STUDENT CODE OF CONDUCT

2023-2024

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STUDENT CODE OF CONDUCT (SCC)

Policy references from the Southeast New Mexico College (SENMC) Policy Manual, Section F – Student Services and Conduct, available on the SENMC website at senmc.edu/policies/index.html, are noted below where related to the content. Please refer to the manual for more information as needed.

PART 1: PURPOSE AND OVERVIEW

Southeast New Mexico College is not only dedicated to the advancement of knowledge and learning, but also has a concern for the development of responsible, personal, and social conduct. By registering at Southeast New Mexico College, a student assumes the responsibility for becoming familiar with and abiding the general rules of conduct as established in the Student Handbook. Students who are also employees of the College will be covered by employee policies related to conduct and administrative appeal rather than such student policies. *(Reference: Policy 100)*

PART 2: STUDENT RIGHTS AND RESPONSIBILITIES

Students at the College neither lose the rights nor escape the responsibilities of citizenship. They are expected to obey both the criminal and civil statutes of the state of New Mexico and the federal government and the College's policies, procedures, rules, and regulations, and may be penalized by the College for violating its standards of conduct even though they are also punished by the state or federal authorities for the same act. *(Reference: Policy 100)*

Below is a non-exhaustive list of student rights and responsibilities in the context of expectations for social conduct.

1. **Duty to Cooperate Consistent with Constitutional Rights**: Students in any capacity (e.g., involved party or a witness) must be honest and cooperative with SENMC officials during investigative and hearing/appeal processes. This responsibility is subject to a student's constitutional right to remain silent and not implicate oneself in a crime. If a student exercises the right to remain silent or elects not to participate at all in the proceedings, the Hearing Officer may proceed based upon evidence gathered from other sources.
2. **Fairness of SCC Proceeding**: Students have the right to notice that they are accused of misconduct in violation of the SCC, and a fair and impartial process in the investigation and determination of the SCC case.
3. **Policy Compliance**: Students are deemed to have knowledge of and are responsible for abiding by SENMC policies, rules and regulations including but not limited to this Student Code of Conduct and the Student Academic Code of Conduct.
4. **Non-Discrimination**: Students have the right to an academic and work environment free of illegal discrimination.
5. **Reasonable Accommodation**: Students have the right to request a reasonable accommodation based on disability. To request an accommodation, students should contact the Academic Success Coach.

6. **Sanction Compliance**: Students must complete all sanction(s) accepted or imposed by the Hearing Officer or Appeal Officer, as appropriate, and notify the Vice President for Student Affairs that the sanction(s) have/has been completed.
7. **Supportive or Protective Relief**: Students may request interim academic or personal supportive or protective relief as appropriate based on the specific circumstances relating to a conduct case.
8. **Use of SENMC Email Account**: Students are required to check their assigned SENMC email account regularly for official correspondence relating to student status, and are responsible for reading and responding to communications sent to their SENMC email account. Failure to participate in an SCC conduct case based on a lack of actual knowledge of items delivered to the student's SENMC email account is not a viable excuse or defense.

PART 3: DEFINITION OF TERMS AND ROLES

Terms defined for purposes of the SCC are capitalized throughout the SCC, to denote such defined status.

A. **Appeal Officer:** The individual who decides whether to accept a Respondent's or Complainant's appeal from a Hearing Officer's decision and imposition of sanctions, and if accepted, reviews the hearing record, the appeal petition and any response to the petition, and issues a decision regarding the appeal. The Appeal Officer cannot have been directly involved in the investigation, the decision to initiate a charge, or the original determination by the Hearing Officer. For SENMC, the Campus President or designee serves as Appeal Officer. In the event these officials are not available to serve (e.g., scheduling conflict, conflict of interest, lack of objectivity due to prior involvement), the Vice President for Academic Affairs or designee will serve as Appeal Officer.
B. **Case Administrator (CA)**: The individual designated to facilitate the SCC process and who is not eligible to serve as either Hearing Officer or Appeal Officer. The Vice President for Student Affairs designates the Case Administrators, and may also elect to serve in this role. The CA facilitates the presentation of evidence relating to the alleged misconduct to the Hearing Officer, including coordination of the presentation of evidence gathered by other departments.
C. **Charge**: A formal written notification to a Respondent 1) informing them that they are the subject of an SCC conduct investigation, 2) describing the misconduct they are alleged to have committed or participated in, and 3) describing the provisions of the SCC the alleged conduct violates and the likely sanction, should such allegation be proven or admitted to by Respondent.
D. **Chief Conduct Officer**: The Vice President for Student Affairs serves as SENMC's chief conduct administrator for the College.
E. **Complainant (aka Reporter)**: A person who submits a complaint or report to the Vice President for Student Affairs, or other appropriate SENMC employee, indicating that a student may have violated the SCC Conduct Standards and/or who asserts injury, damage or loss (to person, property, or reputation) as a result of a student's alleged behavior.
F. **Day**: A business day, defined as Monday through Friday 8:00 a.m. to 5:00 p.m., except for those days designated as official SENMC holidays or subject to an official university closure.

