconduct, as defined in this policy, can violate Title IX and/or the VAWA. In compliance with Title IX and VAWA, the College provides a procedure for reporting, investigating, and adjudicating Misconduct.

This policy applies to all students, faculty, and staff of Elmira College. This policy applies to conduct on-campus and in connection with any College-sponsored program or activity, regardless of where it occurs. Additionally, off-campus conduct may violate this policy if the conduct creates a threatening or uncomfortable work or learning environment on Elmira's campus or within any College program, or if the incident causes concern for the safety or security of the College's campus. Non-community members (*e.g.*, alumni, family of students, vendors, etc.) visiting campus or participating in any College program or activity are expected to abide by the behavioral expectations in this policy.

Members of the campus community who experience any form of Misconduct discussed in this policy should contact one of the persons/offices identified in this policy for assistance. Some of these resources can provide confidential assistance while others will have a reporting obligation. You should carefully consider which resource you want to choose, and may choose both. These resources can assist you in recovering from the experience and in deciding among options that may be available, such as the criminal justice system and/or the College investigation and disciplinary process as described in this policy.

Any College community member who has been the victim of misconduct has the right to make a report to Campus Safety or one of the College's Responsible Administrators listed

below, local law enforcement, and/or the New York State Police, or choose not to report. If reported to the College under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from the College. A Students' Bill of Rights for cases involving sexual assault, domestic violence, dating violence or stalking is attached at the end of this policy.

## **II. Reporting to a Responsible Administrator**

Any Elmira student, staff member, or faculty member who wishes to report a formal complaint of Misconduct against a member of the Elmira community may do so by contacting Campus Safety, the Director of Residence Life and Student Conduct, the Dean of Students, the Associate Dean of Students, the Director of Human Resources, the Vice President of Enrollment Management, , or the Title IX Coordinator. These individuals all constitute Responsible Administrators under this policy and the impact of reporting to any of them is explained below.

**Title IX Coordinator –Karen Johnson- McGraw Hall Room 114- 607-735-1827- [kajohnson@elmira.edu](mailto:kajohnson@elmira.edu)**  
**Vice President of Enrollment Management – Chris Coons -Admissions House 855 College Ave - 607-735-1806 – [ccoons@elmira.edu](mailto:ccoons@elmira.edu)**  
**Dean of Students – Brandon Dawson- Campus Center - 607-735-1816 –[bdawson@elmira.edu](mailto:bdawson@elmira.edu)**  
**Director of Campus Safety – Steve Vann – Tompkins Hall- 607-735-1777 – [svann@elmira.edu](mailto:svann@elmira.edu)**  
**Director of Residence Life and Student Conduct – Nathan Friesema – Meier Hall - 607-735-1821- [nfriesema@elmira.edu](mailto:nfriesema@elmira.edu)**  
**[jcarpenter@elmira.edu](mailto:jcarpenter@elmira.edu)**  
**[kmurphy@elmira.edu](mailto:kmurphy@elmira.edu)**

These individuals have been trained to receive and respond to allegations of violations of this policy. Complaints can be made by those who have been the victim of a violation of this policy, by a third party on a victim's behalf or anonymously.

While certain other employees may also have a reporting obligation, if a complaint is made to anyone other than the Responsible Administrators listed above, the complainant risks the possibility that it will not come to the attention of the proper College officials and may, therefore, not be acted upon. For purposes of this policy, Faculty are NOT considered Responsible Administrators. In addition, unless a report is made to someone listed as a Confidential Resource, confidentiality cannot be assured.

Upon receiving a report, the Responsible Administrator to whom the report is made will discuss with the complainant available avenues and options. Options may include disciplinary action against the accused and remedial actions to ameliorate or correct the effects of the Misconduct. Other options may include interim changes in academic, residential, or working arrangements to separate the complainant and the accused or other measures to enhance the complainant's safety, such as escorts or increased monitoring of an area. The College will review the facts and circumstances of each case, as well the complainant's wishes, in deciding whether and what steps are reasonable and appropriate.

A Responsible Administrator will share all information reported to him/her with the Title IX Coordinator and may share with other school administrators, as needed. A Responsible Administrator will similarly report Misconduct that he or she observes firsthand or learns about in any other manner.

