

ARTICLE XV - STUDENTS*

Section 15.0. PREAMBLE.

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Student participation, responsibility, academic freedom, and due process are essential to the operation of the academic enterprise. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.

Freedom to learn and to explore major social, political, and economic issues are necessary adjuncts to student academic freedom, as is freedom from discrimination based on racial, ethnic, religious, sex, political, and economic differentiations.

Freedom to learn and freedom to teach are inseparable facets of academic freedom. The concomitant of this freedom is responsibility. If members of the academic community are to develop positively in their freedom; if these rights are to be secure, then students should exercise their freedom with responsibility.

Section 15.1. CONDUCT STANDARD DEFINED.

Each student enrolled or in attendance in any college, school or unit under the control of the board and every student organization, association, publication, club or chapter shall obey the laws of the city, state and nation, and the bylaws and resolutions of the board, and the policies, regulations, and orders of the college.

The faculty and student body at each college shall share equally the responsibility and the power to establish, subject to the approval of the board, more detailed rules of conduct and regulations in conformity with the general requirement of this article.

This regulatory power is limited by the right of students to the freedoms of speech, press, assembly and petition as applied to others in the academic community and to citizens generally.

Section 15.2. STUDENT ORGANIZATIONS.

- a. Any group of students may form an organization, association, club or chapter by filing with the duly elected student government organization of the college or school at which they are enrolled or in attendance and with an officer to be designated by the faculty of

the college or school at which they are enrolled or in attendance (1) the name and purposes of the organization, association, club or chapter, (2) the names and addresses of its president and secretary or other officers corresponding in function to president and secretary.

However, no group, organization or student publication with a program against the religion, race, ethnic origin or identification or sex of a particular group or which makes systematic attacks against the religion, race, ethnic origin or sex of a particular group shall receive support from any fees collected by the college or be permitted to organize or continue at any college or school. No organizations, military or semi-military in character, not connected with established college or school courses, shall be permitted without the authorization of the faculty and the duly elected student government and the board.

- b. Extra-curricular activities at each college or school shall be regulated by the duly elected student government organization to insure the effective conduct of such college or school as an institution of higher learning and for the prevention of activities which are hereafter proscribed or which violate the standards of conduct of the character set forth in bylaw 15.1. Such powers shall include:
 1. The power to charter or otherwise authorize teams (excluding intercollegiate athletics), publications, organizations, associations, clubs or chapters, and, when appropriate in the exercise of such regulatory power, the power to refuse, suspend or revoke any charter or other authorization for cause after hearing on notice.
 2. The power to delegate responsibility for the effective implementation of its regulatory functions hereunder to any officer or committee which it may appoint. Any aggrieved student or group whose charter or other authorization has been refused, suspended or revoked may appeal such adverse action by such officer or committee of student government to the duly elected student government. On appeal an aggrieved student or group shall be entitled to a hearing following the due process procedures as set forth in section 15.3. Following such hearing the duly elected student government shall have the authority to set aside, decrease or confirm the adverse action.
- c. Any person or organization affiliated with the college may file charges with an office of the dean of students** alleging that a student publication has systematically attacked the

religion, race, ethnic origin or sex of a particular group, or has otherwise contravened the laws of the city, state or nation, or any bylaw or resolution of the board, or any policy, regulation or order of the college, within a reasonable period of time after such occurrence. If the dean of students determines, after making such inquiries as he/she may deem appropriate, that the charges are substantial, he/she shall attempt to resolve the dispute, failing which he/she shall promptly submit the charges to the faculty-student disciplinary committee for disposition in accordance with the due process procedures of section 15.3. thereof.

If the committee sustains the charges or any part thereof against the student publication, the committee shall be empowered to (1) reprimand the publication, or (2) recommend to the appropriate funding bodies the withdrawal of budget funds. The funding body shall have the authority to implement fully, modify or overrule the recommendations.

- d. Each college shall establish a student elections review committee in consultation with the various student governments. The student elections review committee shall approve the election procedures and certify the results of elections for student governments, and student body referenda.
- e. Student government elections shall be scheduled and conducted, and newly elected student governments shall take office, in accordance with policies of the board, and implementing regulations.