G. **Educational Conference**: An informal, interactive meeting between the Case Administrator and a Student alleged to have violated the SCC.

H. **Hearing Officer**: An SENMC employee or agent, other than the Case Administrator, who conducts the fact-finding hearing in conduct cases not involving alleged discrimination, and renders a determination based on a preponderance of the evidence. Upon a finding of responsibility for a violation of the SCC in a discrimination case, or a determination by the Hearing Officer in a case not involving discrimination, the Hearing Officer imposes an appropriate Sanction. The Vice President for Student Affairs appoints the Hearing Officer or may serve as the Hearing Officer.

I. **Interim Measures**: Individualized Services or resources offered to or required for parties involved in a conduct case, including both supportive and temporary protective measures.

J. **Investigate/tion**: The follow through on an alleged SCC violation to ascertain the facts related to the alleged details and circumstances. Investigations may be a part of an Educational Conference, may result in additional charges, or may result in dismissal of the SCC case. This determination is made at the sole discretion of the Vice President for Student Affairs and/or designee.

K. **Notice:** A written communication which may be delivered in person, by U.S. mail, or through secure electronic transmission to or from the addressee's official SENMC email account. Text messages and social media postings, albeit in written form, are not sufficiently formal to serve as "Notice" for purposes of the SCC, but may be used for reminders and less formal correspondence.

L. **SENMC Community**: SENMC students, faculty and staff and visitors to campus (e.g., volunteers, vendors, members of the public attending SENMC functions).

M. **SENMC Property**: All land, facilities and other property owned, operated or controlled by the Regents of SENMC.

N. **SENMC Sponsored Activities**: Events or activities involving Students, Student Organizations, or SENMC departments, faculty members, or employees that are
    1. expressly authorized, aided, conducted or supervised by SENMC;
    2. funded in whole or in part by SENMC; or
    3. initiated by an officially chartered Student Organization and conducted or promoted in the name of that Student Organization or SENMC.

O. **Preponderance of the Evidence**: The amount of evidence required to prove a violation of the SCC. A Preponderance of the Evidence means "more likely than not" or stated another way, Preponderance of the Evidence means the "greater weight of the evidence."

P. **Reporter**: A person or entity who submits a complaint or report to the Vice President for Student Affairs or other appropriate SENMC employee alleging that a Student or Student Organization violated the SCC.

Q. **Respondent**: A Student or Student Organization charged with violating one or more provisions of the SCC.

R. **Sanction**: A disciplinary measure intended to educate the Respondent, remedy the harm, and/or to deter future misconduct.

S. **Student**: An individual admitted or enrolled, for any type of credit or not-for-credit course, whether full-time, part-time, dual credit, on-campus, abroad, online, or any form of enrollment offered by SENMC as well as an individual not yet officially enrolled for a particular term, but who has a continuing relationship with SENMC, as determined by the Vice President for Student Affairs. Examples of a continuing relationship include: 1) when a student leaves SENMC with a disciplinary matter pending, 2) when a student is suspended or dismissed, or 3) when a student is away from SENMC during summer break, a period of clinical or other experiential learning, or study abroad experience.

T. **Student Organization**: Any group of students officially recognized by SENMC as a chartered Student Organization.

U. **Support Advisor**: An individual chosen by a Student to serve as an advisor in a supporting role during a student disciplinary proceeding. Both the Complainant and the Respondent may elect to utilize a Support Advisor during any meeting, educational conference or hearing. The Support Advisor may consult with and advise the student at any time during the course of the relevant meeting or outside the meeting. The Support Advisor may raise legitimate objections to questions during an investigatory interview or hearing, but may not answer questions on behalf of the Student or unreasonably delay or interfere with the proceeding.

V. **Title IX**: Title IX refers to Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106. This federal law prohibits the exclusion of any person from participating in or from receiving benefits of, or any discrimination in, educational programs or activities, based on their race, color, religion, national origin, physical or mental disability, age, sex, sexual orientation, genetics, or veterans status.