**A Responsible Administrator is not a confidential resource.** Although a person may disclose information concerning an incident to a Responsible Administrator and request that no investigation or disciplinary action be taken, the College may decide not to honor that request, depending on the circumstances. If a complainant requests that his/her identity be kept confidential but that an investigation and review for disciplinary action occur, the College's decision will depend on whether the information provided by the complainant can be acted upon without revealing the complainant's identity. If a complainant requests that no action be taken against the perpetrator, the College will consider the seriousness of the offense, whether there was a single perpetrator or multiple perpetrators, whether the circumstances suggest a risk to the campus community, and similar considerations. The College retains the right to act upon any information that comes to its attention. Requests for confidentiality will be decided by the Title IX Coordinator. Even if a complainant requests and/or is granted confidentiality, he or she may still have access to appropriate remedies on an interim or other basis. Even Elmira College offices and employees who cannot guarantee confidentiality will maintain a complainant's privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

If an anonymous report is made to a Responsible Administrator, it will be investigated and appropriate action taken, to the extent practicable. Anonymity may impact the action the College may be able to undertake in response to the complaint. In all cases, the College will take appropriate steps to protect against retaliation.

### **III. Confidential Resources**

Students or other community members who are not sure whether they want to make a formal complaint can still seek help from the confidential resources listed in this section. Contacting any of these does not mean that the student must file an official report with the College or report the Misconduct to law enforcement, and in fact reporting to these confidential resources does not constitute reporting to the College (as a result, action by the College may not be taken) or to law enforcement. These resources are provided to offer non-judgmental support and information to help an individual decide what is best for him or her as he or she recovers.

#### **1. On Campus Confidential Resources**

Reports to the Counselors and Registered Nurses in the Clarke Health Center are confidential by law. As such, personally identifiable information should not be subject to disclosure under any circumstances. On-campus confidential services can be reached at:

- 1. Clarke Health Center –607-735-1750**
- 2. Counseling Center- 607-735-1830**

Health and counseling services noted above are available to students free of charge. Confidential resources can provide a member of the campus community with information on medical and counseling services that may be available; academic, housing, and other support services that may be available (although some services may not be available if an individual wishes to maintain complete confidentiality); information regarding and assistance with the

filing of formal complaints under this policy; and/or information regarding and assistance with contacting law enforcement.

A report to a Confidential Resource is not a report to the College and will not result in an investigation or disciplinary action.

In addition, students or other members of the campus community may contact these resources on an anonymous basis, although anonymity may impact the assistance that can be provided.

## 2. Off-Campus Confidential Resources

There are also confidential off-campus resources which may be available to you; contacting the resources below does not constitute notifying the College. These resources include:

- Sexual Assault Resource Center (SAR) – 888-810-0093 – [sarcst.org](http://sarcst.org) – [sarcst@ppsfl.org](mailto:sarcst@ppsfl.org)
- Arnot Ogden Medical Center – 607-737-9194 – [www.arnothealth.org/arnot-ogden-medical-center](http://www.arnothealth.org/arnot-ogden-medical-center)
- Saint Joseph’s Hospital – 607-737-7806 – [www.arnothealth.org/st-josephs-hospital](http://www.arnothealth.org/st-josephs-hospital)
- Chemung County Health Department – 607-737-2028 – [www.chemungcountyhealth.org](http://www.chemungcountyhealth.org)
- Planned Parenthood – 607-734-3313 – [www.plannedparenthood.org](http://www.plannedparenthood.org)
- Clinical Social Work and Counseling Services – 607-734-1447 – [www.cswcsfingerlakes.com](http://www.cswcsfingerlakes.com)
- Crisis Program – 607-737-5369 – [Chemung.ny.networkofcare.org/emergency-services](http://Chemung.ny.networkofcare.org/emergency-services)
- Suicide Hotline – 800-SUICIDE (734-2433)
- NYS Office of Victim Services – 1-800-247-8035

## IV. **Amnesty for Students**

The health and safety of every student at Elmira College is of utmost importance. Elmira College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Elmira College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to Elmira College officials or Campus Safety will not be subject to the College’s code of conduct action for violations of alcohol or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## V. **Protecting Students and Others Reporting Misconduct/Interim Measures**

Interim measures may be made by the College in an effort to immediately respond to a situation. When a student or other member of the campus community reports Misconduct to a Responsible Administrator, that Responsible Administrator will work with the Title IX Coordinator to make sure that the reporting individual is protected (such as against further misconduct). Where non-confidential reporting has occurred, the Title IX Coordinator will also consult with the reporting party regarding interim protective measures such as changes in College housing and/or academic schedules, transportation arrangements, removing the student’s information from the College directory, changes in work assignments, issuing a “no contact order,” or other measures to enhance the complainant’s safety, such as escorts or increased monitoring of an area. The College may also impose a suspension from the campus or part of

the campus pending the outcome of an investigation and disciplinary proceeding. The Title IX Coordinator in conjunction with the Vice President of Enrollment Management will enforce protective measures under College policy. Individuals who violate a “no contact order” or other interim measures implemented by the College may be subject to conduct charges.

