Non-Academic Disciplinary Procedures

REVISED September 1, 2016

Adopted April 26, 2005

I. General Provisions

A. Purpose
The University Non-Academic Disciplinary Procedures are designed to facilitate fact-finding and to review incidents involving violations of the University policies governing student conduct or behavior and other non-academic policy violations where the responding party is a student, including the Sexual Misconduct & Violence Policy. It is not intended to create an adversarial court-like proceeding.

B. Disciplinary Authority
1. Disciplinary authority is vested in the Vice President for Student Success as the designee of the President of the university.

2. The Non-Academic Disciplinary Procedures are administered by the Office of Student Conduct and Community Standards (SCCS). The Office ensures the fair and dutiful administration of the disciplinary process in the review of incidents involving violations of the policies governing student conduct or behavior.

C. Violation of Law/Off Campus Conduct
1. The university reserves the right to invoke its disciplinary procedures when a student of the university has been charged off-campus with a violation of a local, state, or federal law.

2. Students are subject to reasonable disciplinary action deemed appropriate, including suspension and expulsion, for breach of federal, state, or local laws or university rules or policies which occur off-campus when such conduct is likely to have an adverse effect on the university, on the educational process, or affects the student's suitability as a member of the academic community.

D. Standard of Review
All disciplinary actions will be determined using the Preponderance of the Evidence standard. This means that if it is determined that a policy violation was more likely than not to have occurred, the student will be held responsible and sanctioned accordingly.

II. Students’ Bill of Rights

All students have the right to:
1. Make a report to local law enforcement and/or state police;

2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;

4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;

5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;

6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;

7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;

8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;

9. Access to at least one level of appeal of a determination;

10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and

11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

III. Pre-determination Adjustments/Accommodations & University Sanctions
The University is committed to providing an environment where sensitivity, tolerance and respect are sustained for members of the university community and its neighbors. Imposed sanctions are intended to promote an environment in which good citizenship can flourish among and between students and other members of the university community.

There may be circumstances in which the university must take immediate action to protect the university community, prior to a formal hearing. Actions such as emergency suspension and/or removal from housing may be deemed necessary by a senior university official. See Section III.B for more detail.

A. General Provisions
1. The sanctions listed below are recognized by the university in holding students accountable for violations of the policies governing student conduct or behavior. It is understood that previous violations may be considered in determining sanctions.
2. Students are held responsible for the actions of their guests while on campus. Sanctions may be issued to the host when a guest is not a student of the university.

3. Students are strongly advised and encouraged to consult with the Student Ombuds for a neutral and confidential appraisal of their rights and responsibilities under the policies governing student conduct or behavior and the Non-Academic Disciplinary Procedures. Any student interested in learning more about the policies governing student conduct or behavior or Non-Academic Disciplinary procedures should contact Student Conduct and Community Standards.

4. Failure to comply with imposed sanctions subjects the student to further disciplinary action.

B. Emergency Suspension Authority
1. EMERGENCY SUSPENSION
The President of the university, or a university officer authorized by the President, may impose upon a student an immediate emergency suspension when, in the judgment of the President, such action appears necessary, for reasons relating to the safety and well-being of members of the university community, to prevent damage or theft of university property, and prevent disruption of the educational experience or in the judgment of the President, or designee, that such action appears necessary to deal with a continuing disturbance by a student(s), an interference by a student(s) with any university activity, or with the free movement of any member of the university community.

2. SCOPE OF SUSPENSION
Emergency suspension may be an academic suspension, in which case the student has no right to attend classes, to take exams, or to receive grades. Suspension may also apply to other student privileges including residing in university Residence Halls, attendance at and participation in university functions, admission to university premises, or any combination of the above, unless the student's presence or participation is explicitly authorized by the President or the President's designee. Suspension does not constitute termination of the student's matriculation in the university.

3. DURATION OF SUSPENSION
Emergency suspension may remain in effect until the student is informed of the outcome of the Disciplinary Review Hearing process. The suspension may be lifted earlier by action of the President or the President's designee. If a suspension is lifted, other sanctions can/will remain.