W. **Title IX Coordinator: The Vice President for Student Affairs is the Title IX Coordinator for SENMC.**

PART 4: EXAMPLES OF NON-ACADEMIC MISCONDUCT

The prohibited conduct described below is inconsistent with the core values of Southeast New Mexico College. All prohibited conduct is subject to administrative action pursuant to the SCC, including that carried out using telephone, text message, computer, email, social media or any other electronic or digital format. Text messages and other information provided to the Vice President for Student Affairs, as well as online postings such as blogs, web postings, chats, images, and social networking sites in the public sphere may be used as evidence in disciplinary proceedings.

A. **Abuse or Interference with Conduct Process**: Interference with or failure to comply with SENMC processes, including this SCC and the Student Academic Code of Conduct. Abuse of Conduct Process includes but is not limited to:
    1. falsification, distortion, or misrepresentation of information;
    2. refusal or failure to provide information for an investigation;
    3. destruction or concealment of information during an investigation;
    4. any behavior intended to discourage someone from reporting a potential violation of SENMC policy, cooperating in an investigation, participating in proceedings, or otherwise cooperating with officials relating to a violation of SENMC policy;

B. **Alcohol: Violations of law or SENMC policies, rules or procedures pertaining to alcohol, including but are not limited to:**
    1. **consuming or possessing alcohol by an individual under the legal drinking age;**
    2. **being intoxicated in public;**
    3. **behaving in disorderly manner as a result of alcohol;**
    4. **providing alcohol to individuals below the legal drinking age; or**
    5. **allowing alcohol to be served to individuals below the legal drinking age.**
C. **Animals**: With the exception of service and emotional support animals and those used for instructional purposes or educational programming, animals are not permitted in SENMC buildings.
D. **Bullying/Cyberbullying**: An act or omission (not based on discriminatory motives committed with the intention of intimidation or causing emotional distress or other harm. Bullying is typically directed toward a person perceived to be vulnerable or less powerful, but may also be directed at a group of individuals. Bullying is prohibited regardless of how it is carried out (e.g., verbally, physically, through third parties, or using social media or other electronic or technological means.
E. **Complicity**: Involvement, through action or failure to act, in a situation that a reasonable person under the circumstances would anticipate harm or damage (e.g., scheming, planning, aiding, unacceptable bystander behavior).
F. **Discrimination**: Adverse treatment based on membership in a protected class (e.g., race, sex, pregnancy, sexual orientation, gender identity, religion, disability).
G. **Discriminatory Harassment**: One form of illegal discrimination consisting of unwelcome verbal, physical or virtual conduct based on an individual's protected status that is severe or pervasive enough to create an academic or work environment that a reasonable person would consider intimidating, hostile or abusive.
H. **Disruptive Behavior**: Any activity, individually or in concert with others, which causes or constitutes a disturbance, noise, riot or obstruction which substantially interferes with the free movement of persons about the campus or which interferes with the free, normal, and uninterrupted use of the campus for educational programs, business activities and related residential, food service and recreational activities.
I. **Drugs**: Violations of local, state or federal laws or campus policies, rules or procedures pertaining to drugs including but not limited to:
    1. the use of substances defined by state or federal law as illegal drugs;
    2. selling or distributing illegal drugs regardless of age;
    3. hosting a party or event where illegal drugs are used; or
    4. abuse, misuse, sale, or distribution of prescription or over-the counter medication.
J. **Election Tampering**: Tampering with an election on campus, including elections conducted by SENMC Student Government, SENMC-recognized student organizations, or other campus constituencies.
K. **Failure to Comply**: Failure to comply with the reasonable and lawful directives of SENMC officials.

L. **Falsification**: Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification, or financial instruments.

M. **Financial Misconduct**: Any dishonest or illegal activity relating to the student's financial responsibilities to SENMC, including but not limited to: knowingly passing a worthless check, money order, or credit/debit card in payment to SENMC.

N. **Fire Safety**: Violation of local, state, federal or campus fire policies including, but not limited to:
    1. intentionally or recklessly causing a fire which damages SENMC or personal property or which causes injury;
    2. failing to evacuate an SENMC controlled building during a fire alarm;
    3. improperly using SENMC fire safety equipment; or
    4. tampering with or improperly engaging a fire alarm or fire detection/control equipment.