Any party directly affected by a no contact order or other interim measure may, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of the no contact order or other interim measure, including potential modification or elimination of those measures. This request may be made by submitting a written request to the Title IX Coordinator, providing the basis for the request and submitting any evidence in support of the request. Upon receipt of such a request, the Title IX Coordinator will inform the other party of the request and allow the other party to respond, including submitting evidence if desired. This review process will occur as soon as possible, but generally no later than five business days after receipt of the request and the parties’ submission of any evidence.

## **VI. Definitions**

The learning and community living environment of Elmira College requires that individuals treat one another with respect, dignity, and fairness. In an intimate relationship, these values are of paramount importance. Sexually-related misconduct, which is a form of Misconduct defined by this policy, includes a broad range of behavior such as inappropriate physical touching, sexual exploitation, and sexual intercourse without consent and forms of sexual and/or interpersonal violence. Some forms of sexually-related misconduct may be a crime.

The College is committed to maintaining an environment that is free from sexual violence and in which the freedom to make individual choices regarding sexual behavior is respected by all. Sexual activity requires effective affirmative consent as defined below in this policy. Sexually-related misconduct by anyone is unacceptable and will be addressed in a timely fashion and with serious consequences by the College.

This policy and procedure are the College’s procedures required by Title IX and VAWA. This policy and procedure are designed to provide students charged with Misconduct with the ability to present their information while ensuring a reporting party’s protections under Title IX and VAWA, and providing prompt and equitable resolution.

**Sexually-related misconduct**, which is a form of Misconduct as defined by this policy, is a category of behavior that includes actual or attempted:

1. Sexual harassment
2. Sexual Assault (including non-consensual sexual contact and non-consensual sexual intercourse)
3. Sexual Exploitation

Sexually-related misconduct can occur between strangers or non-strangers, including people involved in an intimate or sexual relationship. Sexually-related misconduct can be committed by males or by females, and it can occur between people of the same or different sex. Sexual violence is a form of sexually-related misconduct. Any non-consensual sexual activity or contact violates this policy.

**Sexual Harassment** – See Policy on Harassment and Sexual Harassment for further information. [http://www.elmira.edu/campus/Offices\\_Resources/Student\\_Handbook.html](http://www.elmira.edu/campus/Offices_Resources/Student_Handbook.html)

**Sexual Assault** – Consistent with federal law, Elmira College defines sexual assault as including:

- **Non-Consensual Sexual Intercourse-** Sexual assaults of this type can be sub-defined as including:
  - 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, forcibly or without affirmative consent or where the victim is incapable of consent due to mental or physical incapacity.
  - Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- **Non-Consensual Sexual Contact:** Any intentional sexual touching, however slight, for purposes of sexual gratification, of the private body parts of another without affirmative consent. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing.

**Sexual Exploitation:** When, without affirmative consent, one takes sexual advantage of another. Examples of sexual exploitation include but are not limited to observing or recording others engaged in sexual or private activity (such as undressing or showering) without the consent of all involved; or taking intimate pictures of another but then distributing the pictures to others without the photographed person’s consent; acts of incest; engaging in sexual activity with another while knowingly infected with a sexually transmitted disease (STD) without informing the other person of such infection or exposing one’s genitals in non-consensual circumstances.

#### **Domestic Violence, Dating Violence, and Stalking**

Domestic violence, dating violence, and stalking, where it impacts or has the potential to impact the educational or employment environment of a College community member, is also prohibited by this Policy.

**Dating Violence** is physical violence (hitting, punching, kicking, etc.) or threats of violence or acts of physical intimidation or coercion committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

**Domestic Violence** is physical violence, threats of violence or acts of physical intimidation or coercion between spouses or former spouses, cohabitating romantic partners or individuals who were formerly cohabitating romantic partners, individuals who share a child in common, or others in a family relationship.

**Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Stalking behavior includes but is not limited to repeated, intentional following, surveilling or observing another; or using “spyware” or other electronic means to gain impermissible access to a person’s private information.

#### **Affirmative Consent**

Elmira expects that any sexual activity or contact will be based on mutual affirmative consent to the specific sexual activity or sexual contact. All references to consent in this policy will mean affirmative consent which is defined as follows:

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 act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent may be initially given but withdrawn at any time by expressing in words or actions that they no longer want the sexual act to continue. When consent is withdrawn or can no longer be given, sexual activity must stop.

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. In New York, a person under the age of 17 is incapable of giving consent to any sexual activity. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

**Complainant** – The term Complainant refers to the person making the complaint or report. That person is usually the victim of an alleged act of Misconduct or other violation of this policy, but may also be a third party

**Respondent** – The term respondent refers to the person alleged to have committed the alleged Misconduct or other violation of this policy.