Section 15.3. STUDENT DISCIPLINARY PROCEDURES.

Complaint Procedures:

- a. Any charge, accusation, or allegation which is to be presented against a student, and, which if proved, may subject a student to disciplinary action, must be submitted in writing in complete detail to the office of the dean of students promptly by the individual, organization or department making the charge.
- b. The chief student affairs officer of the college or his or her designee will conduct a preliminary investigation in order to determine whether disciplinary charges should be

preferred. The chief student affairs officer or his or her designee will advise the student of the charge(s) against him or her, consult with other parties who may be involved or who have information regarding the incident, and review other relevant evidence. Following this preliminary investigation, which shall be concluded within thirty (30) calendar days of the filing of the complaint, the chief student affairs officer or designee shall take one of the following actions:

- i. Dismiss the matter if there is no basis for the allegation(s) or the allegation(s) does not warrant disciplinary actions. The individuals involved shall be notified that the complaint has been dismissed;
- ii. Refer the matter to conciliation. If a matter is referred to conciliation the accused student shall receive a copy of the notice required pursuant to section 15.3.e. of this bylaw; or
- iii. Prefer formal disciplinary charges.

Conciliation Conference:

- c. The conciliation conference shall be conducted by the counselor in the office of the dean of students or a qualified staff or faculty member designated by the chief student affairs officer. The following procedures shall be in effect at this conference:
 1. An effort will be made to resolve the matter by mutual agreement.
 2. If an agreement is reached, the counselor shall report his/her recommendation to the chief student affairs officer for approval and, if approved, the complainant shall be notified.
 3. If no agreement is reached, or if the student fails to appear, the counselor shall refer the matter back to the chief student affairs officer who will prefer disciplinary charges.

4. The counselor is precluded from testifying in a college hearing regarding information received during the conciliation conference.

Notice of Hearing and Charges:

- d. Notice of the charge(s) and of the time and place of the hearing shall be personally delivered or sent by the chief student affairs officer of the college to the student at the address appearing on the records of the college, by registered or certified mail and by regular mail. The hearing shall be scheduled within a reasonable time following the filing of the charges or the conciliation conference. Notice of at least five business days shall be given to the student in advance of the hearing unless the student consents to an earlier hearing.
- e. The notice shall contain the following:
 1. A complete and itemized statement of the charge(s) being brought against the student including the rule, bylaw or regulation he/she is charged with violating, and the possible penalties for such violation.
 2. A statement that the student has the following rights:
 - i. to present his/her side of the story;
 - ii. to present witnesses and evidence on his/her behalf;
 - iii. to cross-examine witnesses presenting evidence against the student;
 - iv. to remain silent without assumption of guilt; and
 - v. to be represented by legal counsel or an advisor at the student's expense.
 3. A warning that anything the student says may be used against him/her at a non-college hearing.

Faculty-Student Disciplinary Committee Procedures:

- f. The following procedures shall apply at the hearing before the faculty-student disciplinary committee:
 1. The chairperson shall preside at the hearing. The chairperson shall inform the student of the charges, the hearing procedures and his or her rights.
 2. After informing the student of the charges, the hearing procedures, and his or her rights, the chairperson shall ask the student charged to plead guilty or not guilty. If the student pleads guilty, the student shall be given an opportunity to explain his/her actions before the committee. If the student pleads not guilty, the college shall present its case. At the conclusion of the college's case, the student may move to dismiss the charges. If the motion is denied by the committee the student shall be given an opportunity to present his or her defense.
 3. Prior to accepting testimony at the hearing, the chairperson shall rule on any motions questioning the impartiality of any committee member or the adequacy of the notice of the charge(s). Subsequent thereto, the chairperson may only rule on the sufficiency of the evidence and may exclude irrelevant, immaterial or unduly repetitive evidence. However, if either party wishes to question the impartiality of a committee member on the basis of evidence which was not previously available at the inception of the hearing, the chairperson may rule on such a motion. The chairperson shall exclude all persons who are to appear as witnesses, except the accused student.
 4. The college shall make a record of each fact-finding hearing by some means such as a stenographic transcript, a tape recording or the equivalent. A disciplined student is entitled upon request to a copy of such a transcript, tape or equivalent without cost.
 5. The student is entitled to a closed hearing but has the right to request an open public hearing. However, the chairperson has the right to hold a closed hearing when an open public hearing would adversely affect and be disruptive of the committee's normal operations.