O. **Gambling**: Gambling as defined and prohibited by the applicable state law.

P. **Hazing**: Conduct connected to membership in SENMC sanctioned organizations (e.g., club, intramural team, unit or other group officially affiliated with SENMC) which creates an unreasonable risk of emotional or physical harm, causing actual emotional or physical harm, or interfering with an individual's academic endeavors, progress or environment. Examples of such behavior include, but are not limited to misusing authority by virtue of one's class rank or leadership position, striking another student by hand or with any instrument, depriving a person of sleep, requiring the consumption of liquids or solids, requiring standing for unreasonable amount of time, requiring a violation of SENMC policy or state or federal laws. It is not a defense that the person (or group) hazed consented to, or acquiesced to, the behavior in question. Having firsthand knowledge of the planning of such activities or firsthand knowledge that an incident of this type has occurred and failing to report it to the appropriate SENMC official will also be considered to be a hazing violation.

Q. **Health and Safety Hazard**: Creation of a health or safety hazard including an unreasonable risk of harm to health or safety including: dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs or improperly gaining access to structures or facilities which are not open for student use.

R. **Ineligible Pledging or Association**: Pledging or associating with a Student Organization without having met eligibility requirements established by SENMC.

S. **Misuse of SENMC Information and Communications Technology**: Violation of SENMC policies, rules, procedures or other directives, including those governing the use of technological hardware or software, electronic, digital or other media, copyrighted material and protected data.

T. **Personal Injury or Property Damage**: Intentional, reckless or negligent harm to a person or damage to, or destruction of, SENMC property or the property of another.

U. **Public Exposure**: Deliberately and publicly exposing one's intimate body parts, including but not limited to public urination, defecation, and public sex acts.

V. **Retaliation**: An adverse action threatened or taken against any individual because of that individual's participation in the SCC conduct process or any SENMC sanctioned complaint or investigation process. Examples of protected activity include filing a complaint, supporting or assisting someone who filed a complaint, cooperating with an investigator or providing

testimony as a witness. Retaliation in any form is prohibited, whether verbal or physical, including by email, text, social media or other telephonic or electronic means, or carried out or communicated through a third party.

W. **Sexual Misconduct**: A broad term that encompasses all forms of prohibited sex discrimination including sexual or gender based harassment; stalking; rape and intimate partner violence (dating violence, domestic violence, relationship violence).

X. **Smoking and Tobacco Use (including E-Cigs) Restrictions:** Smoking tobacco products and substitutes for such products (e.g., vapor/e-cigs) inside any buildings owned or leased by SENMC, as well as within 25 feet of an entrance or exit to such a building, in SENMC owned vehicles, and during some organized outdoor events on SENMC property.

Y. **Taking of Property/Damaging Property**: Intentional and/or unauthorized taking of SENMC property or the personal property of another, including goods, Services and other valuables, or knowingly accepting possession of stolen property; or behavior that destroys, damages, or litters any property of SENMC property or the personal property of a SENMC community member, another institution, or another person.

Z. **Threatening Behavior**: Written or verbal conduct that causes a reasonable fear of imminent harm or injury to the health or safety of any person or of damage to any property.

AA. **Trademark/Copyright (Logo) Infringement:** Unauthorized use of SENMC names and logos, trademarks, or any violation of copyright law.

BB. **Unauthorized Access; Failure to Report Lost SENMC ID or Key**: Access to a building, structure or area not open to students and obtained without permission; unauthorized possession, duplication, or use of means of access to any SENMC building; or failure to report a lost SENMC identification card or key.

CC. **Violation of SENMC Policy**: Violation of SENMC policies, rules or procedures except as otherwise provided in the SCC.

DD. **Violations of Law**: Violation of local, state, or federal laws that creates a significant risk of harm to the safety and security and well-being of SENMC or any member of the SENMC Community.

EE. **Weapons and Other Explosive Materials/Devices**: Possession, use, or distribution of any object intended to be used as a weapon, including explosives (e.g., fireworks), guns (including ammunition, air, BB, paintball, facsimile weapons, and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nunchucks, throwing stars, or knives.

PART 5: TYPES OF SANCTIONS

A Respondent who is found to have violated the SCC may receive one or more of the following Sanctions:

A. **Documented Verbal Warning**: A verbal warning is used for less serious and first time SCC violations and for other infractions conducive to being addressed through progressive discipline. This Sanction informally notifies the Respondent that a change in behavior is necessary to avoid additional or more serious Charges and/or Sanctions. Despite the designation as a “verbal warning” the Respondent is asked to acknowledge receipt of the warning in writing.