## **VII. Formal Reporting, Investigation, and Disciplinary Procedures**

**Timing of Reports:** There is no time limit to invoking this policy in cases of alleged Misconduct. However, the passage of time may make effective responsive action difficult. Further, if the Respondent is no longer a member of the College community, the College's ability to respond may be limited. Therefore, complainants are encouraged to report alleged Misconduct as soon as possible in order to maximize the College's ability to respond promptly and effectively.

When the potential violator is a degree candidate, the complainant is encouraged to consult with the Office of the Registrar concerning the potential violator's intended date of graduation and to file a report in a timely manner in cases where authority over the student would otherwise be lost due to pending graduation. In no circumstances will the College permit an impending graduation to compromise its processes for resolution. The conferral of a degree may therefore be withheld, if necessary, until proper resolution of any Misconduct charges,

provided that any disciplinary proceedings will be scheduled for the earliest practicable date that can accommodate the students and their witnesses.

### **VIII. Retaliation**

It is a violation of College policy to retaliate against any person making a report of Misconduct or against any person cooperating in the investigation of (including testifying as a witness to) any allegation of Misconduct. The College will not only take steps to prevent retaliation but will take strong responsive action if retaliation occurs and anyone engaging in retaliation is subject to disciplinary action, up to and including expulsion/termination. Retaliation includes intimidation, threats, or harassment against any such reporting party or third party. Retaliation should be reported promptly to Title IX Coordinator and may result in disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of sexual misconduct.

### **IX. Standard of Proof**

The Department of Education's Office of Civil Rights has interpreted Title IX to require schools to evaluate reports of alleged sexual misconduct under a "preponderance of the evidence" standard and that is the standard adopted by this Policy in connection with all allegations of Misconduct. A preponderance of the evidence exists when a reasonable person, after a careful balancing of available information, would conclude that it is more likely than not that a violation has occurred and the individual accused is responsible for the violation.

### **X. Sanctions/Discipline**

A student found to have engaged in Misconduct is subject to a range of sanctions depending on the circumstances of each case. Those sanctions can include written warnings, educational programs, education assignment, mandatory referral to the Clarke Health Center (or other appropriate healthcare provider), a fine, suspension, expulsion, referral to other disciplinary bodies, and other sanctions as may be deemed reasonable by the College under the circumstances.

Any College employee or faculty member found to have engaged in Misconduct is subject to a range of discipline depending on the circumstances of each case. That discipline can include termination, referral to other disciplinary bodies, or other sanctions as may be deemed appropriate by the College.

For those crimes of violence that the College is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and an appeal, if any, shall include the following notation:

- "Expelled after a finding of responsibility for a code of conduct violation," or
- "Suspended after a finding of responsibility for a code of conduct violation," or
- "Withdrew with conduct charges pending"

Transcript notations for a student suspended for violating the College's Sexual Misconduct Policy or who chooses to withdraw pending conduct investigation will remain on a transcript for a minimum of one year. After one year's time, a student may request to have the transcript notation removed by submitting a written request to the Title IX Coordinator describing the incident and what was learned over your time away from the College. The Title IX Coordinator

shall consult with appropriate College officials to determine whether removal of the notation is appropriate under the circumstances. Transcript notations for expulsion shall not be removed.

### **XI. Related Misconduct**

In accordance with this Policy, if it is determined that a charged student or employee has engaged in other misconduct, including in addition to Misconduct as defined in this policy, appropriate discipline for that other misconduct may be imposed under this policy. All persons participating in any investigation under this policy, whether as parties to the proceedings or as witnesses, are expected to provide truthful information.

### **XII. Law Enforcement and Effect of Criminal Proceedings**

Because Misconduct, and especially sexually-related misconduct, may constitute both a violation of College policy and criminal activity, the College encourages persons to consider reporting alleged Misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. (If you have been a victim of sexual assault, it is important to preserve evidence. For example, in cases of rape or other forms of sexual assault, it is important not to shower, change clothes or even brush your hair, as physical evidence may be lost.) Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this policy, criminal investigations or reports are not determinative of whether Misconduct for purposes of this Policy has occurred. In other words, conduct may constitute Misconduct under this Policy even if it is not a crime or law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the local district attorney's office.

The filing of a report of Misconduct under this policy, even in connection with sexually-related misconduct, is independent of any criminal investigation or proceeding. The criminal process and the College's disciplinary processes are not mutually exclusive, meaning that an individual can either bring a complaint through the College or law enforcement, or both. Reporting to local law enforcement does not constitute filing a complaint under this policy, nor does filing a complaint under this policy constitute reporting to local law enforcement. Campus Safety can assist individuals in making a report of a crime to local law enforcement. Any internal investigation and/or hearing process conducted by Elmira College will be conducted concurrently with any criminal justice investigation and proceeding. However, in some cases the College may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation. Such delays will not last more than 10 days except when law enforcement authorities specifically request and justify a longer delay.