4. EXPEDITED HEARING/ DISCIPLINARY REVIEW PROCESS
A student on emergency suspension may request an expedited hearing before the Disciplinary Review Panel. The review panel will be scheduled in a timely manner.
C. Pre-determination Adjustments/Accommodations
After a complaint is filed but before the disciplinary hearings are completed, the university may take certain actions to minimize contact between the parties in order to minimize disruption to the parties’ educational pursuit while maintaining a safe campus. Such actions include:

- Change on-campus housing assignments or exploration of alternative housing
- Transfer affected student(s) to a different section when available, without academic penalty
- Determine feasibility of incompletes or a leave of absence
- Issue a “No Contact Order” and facilitate obtaining an order of protection or the equivalent from local authorities.

Affected student may submit an appeal of any adjustment/accommodation at any time during the related disciplinary proceedings.

D. Sanctions
1. VERBAL WARNING
Verbal notification to the student that repetition of the wrongful conduct may be cause for more severe sanctions, and a clear instruction to desist.

2. WRITTEN WARNING
Written notification to the student that continuation or repetition of the wrongful conduct may be cause for more severe disciplinary action. A copy of the written warning letter will be placed in the student's file.

3. DISCIPLINARY PROBATION
Written notification to the student that the student is in violation of the policies governing student conduct or behavior or university policy. Violation of the policies governing student conduct or behavior while on disciplinary probation may result in suspension or expulsion.

4. RESTRICTIONS
Denial of the use of certain university facilities or the right to participate in certain activities or privileges for a specific period of time.

5. RELOCATION OR SUSPENSION OF HOUSING PRIVILEGES
A student living in a residence hall may be subject to the restriction of guest privileges, entering academic, and/or administrative buildings. All residents should be aware that, as outlined in the Housing Contract and License Agreement, any student dismissed from the Residence Halls for disciplinary reasons is not entitled to a refund of their housing charges, including the deposit.

6. SUSPENSION
Partial or complete exclusion from class, exams, property, and functions of the university for a stated period of time. Suspension may require petition for readmission. A suspended student may be prohibited from accessing campus without expressed prior permission from
the university. Violation of the terms of suspension may result in expulsion. NOTE: Suspension as a result of violating the Sexual Misconduct and Violence Policy will result in a notation on the student’s transcript. See Section VI.

7. EXPULSION
Dismissal from the university. The student may not attend classes or take any examinations and must vacate university property by the effective date of expulsion. Readmission will not be considered. NOTE: Expulsion as a result of violating the Sexual Misconduct and Violence Policy will result in a notation on the student’s transcript. See Section VI.

E. Removing Barriers to Reporting
1. VICTIM/WITNESS AMNESTY
The health and safety of every student at The New School is of utmost importance. The university recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The New School strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to university officials. Students or bystanders who in good faith report instances of sexual violence/misconduct will not be subject to alcohol and/or drug use policy violations occurring around the time of the alleged incident(s).

2. GOOD SAMARITAN PROTOCOL
The Good Samaritan Protocol can provide immunity from campus disciplinary action in situations of a medical emergency related to alcohol or drug use.

Philosophy
It is imperative that someone call for medical assistance when an individual experiences severe intoxication or a serious injury after consuming alcohol or other drugs (AOD). Because these emergencies are potentially life-threatening, the Good Samaritan Protocol seeks to reduce barriers to seeking assistance.

The Good Samaritan Protocol represents the University's commitment to increasing the likelihood that community members will call for medical assistance when faced with an AOD emergency. The Good Samaritan Protocol also promotes education for individuals who receive emergency medical attention related to their own use of alcohol or other drugs in order to reduce the likelihood of future occurrences.