B. **Written Warning**: A written warning is used for minor and moderate level infractions and conduct conducive to being addressed through progressive discipline. This Sanction conveys, by formal written memo, that the Respondent's conduct did not meet SENMC standards and a change in behavior is necessary to avoid additional or more serious Charges and/or Sanctions.
C. **Disciplinary Probation**: Disciplinary probation is a status assigned for a defined period of time for an infraction that does not create an ongoing threat or risk of harm to the SENMC Community. Individual Respondents may remain enrolled or re-enroll while on this status.
D. **Restricted SENMC Privileges or Activities**: The Respondent is restricted from specified SENMC privileges or participation in SENMC activities for either a certain time period or indefinitely. Examples include restrictions on access to equipment, athletic functions, student union, libraries, parking lots, SENMC computer centers and/or residence halls. Additionally, restrictions may be placed on the Respondent's activities such as the right to participate in activities or Student Organizations, to represent SENMC on athletic teams or in other leadership positions.
E. **Restitution**: The Respondent is required to make payment of a sum to compensate for damages caused, in whole or in part, by the Respondent's violation of the SCC. Damages must be supported by evidence of cost and value and be reasonably and directly related to the harm or damage (e.g., personal injury or damage to property). An award of restitution is to be paid prior to further enrollment in classes and may be added as a balance due on the Respondent's student account maintained by SENMC Accounts Receivable.
F. **Service to SENMC**: The Respondent is required to complete a specified number of hours of service at SENMC or in furtherance of SENMC interests.
G. **Educational and Self Awareness Programs**: The Respondent is required to complete a specific educational assignment or to attend and cooperatively participate in a program or session related to the violation committed. Examples include: researching and preparing and/or presenting a report, participating in an alcohol or drug assessment, or attending a seminar or webinar.
H. **Counseling Session**: A Respondent is required to report for and participate in a designated number of sessions with an SENMC counselor. The counselor will not divulge confidential content of counseling sessions without a voluntary release, but may report whether Student attended the session and cooperatively participated.
I. **No Contact Directive**: Prohibits a Respondent and other involved individuals from having any contact, direct or indirect, with one or more designated persons or groups through any means, including personal contact, email, social media, telephonic (voice and messaging), electronic or third parties. No contact directives are issued in writing, and may be issued as an Interim Measure or a Sanction.
J. **Deferred Suspension**: A deferred suspension may be appropriate when, but for mitigating circumstances, the misconduct would have resulted in a suspension for a defined period of time. A deferred suspension should indicate the time period that the suspension would have been for, and the deferment period should correspond to the same time period. A deferred suspension is granted subject to specified conditions. If during the period of the deferred suspension, the Respondent fails to honor the conditions set, or is found to have committed another violation of SENMC policy, the suspension previously deferred is effectuated in accordance with Suspension as defined below.
K. **Suspension**: The Respondent's enrollment is suspended for a specified period of time, not to exceed one calendar year from the date of Notice. If the basis for the suspension is deemed to present an unreasonable risk of harm to the university community or property, the Respondent may be prohibited from access to SENMC Property. A Respondent receiving the Sanction of suspension must comply with all applicable conditions and Sanctions prior to re-admission or

reapplication for recognition as a Student Organization. If the Respondent is a Student Organization, the recognition of its charter is revoked during the period of the suspension and neither the organization nor its members is permitted to receive the benefits associated with a chartered Student Organization.

L. **Dismissal**: The Respondent is dismissed from all courses, and denied re-admission for a period of not less than one calendar year. If the basis for the dismissal is deemed to present an unreasonable risk of harm to the university community or property, the Respondent may be prohibited from access to SENMC Property. A Respondent receiving the Sanction of dismissal must comply with all applicable conditions and Sanctions prior to re-admission as a Student, or reapplication for recognition as a chartered Student Organization. If the Respondent is a Student Organization, the recognition of its charter is revoked during the period of the dismissal and neither the organization nor its members are permitted to receive the benefits associated with a chartered Student Organization.

M. **Withholding or Revocation of Academic Award**: Upon approval from the Campus President, SENMC may temporarily or permanently withhold issuance of a degree, diploma, certificate or official transcript, or deny further registration or, with approval of the Board of Trustees, a degree or diploma already conferred may be revoked.

PART 6: GUIDELINES FOR IMPOSING SANCTIONS

The level of sanction is determined based on several factors. Sanctions will be commensurate with the nature of the violation and, for first and less serious violations, progressive discipline may be used as an educational tool designed to encourage behavioral change. In cases involving Title IX or other discriminatory misconduct, the Sanctions must effectively stop the offensive or harmful misconduct, prevent its re-occurrence, and address its effects.