The Elmira Police Department, which can be reached at (607) 735-8600, can assist in filing a criminal complaint and in securing appropriate examination, including by a Sexual Assault Nurse Examiner. The New York State Police 24-Hour Sexual Assault Hotline, which can be reached at 1-(844) 845-7269, may also be of assistance in reporting an incident to law enforcement. Orders of protection and other forms of legal protection may be available to

individuals who have experienced or are threatened with violence by a College community member or other person. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter the College's property, and Elmira College will abide by a lawfully issued order of protection. Campus Safety, or other College officials, will, upon request, provide reasonable assistance to any member of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order, including providing that person with:

- a copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- assistance in contacting local law enforcement to affect an arrest for violating such an order of protection.

### **XIII. Procedures for Investigating and Resolving Alleged Violations of this Misconduct Policy**

1. The College's investigation and resolution of a complaint (excluding any appeal) will normally be completed within 60 calendar days. However, the nature of a complaint and/or extenuating circumstances (such as the time of the academic year, the timing of College breaks, the effect of concurrent criminal proceedings, etc.) may require an extension of that timeframe. In the event that the investigation and/or resolution exceed the timeframes in this policy, the Title IX Coordinator will notify both parties of any scheduling delays and the expected adjustment in the time frame.
2. The Complainant and Respondent will be permitted to have an advisor of their choice attend any investigatory interview/ meeting with him/her (at the party's own expense if the advisor is a paid advisor). Unless the matter involves a sexual assault, domestic or dating violence, or stalking, the advisor must be a non-attorney member of the campus community. An advisor's role is to consult with and support the party and may not disrupt or distract from the interview/meeting. The advisor is not permitted to speak or otherwise make any direct statements to the investigators or during any meetings. Each party is required to speak on their own behalf if he or she wishes to be heard and not through the advisor. Any advisor who fails to comply will be required to leave the meeting, and the meeting will proceed in the advisor's absence.
3. Mediation  
In some cases, a mediated resolution may be appropriate. This may be the case in instances of more minor acts of insensitivity or misunderstandings. Serious sanctions, such as suspension, expulsion or termination, are not possible as a result of the mediation process, but lesser sanctions may be agreed to. Mediation is not available in cases of sexual assault or other violence or where a student is complaining of conduct by an employee in a position of authority over that student.

A person who desires mediation should contact the Title IX Coordinator. Mediation must be agreed upon by both parties, and the Title IX Coordinator must agree that mediation is appropriate. The mediation must be conducted by a third-party; mediation between just the complainant and respondent is not acceptable. A campus mediator will begin mediation efforts promptly and will report to the Title IX Coordinator that the mediation occurred. At any time during the mediation process the complainant or the respondent has the right to terminate the process and proceed to an investigation.

The Title IX Coordinator must agree that the parties' mediated resolution is appropriate under the circumstances. If the parties reach agreement and this agreement is deemed appropriate, the mediation is considered successful. Both parties will sign a statement agreeing that the mediation was successful, and the matter will be considered resolved. If the mediation is unsuccessful, the complainant can proceed with a formal complaint. A copy of the signed statement will constitute the record of the mediation. If a party with obligations pursuant to a mediated resolution fails in his/her obligations, the other party may ask the College to enforce the terms of the resolution or may proceed with a formal complaint process.

4. Upon receipt of a complaint and a desire by the Complainant to move forward with an investigation, or a determination by the College to move forward in the absence of a participating complainant, the investigation process will begin. Investigators appointed by the Title IX Coordinator will contact the Complainant(s) and the Respondent(s) to meet and review the investigation procedures, and outline the basis for the complaint. The investigation will normally be conducted by a team consisting of two members of Title IX Investigation Team. In extenuating circumstances the College may utilize an external team solely or in conjunction with the internal investigation team. The investigation process generally includes interviewing the persons involved, including witnesses, and gathering and considering relevant evidence. The Complainant and Respondent will be given an equal opportunity to present separately information in the context of the investigation. . In unusual cases, it may be apparent that an investigation should not proceed. This may be the case if the complaint is not of a nature covered by this policy; where another policy or procedure is more appropriate; or where there is indisputable proof that the allegations are not true. If an investigation is not to proceed, the Complainant and Respondent will be so informed. That decision is not appealable. In most instances, both parties are advised to avoid unnecessary contact with the other and, in appropriate cases, an administrative "no contact" directive may be issued to the involved parties.

The Complainant and Respondent will have the right to have their own prior sexual history with persons other than the other party and their own mental health diagnosis and/or treatment excluded from the investigatory and disciplinary proceedings held under this policy.