6. The college bears the burden of proving the charge(s) by a preponderance of the evidence.
7. The role of the faculty-student disciplinary committee is to listen to the testimony, ask questions of the witnesses, review the testimony and evidence presented at the hearing and the papers filed by the parties and render a determination as to guilt or innocence. In the event the student is found guilty, the committee shall then determine the penalty to be imposed.
8. At the end of the fact-finding phase of the hearing, the student may introduce additional records, such as character references. The college may introduce a copy of the student's previous disciplinary record, where applicable, provided the student was shown a copy of the record prior to the commencement of the hearing. The disciplinary record shall be submitted to the committee in a sealed envelope and shall not be opened until after the committee has made its findings of fact. In the event the student has been determined to be guilty of the charge or charges the records and documents introduced by the student and the college shall be opened and used by the committee for dispositional purposes, i.e., to determine an appropriate penalty if the charges are sustained.
9. The committee shall deliberate in closed session. The committee's decision shall be based solely on the testimony and evidence presented at the hearing and the papers filed by the parties.
10. The student shall be sent a copy of the faculty-student disciplinary committee's decision within five days of the conclusion of the hearing. The decision shall be final subject to the student's right of appeal.
11. Where a student is represented by legal counsel the president of the college may request that a lawyer from the general counsel's office appear at the hearing to present the college's case.

Section 15.4. APPEALS.

An appeal from the decision of the faculty-student disciplinary committee may be made to the president who may confirm or decrease the penalty but not increase it. His/her decision shall be final except in the case of dismissals or suspension for more than one term. An appeal from a decision of dismissal or suspension for more than one term may be made to the appropriate committee of the board. Any appeal under this section shall be made in writing within fifteen days after the delivery of the decision appealed from. This requirement may be waived in a particular case for good cause by the president or board committees as the case may be. If the president is a party to the dispute, his/her functions with respect to an appeal shall be discharged by an official of the university to be appointed by the chancellor.

Section 15.5. COMMITTEE STRUCTURE.

- a. Each faculty-student disciplinary committee shall consist of two faculty members and two student members and a chairperson. A quorum shall consist of the chair and any two members. Hearings shall be scheduled at a convenient time and efforts shall be made to insure full student and faculty representation.
- b. The president shall select in consultation with the head of the appropriate campus governance body or where the president is the head of the governance body, its executive committee, three (3) members of the instructional staff of that college to receive training and to serve in rotation as chair of the disciplinary committee. If none of the chairpersons appointed from the campus can serve, the president, at his/her discretion, may request that a chairperson be selected by lottery from the entire group of chairpersons appointed by other colleges. The chairperson shall preside at all meetings of the faculty-student disciplinary meetings and decide and make all rulings for the committee. He/she shall not be a voting member of the committee but shall vote in the event of a tie.
- c. The faculty members shall be selected by lot from a panel of six elected annually by the appropriate faculty body from among the persons having faculty rank or faculty status. The student members shall be selected by lot from a panel of six elected annually in an election in which all students registered at the college shall be eligible to vote. In the

event that the student or faculty panel or both are not elected, or if more panel members are needed, the president shall have the duty to select the panel or panels which have not been elected. No individuals on the panel shall serve on the panel for more than two consecutive years.

- d. In the event that the chairperson cannot continue, the president shall appoint another chairperson. In the event that a student or faculty seat becomes vacant and it is necessary to fill the seat to continue the hearing, the seat shall be filled from the faculty or student panel by lottery.
- e. Persons who are to be participants in the hearings as witnesses or have been involved in preferring the charges or who may participate in the appeals procedures or any other person having a direct interest in the outcome of the hearing shall be disqualified from serving on the committee.

Section 15.6. SUSPENSION OR DISMISSAL.