A. **Level of Sanction**: The imposition of disciplinary Sanctions will be administered fairly and consistently, with consideration given to the following factors:
    1. **Prior Conduct Record:** Whether the Respondent has received warning or other disciplinary Sanction for prior SCC violations.
    2. **Seriousness of Conduct:** The nature of the infraction and the extent of personal injury or property, financial or reputational damage caused, or the degree to which the misconduct created an unreasonable risk of serious injury or damage (whether or not injury or damage actually resulted).
    3. **Aggravating Factors:** Aggravating factors may include pre-meditation, evidence of mal-intent or conscious disregard for the rights and welfare of others.
    4. **Mitigating Factors:** Mitigating factors may include the absence of aggravating factors, youth, genuine remorse and acceptance of responsibility, mental incompetency or other medical conditions.

B. **Duration of Sanction**: If the Sanction imposed is probation, loss or restriction of SENMC privileges, suspension or dismissal, then the time period will clearly be stated, and to the extent feasible, will correspond to the SENMC academic schedule (e.g., semesters, compressed course schedule).

C. **Petition for Relief from Indefinite Sanction:** If a Sanction is imposed without end date, then after a minimum of one year from the imposition of the Sanction, the Respondent may petition the Vice President for Student Affairs to have the Sanction lifted.
    1. The Petition should explain why SENMC may expect the Respondent's conduct to conform with the SCC in the future, including any actions Respondent has taken since

the events giving rise to the Sanction that demonstrate a heightened level of personal responsibility.

2. Other factors to be considered include the nature of the violation, including the severity of personal injury, property or other damage caused and the level of risk created by Respondent's actions or inactions; the academic accomplishments and status of the Respondent; and the best interest of the involved parties and of the institution of SENMC.
3. If the petition is denied, the Respondent may seek a final review from the Vice President of Student Services who will review the same factors before rendering a final decision. If denied by the Vice President of Student Services, the Respondent may not petition again for another two years.

PART 7: DISCIPLINE AND APPEALS PROCESS

CASE INITIATION

Any person, including Students, faculty and members of the SENMC Community, may report suspected or observed misconduct by Students and Student Organizations to Vice President for Student Affairs (VPSA). Any report involving discrimination on the basis of any protected class), including sexual assault, harassment, stalking, dating violence or other sexual misconduct, must be referred to the Vice President for Student Affairs.

A. Upon receipt of a report of misconduct that is within the authority of the VPSA, the Vice President for Student Affairs appoints an SENMC employee to serve as the Case Administrator. No formal appointment documentation is necessary; standing appointments are permissible.
B. The Case Administrator reviews the reported misconduct, opens a SCC case if it appears there is a violation of the SCC, and facilitates the SCC process up to the point that a hearing might be held.
C. If it is determined that no violation exists, the Respondent will be notified and any interim measures in place will cease.

INTERIM MEASURES

Depending upon the allegations and circumstances, Interim Measures (supportive or protective) may be imposed, affecting one or multiple parties to an SCC proceeding. The imposition of an Interim Measure is not an indication of responsibility for a violation of the SCC, nor a substitute for a Sanction. Interim Measures may remain in effect after the conclusion of a student conduct case.

A. **Nature of Interim Measure:**
    1. Supportive or protective measures are instituted through the SENMC Vice President for Student Affairs who serves as the Title IX Coordinator in response to allegations of sexual harassment, sexual assault, sexual misconduct, or any other form of protected class discrimination.

2. Protective measures (e.g., No Contact Orders) are instituted through the Vice President of Student Services, or other authorized SENMC officials, in response to direct threats to the health, safety or welfare of a student or other member of the SENMC community.

B. **Examples of Interim Measures:**
    1. referrals to counseling or other service/resources;
    2. extensions of time and other course-related adjustments;
    3. modification to work or class schedules, including authorized leaves of absence;
    4. campus escort services;
    5. restrictions on contact between the individuals;
    6. No Trespass Directive;
    7. other directives restricting activities on campus, changes in dining or housing arrangements;
    8. increased security and monitoring of certain areas of campus; and
    9. other similar accommodations.

C. **Purpose and Timeframe**: Interim Measures support students affected by alleged violations of the SCC, or provide for the safety and protection of members of the SENMC Community. To ensure that an Interim Measure remains necessary and effective, Interim Measures should be reassessed periodically.