Both the Complainant and the Respondent shall receive notice referencing the specific provision of this policy alleged to have been violated and the possible sanctions. This notice shall also include the date, time, location and factual allegations concerning the alleged violation.

The investigation team uses the preponderance of the evidence standard (i.e., it is more likely than not that a fact is true and/or that a violation of this policy occurred) in making its findings and recommendation.

The parties, upon submission of a written request to the Title IX Coordinator, may be permitted to review on campus information in the case file, subject to redaction permitted and/or required by law and consistent with College policy and applicable federal and state law, including the Family Educational Records Privacy Act. At the conclusion of the investigation, the investigation team will issue a written report of the evidence and their findings and recommended action to the person identified below.

**Student Respondent:** The Dean of Students will review the finding and recommendations of the investigatory team and make a final determination, including issuing appropriate sanctions. The Dean of Students may discuss the case and information provided with the investigatory team, with anyone interviewed as part of the investigation, or with any other person deemed relevant. Alternatively, the Dean of Students may request further investigation by the investigatory team.

**Faculty Respondent:** The Dean of Academic Affairs will review the findings and recommendations of the investigatory team and make a final determination, including issuing appropriate sanctions or referral to other procedures as may be required. The Dean may discuss the case and the information provided with the investigatory team, with anyone interviewed as part of the investigation, or with any other person deemed relevant. Alternatively, the Dean may request further investigation by the investigatory team.

**Other Employee Respondent:** The Director of Human Resources will review the findings and recommendations of the investigatory team and make a final determination, including issuing appropriate sanctions. The Director of Human Resources may discuss the case and the information provided with the investigatory team, with anyone interviewed as part of the investigation, or with any other person deemed relevant. Alternatively, the Director of Human Resources may request further investigation by the investigatory team.

**Vendor, visitor, or other non-student, non-employee Respondent:** The Director of Campus Safety or other College administrator (as designated by the Title IX Coordinator) will review the findings and recommendations of the investigatory team and make a final determination, including issuing appropriate sanctions. The Director may discuss the case and the information provided with the investigatory team, with anyone interviewed as part of the investigation, or with any other person deemed relevant. Alternatively, the Director may request further investigation by the investigatory team.

In all cases, the official reviewing the findings and recommendations may accept them, reject them, send the matter back for further consideration, or issue his/her own determination. Any determination is to be based on a preponderance of the evidence presented. Normally, the review of the investigatory report will be completed within 14 days of receipt, but this timeframe may be extended if necessary under the circumstances.

In any case where a student is a Respondent or Complainant, both parties will be permitted to submit a written impact statement to the Title IX Coordinator after a finding of responsibility for violation of this policy and prior to the determination of an appropriate sanction(s). The Title IX Coordinator will provide copies of any such written impact statements to the official responsible for making a determination regarding appropriate sanctions.

If a determination is made that a violation of this policy did not occur, no sanction(s) will be issued under this policy. However, the College retains the right to address inappropriate behavior through other applicable College personnel and student life policies and procedures.

5. Each party will be notified in writing, at or about the same time, of the results of any decision by the above identified persons. In cases where a student is a party, the final outcome letter shall include factual findings supporting the determination, the decision and sanction, if any, as well as the rationale for the decision and sanction. Any record of or information obtained during the proceedings shall be protected from public release until a final determination is made. A final determination is made under this policy when no appeal of the decision is sought, or in the event of an appeal, when the decision on appeal is communicated to the complainant and respondent. Any public release of the full and fair record of the proceedings shall be made in accordance with College policy and federal and state laws.

Either party may appeal in writing within 5 business days of the decision (except that a vendor, visitor, or other non-student, non-employee does not have a right of appeal.). Where the accused is a student, the appeal will be considered by a panel consisting of the Vice President of Enrollment Management and two other College officials appointed by the Title IX Coordinator. Where the accused is a faculty member, the appeal should be sent to the Provost; and where the accused is a non-faculty employee, the appeal should be sent to the Vice President of Finance and Administration.

Appeals will be permitted only for claims of procedural error (including issues relating to the adequacy of any investigation), new evidence which was not reasonably available at the time of the investigation and decision, or because any sanction imposed (or the failure to impose a sanction) is claimed to be inappropriate. All grounds for appeal must be set forth in the written appeal statement. On appeal, the designated person(s) reviewing the appeal may accept, reject, or modify any finding and/or sanction, or may return the matter for further consideration. The designated person(s) reviewing the appeal may also, as part of this appeal process, speak directly with the investigatory team, the initial decision-maker, or otherwise directly (or through a designee) seek additional information from the parties or witnesses, if considered necessary. A written decision regarding an appeal (which will be based on a preponderance of the evidence standard) will generally be issued within 10 days.