Protocol
Can eliminate disciplinary consequences for:
- Students and/or organizations seeking assistance
- The assisted individual
- Others involved
Applicable when the allegation involve:

- Use and possession of alcohol
- Use or possession of narcotics or any illegal or controlled substance
- Disorderly conduct

Does not preclude disciplinary action regarding other violations, such as:

- Causing or threatening physical harm
- Sexual violence
- Damage to property
- Fake identification
- Unlawful provision of alcohol or other drugs to others
- Harassment
- Major code violations

Stipulations

- The Good Samaritan Protocol will not be granted where there was no active call for medical assistance.
- In order for this protocol to apply, the assisted student must agree to timely completion of assigned alcohol and/or drug education activities, assessment, and/or treatment (assigned by University depending on the level of concern for student health and safety).
- This follow-up must be completed within a time frame determined by the University.
- Failure to complete recommended follow-up will normally result in revocation of disciplinary amnesty.
- Likewise, organizations involved in an incident must agree to take recommended steps to address concerns, such as educational follow up. Multiple incidents may result in revocation of an organization’s recognition.
- Information concerning students who utilize the Good Samaritan Protocol is confidential, but will be recorded for case management purposes.
- The Good Samaritan Protocol does not preclude students from being held responsible for other violations of the Code of Conduct.
- This policy does not protect students who repeatedly violate University policies. Once a student receives immunity from the Good Samaritan Protocol, future application of the Protocol is at the discretion of the University. The University also has the discretion to determine that this policy does not apply in more serious situations, including criminal possession of drugs, property damage, violence, etc.
- Does not prevent university staff from seizing any contraband or other evidence.

The following are not covered by the Good Samaritan Protocol:

- Students waiting until the police or other authority arrive before seeking assistance. The Good Samaritan Protocol applies only to those students or organizations who seek emergency medical assistance in connection with alcohol or drug overdose and does not apply to individuals experiencing an alcohol medical emergency who are
found by University employees (i.e., Administrative staff, residence life staff, faculty, etc.).

- Violations of the Code of Conduct other than the alcohol/drugs policy.
- Possession with the intent to distribute drugs.

**Good Samaritan includes collaboration with the following offices:**

- Office of Student Conduct and Community Standards
- Vice President of Student Success Office
- Student Housing and Residence Life
- Student Health Services
- Student Support and Crisis Management
- Campus Security

**Disclosure of Amnesty Incidents:**

The University may disclose amnesty incidents with the student’s consent. The University also may disclose an incident if a student is applying for a position within Student Housing and Residence Life, the Office of Student Conduct and Community Standards, Orientation, study abroad if an incident occurred within one year of application, or if the University has received subsequent alcohol or drug related incidents involving the student.

**IV. Initiation of Disciplinary Proceedings**

**A. Complaint Procedure**

1. **FILING AN INCIDENT REPORT**

An incident report is a detailed, written description of an alleged violation. Any member of the university community may report an alleged violation of the policies governing student conduct or behavior in writing to the Office of Student Conduct and Community Standards. Complaints should be filed as soon as possible; later filing impacts the ability to investigate. Incident report forms are available from Student Conduct and Community Standards, Student Housing and Residence Life and Campus Security.

2. **PRELIMINARY REVIEW OF COMPLAINT**

Upon receipt of the incident report, Student Conduct and Community Standards is authorized to conduct a preliminary review of the complaint by questioning persons thought to have knowledge of the particular incident, including the responding party. Student Conduct and Community Standards will notify the responding party of the complaint and provide the student with information about the procedures. If a person alleged to have violated the policies governing student conduct or behavior is questioned, the student must be informed that the student is being investigated and of the nature of the related incident.

3. **NOTIFICATION OF COMPLAINT**

If Student Conduct and Community Standards finds that there is sufficient information or basis to support the complaint, the responding party will be notified of the complaint in writing (by mail, certified mail, hand-delivered letter or email).
4. DISMISSAL OF A COMPLAINT
If Student Conduct and Community Standards finds insufficient information or basis to support the complaint, the Office is authorized to dismiss the complaint. The decision to dismiss a complaint by Student Conduct and Community Standards is final.