D. **Initiation of Interim Measure**: An Interim Measure may be requested by any concerned person or university official, including the involved party or the Case Administrator.
    1. Requests should be directed to the Vice President of Student Services including cases alleging unlawful discrimination.
        a. The parties affected by an Interim Measure will be notified about the imposition of an Interim Measure as soon as possible.
        b. When imposing Interim Measures, SENMC will strive to minimize any negative impact on the affected student's education.
        c. To address any hardship that may result from imposition of an Interim Measure, a person subject to an Interim Measure may request reconsideration and/or modification of its terms and conditions by submitting a written petition to the Vice President for Student Affairs. The scope of the review of the petition is limited to any hardship created by the Interim Measure, and should specify the relief being sought (e.g., actions requested to mitigate the hardship). The petition and the resulting decision will not address the merits of the underlying SCC conduct case.

E. **Termination of Interim Measure**: An interim measure remains in place until expiration of a period specified in the written notice, modified by the office that instituted the measure if no termination date was indicated, or upon the decision of the Vice President of Student Services following a hardship review.

EDUCATIONAL CONFERENCE

Once a determination is made that the facts alleged would support a finding of an SCC violation or the relevant office investigating the case has issued findings which support a violation of the SCC, the case proceeds to the Educational Conference.

A. **Purpose of Educational Conference:** The Educational Conference serves each of these purposes:
    1. **Notice of Misconduct Allegations:** The Case Administrator informs the Student of the facts alleged, the applicable section of the SCC and/or other applicable College policy and the potential range of Sanctions, should the Student accept responsibility or be found responsible.
    2. **Inform about SCC Process:** The Case Administrator explains the SCC process to the Students, and answers any questions from the Student, and informs the Student that any facts volunteered by the Student may be used as evidence in support of action under the SCC in any later hearing or appeal.
    3. **Fact Finding**: If after being informed that any facts the student shares may be used in support of disciplinary action under the SCC, the Student wishes to discuss the case, the Case Administrator will document the information received, including exculpatory facts, and accept any records that the Student may provide in response to the allegations.
    4. **Facilitate Resolution**: Through full and informed discussion, the Case Administrator assists the Student in deciding whether or not to accept responsibility for the alleged misconduct or, in the alternative, to allow the SCC conduct process to continue.
B. **Timing and Notice of Educational Conference:** A Student accused of misconduct is notified and afforded an Educational Conference within a reasonable time after allegations are made or sufficient facts are known to the Vice President for Student Affairs to appoint a Case Administrator to initiate a case. Generally, unless there are circumstances reasonably justifying a longer time period, this will occur within sixty (60) Days from the date the Vice President for Student Affairs receives the report or complaint of any alleged misconduct.
    1. A minimum of five (5) Days' Notice will be given to the Student prior to an Educational Conference.
    2. The Notice includes information on where to view the Student Code of Conduct and informs the Student of the following:
        A. the date, time and location for the conference,
        B. the fact that the Student is the subject of an SCC conduct case,
        C. the specific factual misconduct allegation(s), and
        D. the potential Charge(s).
        E. the right to review, prior to the Educational Conference, the evidence collected as of that date relating to the alleged misconduct.
    3. Where a Student is properly notified of an Educational Conference and fails to either (1) request an alternate date/time or (2) appear and participate at the Educational Conference, the Case Administrator will document the failure to appear and proceed in accordance with the SCC.
C. **Outcome of Educational Conference: T**he Case Administrator documents the facts asserted and evidence submitted by the Respondent, and the outcome of the Educational Conference. The possible outcomes include:
    1. **Respondent Rebuts/Case Dismissed**: The Student provides persuasive information refuting the alleged misconduct and the Case Administrator determines that there is

insufficient evidence to support a finding that the Student violated the SCC, and the SCC case is dismissed.

2. **Respondent Accepts Responsibility/Case Concluded:** The Student, after being fully informed of the allegations and the potential Sanctions, accepts responsibility for the alleged misconduct and commits to fulfill the proposed Sanction. The Respondent completes and signs a form provided by the Vice President for Student Affairs indicating acceptance of the proposed Charge and corresponding Sanction discussed in the conference, thereby concluding the conduct proceeding under this rule, with no right to appeal.
3. **Case Proceeds:** When the Respondent does not accept responsibility or provides exculpatory information, the next phase involves issuance of a formal charge if supported by the evidence.