6. Regardless of whether discipline is imposed, the College may offer other, non-disciplinary remedies to the complainant.
7. At all steps of the process, College officials may consult with the College's legal counsel.

8. Rights of the Complainant and the Respondent.

a. Rights of the Complainant

When a member of the campus community has become the victim of an alleged act of Misconduct which violates this policy, the victim should expect that the conduct system/investigators shall respond in a caring, sensitive manner which allows the victim to utilize the policy's process unimpeded, while still maintaining the rights of the respondent person. The following rights shall be provided to victims of alleged offenses:

- The right to be fully informed of the applicable conduct codes and policies.
  - The right to have complaints of Misconduct responded to quickly and with sensitivity.
  - The right to preservation of confidentiality, to the extent possible and appropriate under the circumstances.
  - The right to be notified of available counseling, mental health or student services for victims, both on campus and in the community.
  - The right to be treated with dignity and respect by all persons involved in the investigatory and appeal process.
  - The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus public safety and local police.
  - The right NOT to be discouraged by College officials from reporting a crime, especially crimes of sexual assault/violence, to both on and off-campus authorities.
  - The right to have an advisor who, in cases which do not involve sexual assault, domestic/dating violence, or stalking, is a non-attorney member of the College community; this person has an advisory role only and may not directly participate in the investigatory/resolution process.
- The right to notification of options for and available assistance in changing academic, working, and living situations after an alleged incident, if so requested by the victim and if such changes are reasonably available (no charges or investigation, campus or criminal, need occur before this option is available).
- The right to request a campus physical restriction or “keep-away” order against the respondent.
- The right to NOT be subject to any type of retaliation. Violation of such instructions would constitute grounds for the College to take immediate and further action.
- The right to submit an appeal and receive a written response in the proscribed time frame.
- The right to participate in the investigatory/resolution process by means other than being in the same room with the respondent.
- The right to have the evidence presented be relevant, based in fact, and without prejudice, and the outcome of the complaint based solely on evidence presented during the investigatory/review process.
- The right to assert an objection to any member of the investigatory team or to any decision-maker under this policy, for reasons of demonstrated bias.
- The right to present relevant witnesses and evidence.
- The right to make a victim-impact statement and to have that statement considered in determining any sanction.

- The right to be informed in writing of the outcome and any sanctions resulting from the complaint, usually at or about the same time as the respondent.
- b. Rights of the Respondent
- When a member of the campus community has become the respondent of an alleged act of Misconduct which violates this policy, the respondent should expect that the conduct system shall respond in a caring, sensitive manner which allows the respondent to utilize the policy's process unimpeded, while still maintaining the rights of the complainant. The following rights shall be provided to respondent of the alleged offenses:
- The right to be advised of the nature of the allegations against him/her.
  - The right to be fully informed of the applicable conduct codes and policies.
    - The right to have complaints of Misconduct responded to quickly and with sensitivity.
    - The right to be presumed not in violation of College policies unless and until determined to be in violation under a preponderance of the evidence standard.
    - The right to preservation of confidentiality, to the extent possible and appropriate under the circumstances.
    - The right to waive the investigatory or review process by admitting responsibility. In these cases, the Dean of Students, Dean of Academic Affairs, or Director of Human Resources, as appropriate, may determine an appropriate sanction.
    - The right to be notified of available counseling, mental health, or student services available on campus.
    - The right to be treated with dignity and respect by all persons involved in the investigatory and appeal process.
    - The right to have an advisor who, in cases which do not involve sexual assault, domestic/dating violence, or stalking, is a non-attorney member of the College community; in all cases this person has an advisory role only and may not directly participate in the investigatory/resolution process.
  - The right to notification of options for and available assistance in changing academic working and living situations after an alleged incident, if so requested and if such changes are reasonably available.
  - The right to NOT be subject to any type of retaliation. Violation of such instructions would constitute grounds for the College to take immediate and further action.
  - The right to submit an appeal and receive a written response in the proscribed time frame.
  - The right to participate in the process by means other than being in the same room with the complainant.
  - The right to have the evidence be relevant, based in fact, and without prejudice, and the outcome of the complaint based solely on evidence presented during the investigatory/review process.
  - The right to assert an objection to any member of the investigatory team, or to any decision-maker under this policy, for reasons of demonstrated bias.
  - The right to present relevant witnesses and evidence.

- The right to make a statement and to have that statement considered in determining the outcome of the case.
  - The right to be informed in writing of the outcome and any sanctions resulting from the complaint, usually at or about the same time as the complainant.