B. Review of Complaints
1. DISCIPLINARY REVIEW MEETING
After the student has been given notice of the complaint, Student Conduct and Community Standards may hold a disciplinary review meeting with the student alleged to have violated the policies governing student conduct or behavior and the person submitting the incident report, if necessary, to determine all the facts surrounding the incident. Student Conduct and Community Standards will meet with all parties on a one-on-one basis. Student Conduct and Community Standards may also meet with the alleged student without meeting with the person filing the complaint. Failure to respond and/or participate in either a Level I or Level II Review will result in a decision being made in the student's absence.

NOTE: No individual involved in the process other than the investigator or appeal officer may audio or video record any investigation or resolution meetings or other portions of the process without prior authorization from the Director.

2. LEVEL I REVIEW
(a.) If in the judgment of Student Conduct and Community Standards the nature of the alleged violation is unlikely to result in the suspension or expulsion of the student from the university, Student Conduct and Community Standards is authorized to review or adjudicate the matter.

(b.) Student Conduct and Community Standards, at its discretion, may refer incidents to the Office of the Vice President for Student Success.

3. LEVEL II REVIEW
(a.) If in the judgment of Student Conduct and Community Standards, the nature of the alleged violation could result in the suspension or expulsion of the student from the university, the Office will forward the matter to the Vice President for Student Success or their designee for review.

(b.) The Vice President or designee will review the complaint to determine whether or not emergency suspension is appropriate or necessary. The Vice President may decide that due to the nature of the incident, the Disciplinary Review Panel is required. If it is determined that either emergency suspension is appropriate or necessary, the process outlined in Section II.B will be followed. Student Conduct and Community Standards will notify the responding party of the date, time, and location of the panel review.
(c.) The student has a right to review the file with a support person and/or attorney. The procedures to be used in reviewing the matter will be determined by the Disciplinary Review Panel. The responding party will be given reasonable opportunity to comply with the process.

(d.) If the responding party accepts responsibility for violating the Code, the student may waive the disciplinary review by the Disciplinary Review Panel. In which case the Vice President or their designee will review the complaint and make a determination of responsibility and sanctioning, if appropriate.

(e.) If the matter is referred to a Disciplinary Review Panel for its review, the Panel shall meet and review the complaint. The Panel will make a determination of responsibility and a recommendation of sanction(s), which will be sent to the Assistant Vice President for Student Equity & Access. The Assistant Vice President for Student Equity & Access will review the sanctions for appropriateness to findings and communicate the outcome to the responding party. If the allegations fall under the Sexual Misconduct and Violence Policy, all parties will be notified of the outcome and have the opportunity to appeal.

4. The Disciplinary Review Panel will consist of five (5) members of the university community to be selected by the Vice President for Student Success or their designee in consultation with the Deans of the various academic divisions. There will be every attempt to have the panel comprised of at least one faculty member, one staff, and one student. In addition, the faculty member and student shall not be from an academic program of any of the parties involved.

Students may bring a support persons. Support persons may not participate or intervene in the review process.

V. Appeal Process

A. General Provisions
1. Students are responsible for strict adherence to all deadlines and procedures for the filing of appeals.

2. No new information shall be considered on an appeal.

3. Documents filed in an appeal shall constitute a part of the record.

4. All documents relating to the proceedings from which the student is appealing shall be available to the Vice President for Student Success or their designee.

B. Grounds for Appeal
1. A decision may be appealed if it can be clearly and specifically demonstrated that sufficient grounds exists to show that the sanctioned student was denied a fair review.

2. Sanctions may be appealed when it can be specifically demonstrated that there is a flagrant
discrepancy between the infraction and the imposed sanctions.