The board reserves full power to dismiss or suspend a student, or suspend a student organization for conduct which impedes, obstructs, or interferes with the orderly and continuous administration and operation of any college, school, or unit of the university in the use of its facilities or in the achievement of its purposes as an educational institution.

The chancellor or chancellor's designee, a president or any dean may in emergency or extraordinary circumstances, temporarily suspend a student, or temporarily suspend the privileges of a student organization or group for cause, pending an early hearing as provided in bylaw section 15.3. to take place within not more than seven (7) school days. Prior to the commencement of a temporary suspension of a student, the college shall give such student oral or written notice of the charges against him/her and, if he/she denies them, the college shall forthwith give such student an informal oral explanation of the evidence supporting the charges and the student may present informally his/her explanation or theory of the matter. When a student's presence poses a continuing danger to person or property or an ongoing threat of disrupting the academic process, notice and opportunity for denial and explanation may follow suspension, but shall be given as soon as feasible thereafter.

Section 15.7. THE UNIVERSITY STUDENT SENATE.

There shall be a university student senate responsible, subject to the board, for the formulation of university-wide student policy relating to the academic status, role, rights and freedoms of the student. The authority and duties of the university student senate shall not extend to areas of interest which fall exclusively within the domain of the student governments of the constituent units of the university. Consistent with the authority of the board of trustees in accordance with the education law and the bylaws of the board of trustees, the university student senate shall make its own bylaws providing for the election of its own officers, the establishment of its own rules and procedures, for its internal administration and for such other matters as is necessary for its existence. The university student senate shall have the full rights and responsibilities accorded student organizations as provided in these bylaws. The delegates and alternate delegates to the university student senate shall be elected by their respective constituencies, or by their student governments from the elected members of the respective student governments.

Section 15.8. COLLEGE GOVERNANCE PLANS.

The provisions in a duly adopted college governance plan shall not be inconsistent with the provisions contained in this article.

* For graduate students at the Graduate Division, the President of the Graduate Division shall, insofar as practicable, establish procedures, consistent with this Article to implement the provisions thereof. The sections on student activity fees shall apply to the Graduate Division.

BOARD OF HIGHER EDUCATION RULES ON PUBLIC ORDER

The following resolution (sometimes called the Henderson Rules) was adopted for all units of the City University by the Board of Higher Education on June 23, 1969.

The tradition of the University as a sanctuary of academic freedom and center of informed discussion is an honored one, to be guarded vigilantly. The basic significance of that sanctuary lies in the protection of intellectual freedom: the rights of professors to teach, of scholars to engage in the advancement of knowledge, of students to learn and to express their views free from external pressures or interference. These freedoms can flourish only in an atmosphere of mutual respect, civility and trust among teachers and students, when members of the University community are willing to accept self-restraint and reciprocity as the condition upon which they share in its intellectual autonomy.

Academic freedom and the sanctuary of the University campus extend to all who share these aims and responsibilities. They cannot be invoked by those who would subordinate intellectual freedom to political ends or who would violate the norms of conduct established to protect that freedom. Against such offenders the University has the right, and indeed the obligation, to defend itself. We accordingly announce the following rules to be in effect at each of our colleges which are to be administered in accordance with the requirements of due process as provided in the Bylaws of the Board of Higher Education.

With respect to enforcement of these rules we note that the Bylaws of the Board of Higher Education provide that: The President with respect to his/her educational unit shall:

- a. Have the affirmative responsibility of conserving and enhancing the educational standards of the college and schools under his jurisdiction;
- b. Be the advisor and executive agent of the Board or his respective College Committee and as such shall have the immediate supervision with full discretionary power in carrying into effect the bylaws, resolutions and policies of the Board, the lawful resolutions of any

of its committees and the policies, programs and lawful resolutions of the several faculties;

- c. Exercise general superintendence over the concerns, offices, employees and students of his education unit.