9. Withdrawal prior to resolution of an open conduct case

A student who withdraws from the institution prior to an outcome of a pending conduct case should understand that the investigation will continue without their participation. A student can still be found responsible in their absence.

10. Resolution of Procedural Issues

In the event procedural issues arise under this policy which are not explicitly addressed, the Title IX Coordinator shall have the authority to resolve those issues.

**XIV. Public Awareness/Advocacy Events**

If a victim discloses actions constituting a violation of this policy through a public awareness event such as “Take Back the Night,” a candlelight vigil, a protest, a student organization or other event or forum, or other public event, Elmira is not obligated to begin an investigation. Elmira may, however, use the information to inform the need for additional education and prevention efforts.

**XV. Multiple Complainants/Respondents/Claims**

In cases where there are multiple complainants and/or multiple respondents, the College reserves the right to handle the cases individually or jointly. Further, in cases where there are allegations of a violation of this Policy and collateral allegations of other policy violations (e.g., an allegation of a sexual assault and minor property damage), the College reserves the right to have allegation(s) of violations of this Policy and the collateral allegation(s) investigated and adjudicated pursuant to this Procedure. In cases where the individual has more than one status with the College (such as a student who is also employed with the College, or any employee who takes courses at the College), the College will determine in its discretion which status is primary; in such a situation, sanctions imposed may include sanctions related to each status.

**XVI. Recordkeeping**

Records generated in connection with reports, investigations and resolutions are maintained in confidential files maintained by an appropriate office, which may be the Title IX Coordinator, the Dean of Students, Human Resources, and/or the Registrar (for records concerning disciplinary outcomes), and only those with a right and need to know are permitted access.

**XVII. Training**

Responsible Administrators, persons assigned as investigators, and individuals determining violations of this policy will receive annual training on relevant topics, including discrimination, harassment, sexual misconduct, stalking, domestic violence and dating violence, and how to conduct investigations and disciplinary proceedings that protect the safety and respectful treatment of all parties and promote accountability to the College community.

**XVIII. Academic Freedom**

Elmira College is an academic institution at which academic freedom is necessary and valued. The College will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

**XIX. Clery Act Compliance**

The College is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, the College will issue a timely warning to the campus. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/complainant will not be disclosed.

**XX. Coordination with Other Policies**

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable policy or process and to utilize that policy or process.

This policy does not apply to decisions relating to requests for reasonable accommodation due to a disability. Academic disability accommodations are handled by the Academic Accommodations Coordinator and pursuant to that office’s policies. Work-related disability accommodations are handled by the Human Resources Office and pursuant to that office’s policies.

**XXI. Designation of Authority**

Any College administrator or official who this policy empowers to act may delegate his/her authority to any other appropriate College official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a College official named in this policy from fulfilling his/her designated role.

**XXII. Policy Compliance**

Any person with a concern about the College’s handling of a particular matter should contact the College’s Title IX Coordinator, Karen Johnson– 607-753-1827.

The U.S. Department of Education, Office for Civil Rights is a federal agency responsible for ensuring compliance with Title IX. OCR may be contacted at 400 Maryland Avenue, SW, Washington, DC 20202-1100, (800) 421-3481.

**XXIII. Amendments**

This Policy may be amended, in writing, by the President with notification of Student Government.

**Students’ Bill of Rights In Cases Involving Sexual Assault, Domestic/Dating Violence, and Stalking**

All students have the right to:

Revised 8/1/18

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and or criminal justice process free from pressure by Elmira College;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the College, any student, the accused and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of Elmira;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of Elmira College.

### **Listing of Possible Sanctions**

The listing hereinafter is a complete list of sanctions that may be imposed as a result of being found “responsible” for a violation of the College’s policy against sex and gender discrimination and sexual and other misconduct:

- |   |   |
|---|---|
| <b>1. Judicial Educator module</b>                                | <b>12. Restitution through community Service</b>                    |
| <b>2. Housing relocation</b>                                      | <b>13. Fines</b>  |
| <b>3. Housing removal</b>   | <b>14. Referrals to on-campus or local health service providers</b> |
| <b>4. Housing probation</b>                                       | <b>15. Loss of privileges</b>                                       |
| <b>5. Creation of an educational program on a specific topic</b>  | <b>16. Loss of parking</b>  |
| <b>6. Warning</b>   | <b>17. No contact orders</b>  |
| <b>7. Disciplinary probation</b>                                  | <b>18. Mandated counseling</b>                                      |
| <b>8. Suspension</b>  | <b>19. Educational essay</b>  |
| <b>9. Expulsion</b>   | <b>20. Random drug testing</b>                                      |
| <b>10. Deferred Suspension</b>                                    | <b>21. Transcript notation</b>                                      |
| <b>11. Restriction from places, activities, events, or things</b> |   |