3. Sanctions may be appealed if they cause undue hardship on the student's ability to continue their course of study. NOTE: This ground of appeal is not available for students found to be responsible under the Sexual Misconduct and Violence Policy

C. Timing for Appeals
1. Once review proceedings are completed and a sanction imposed, the sanctioned student has the right to appeal on the grounds listed in Section IV. B. In the case of an alleged violation of the Sexual Misconduct and Violence Policy, all parties have the right to appeal on the ground IV.B. 1 and 2. Ground IV.B.3. is not available under the Sexual Misconduct and Violence Policy

2. Appeals must be filed in writing to the Assistant Vice President for Student Equity & Access for Level 1 violations or the Vice President for Student Success for Level 2 violations within ten (10) business days of receipt of a decision. Sanctions imposed will remain in effect pending the appeal. A request may be made to the Vice President for Student Success or their designee to delay implementation of the sanctions until the appeal is decided.

3. The appeal shall specify the basis of the reasons for appeal as stated in section IV.B and supporting facts.

4. Failure to file a timely written appeal shall constitute a waiver of any right to appeal.

5. All appeals will be responded to within a reasonable time frame.

6. For Level 2 appeals, the Vice President for Student Success, in consultation with Provost and the dean of the program for which the responding party is enrolled, will make the appeal decision.

7. The appeal determination is final.

VI. Transcript Notations

Students found responsible for a violation of Sexual Assault as defined in this policy or another “crime of violence” as defined by the Clery Act will receive a notation on their transcript of their suspension or expulsion from the university. Students who withdraw from the university while the investigation of a complaint of Sexual Misconduct or another “crime of violence” as defined by the Clery Act will receive a notation stating that the student withdrew with disciplinary action pending. A student may file an appeal in order to remove a transcript notation of suspension or expulsion by following the steps outlined in Section VII.

VII. Expungement

Students have the right to request that their disciplinary record(s) be expunged after completing their sanction. Students who wish for any violation(s) to be expunged need to go
to the Office of Student Conduct and Community Standards (SCCS) web page and fill out the online request form. Students will be required to submit a short statement explaining why the violations should be expunged and how they have proven themselves to be suitable members of the university community since the violation. Students may be required to meet with a representative from the office and students will be notified in writing as to the decision. Decisions made are final and are not subject to appeal. Generally requests for expungement will not be considered within the first academic year after the violation(s).

VIII. Student Organizations, Groups, Clubs & Athletic Teams

Student organizations, which include groups, clubs and athletic teams, shall be prohibited from engaging in, or authorizing its members to engage in, any actions which are considered violations of the policies governing student conduct or behavior.

A. Procedures
1. Student Conduct and Community Standards is authorized to investigate complaints against student organizations and, if necessary, charge the organization with violating the policies governing student conduct or behavior.

2. Charges will be served on the principal officer(s) of the organization. Officers must meet with Student Conduct and Community Standards in a timely manner, and the organization must respond in writing within five (5) school days of receipt of the notice.

3. The charged organization may request an extension in the response period. Such a request must be in writing and must be received by Student Conduct and Community Standards within five (5) school days of the receipt of the notice. The length of the extension will be determined by Student Conduct and Community Standards.

4. Failure to submit a timely response will constitute an admission of the allegations stated in the notice and may result in the imposition of sanctions.

5. Student Conduct and Community Standards may suspend the activities of the charged organization pending the review of the complaint.

6. Student Conduct and Community Standards will review the charges and response from the charged organization to determine whether or not the organization violated the policies governing student conduct or behavior. Where it has been found that the organization violated the policies governing student conduct or behavior, Student Conduct and Community Standards will determine the appropriate sanction.

B. Sanctions
1. Any student organization found in violation of the policies governing student conduct or behavior shall be subject to dissolution of the organization and revocation of their charter to operate. Student Conduct and Community Standards may impose a lesser sanction as deemed appropriate.
2. Disciplinary sanction of a student organization will not preclude disciplinary action for an individual student if he/she is specifically charged in the same incident. Charges against individual students will be adjudicated under the process as outlined in Section IV.

C. Appeals
The Vice President for Student Success or their designee shall hear appeals for the decisions made regarding student organizations using the procedures described in Section V.