A. Rules

1. A member of the academic community shall not intentionally obstruct and/or forcibly prevent others from the exercise of their rights. Nor shall he interfere with the institution's education processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.
2. Individuals are liable for failure to comply with lawful directions issued by representatives of the University/college when they are acting in their official capacities. Members of the academic community are required to show their identification cards when requested to do so by an official of the college.
3. Unauthorized occupancy of University/college facilities or blocking access to or from such areas is prohibited. Permission from appropriate college authorities must be obtained for removal, relocation and use of University/college equipment and/or supplies.
4. Theft from, or damage to, University/college premises or property, or theft of, or damage to, property of any person on University/ college premises is prohibited.
5. Each member of the academic community, or any invited guest, has the right to advocate his position without having to fear abuse-physical, verbal, or otherwise-from others supporting conflicting points of view. Members of the academic community, and other persons on the college grounds, shall not use language or take actions likely to provoke or encourage physical violence by demonstrators, those demonstrated against, or spectators.
6. Action may be taken against any and all persons who have no legitimate reason for their presence on any campus within the University/college, or whose presence on any such campus obstructs and/or forcibly prevents others from the exercise of their rights or

interferes with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.

7. Disorderly or indecent conduct on University/college-owned or controlled property is prohibited.
8. No individual shall have in his possession a rifle, shotgun or firearm or knowingly have in his possession any other dangerous instruments or material that can be used to inflict bodily harm on an individual or damage a building or the grounds of the University/college without the written authorization of such educational institution. Nor shall any individual have in his possession any other instrument or material which can be used and is intended to inflict bodily harm on any individual or damage upon a building or the grounds of the University/college.
9. An action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization is prohibited.
10. The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or other controlled substances, or as part of any University/college activities is prohibited. Employees of the University must also notify the College Personnel Director of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction.
11. The unlawful possession, use or distribution of alcohol by students or employees on University/college premises or as part of any University/college activities is prohibited.

B. Penalties

1. Any student engaging in any manner of conduct prohibited under Substantive Rules 1-11 shall be subject to the following range of sanctions as hereafter defined in the attached

Appendix: admonition, warning, censure, disciplinary probation, restitution, suspension, expulsion, ejection, and/or arrest by the civil authorities.

2. Any tenured or non-tenured faculty member, or tenured or non-tenured member of the administrative or custodial staff engaging in any manner of conduct prohibited under Substantive Rules 1-11 shall be subject to the following range of penalties: warning, censure, restitution, fine not exceeding those permitted by law or by the Bylaws of the Board of Higher Education, or suspension with/without pay pending a hearing before an appropriate college authority, dismissal after a hearing, ejection, and/or arrest by the civil authorities. In addition, in the case of a tenured faculty member, or tenured member of the administrative or custodial staff engaging in any manner of conduct prohibited under Substantive Rules 1-11 shall be entitled to be treated in accordance with applicable provisions of the Education Law or Civil Service Law, or the applicable collective bargaining agreement, or the Bylaws or written policies of The City University of New York.
3. Any visitor, licensee, or invitee, engaging in any manner of conduct prohibited under Substantive Rules 1-11 shall be subject to ejection, and/or arrest by the civil authorities.
4. Any organization which authorized the conduct prohibited under substantive rules 1-11 shall have its permission to operate on campus rescinded.

Penalties 1-4 shall be in addition to any other penalty provided by law or The City University Trustees.

Sanctions Defined:

- A. **Admonition:** An oral statement to the offender that he has violated University rules.
- B. **Warning:** Notice to the offender, orally or in writing, that continuation or repetition of the wrongful conduct, within a period of time stated in the warning, may cause for more severe disciplinary action.

- C. **Censure:** Written reprimand for violation of specified regulation, including the possibility of more severe disciplinary sanction in the event of conviction for the violation of any University regulation within a period stated in the letter of reprimand.
- D. **Disciplinary Probation:** Exclusion from participation in privileges or extracurricular University activities as set forth in the notice of disciplinary probation for a specified period of time.
- E. **Restitution:** Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.
- F. **Suspension:** Exclusion from classes and other privileges or activities as set forth in the notice of suspension for a definite period of time.
- G. **Expulsion:** Termination of student status for an indefinite period. The conditions of readmission, if any is permitted, shall be stated in the order or expulsion.
- H. Complaint to Civil Authorities.
- I. Ejection.