ASSESSMENT OF FACTS AND ISSUANCE OF FORMAL CHARGE

A. **Evidence Collection:** If the matter is not resolved in the Educational Conference, the Case Administrator obtains reports from any other offices that investigated the allegations and if the matter was not formally investigated by another unit, conducts any necessary additional investigation to ensure a full understanding of the incident or event.
B. **Assessment of Facts:** Once the relevant evidence (documents and witness statements) is available and complete, the Case Administrator assesses whether or not a violation of the SCC is supported by at least a Preponderance of the Evidence.
    1. If the evidence does not support the alleged violation, no formal Charge will be issued.
    2. If the evidence supports the alleged violation by at least a preponderance of the evidence, a formal Charge will be issued.
C. **Issuance of Formal Charge:** The Case Administrator sends a formal Charge to the Respondent describing the alleged misconduct, the section of the SCC violated, and the range of Sanctions for said violations. The formal Charge may be combined with the Notice of the Hearing. The formal Charge must inform the Respondent of the right to schedule a time to review, before the hearing, the list of witnesses and any evidence that will be presented at the hearing.

PRE-HEARING PROCEDURES

Upon receipt of a Respondent's written request for a hearing on a formal Charge, the following pre-hearing procedures apply:

A. **Designation of Hearing Officer**: The Vice President for Student Affairs designates the Hearing Officer for the SCC conduct case, provides the Hearing Officer with a copy of Charge determination, and gives Notice of the appointment to the Respondent and any Complainant. The appointment is subject to the following:
    1. A Hearing Officer may recuse themselves if they believe there is a conflict of interest sufficient to affect their ability to hear the case fairly and impartially. For example, a conflict of interest may result from a personal relationship with, or knowledge of the case relating to, the Complainant, Respondent or a witness.
    2. A Complainant or Respondent may request a different Hearing Officer, based on facts indicating the potential for a conflict of interest or potential bias, by submitting a request in writing to the Vice President for Student Affairs, or if the conflict involves the Vice President for Student Affairs, Student Life's vice president for student success. An

alternate Hearing Officer will be appointed when the facts are found to create a reasonable concern for potential bias.

B. **Hearing Officer Duties**: The Hearing Officer's responsibilities include resolving pre-hearing procedural issues; convening and conducting the fact finding hearing; issuing a written decision based upon the Preponderance of the Evidence standard, informing the Respondent and any Complainant of the right to appeal; and organizing and preserving the hearing record. The Hearing Officer makes arrangements to create an audio recording of the hearing which becomes a part of the hearing record. The Hearing Officer may also arrange for a Notary Public to place the witnesses under oath during the hearing.
C. **Resolution of Pre-Hearing Procedural Issues**: The designated Hearing Officer determines if the case is ready to proceed at the scheduled date and time. The Hearing Officer resolves pre-hearing issues and concerns raised by a party, and provides the Case Administrator and the Respondent the opportunity to provide input. Examples of issues that commonly are raised that should be resolved before the hearing include:
    1. Confirmation that all potential conflicts of interest have been disclosed and addressed;
    2. Requests for reasonable accommodations based on disability;
    3. Requests for time extensions;
    4. Requests for procedural modifications in the interest of fairness or safety;
    5. The Respondent has been provided the opportunity to review the list of witnesses and the evidence that will be presented at the hearing;
D. **Resolution of any issues relating to witness availability:** Case Administrators and Respondents are responsible to arrange for their respective witnesses to attend the hearing. If the witness is a Student or an SENMC employee and refuses to attend the hearing voluntarily, upon written request from the Case Administrator or the Respondent, the Vice President for Student Affairs or designee will issue an SENMC DIRECTIVE TO APPEAR, to facilitate the witness' participation in person or by phone.

HEARING PROCEDURES

The hearing provides the opportunity for a neutral factfinder to evaluate the available evidence as presented by the Respondent, any Complainant who chooses to participate, and the Case Administrator (or other SENMC official) to determine whether or not the SCC violation(s) alleged in the Charge are supported by a Preponderance of the Evidence, and, where a violation is found, to review the Sanctions imposed by the Case Administrator.

A. **Notice of Hearing:** Unless a shorter time is consented to by the parties, a minimum of ten (10) Days' Notice of the hearing date, time and location must be given to the Respondent, any Complainant, and to the Case Administrator.
B. **Witnesses**: The following procedures will apply when witnesses are called by a party to the SCC conduct hearing:
    1. **Questioning of Parties:** In order to preserve the educational atmosphere and to avoid creation of an adversarial proceeding, questions for witnesses are submitted to and asked through the Hearing Officer.
    2. **Obligation to Testify**: Witnesses who are SENMC Students or employees must attend a hearing when directed by the Vice President for Student Affairs. Failure to attend may result in a separate employee or student disciplinary action for the uncooperative individual.

3. **Testimonial Evidence:** The Hearing Officer may require witnesses to take an oath to tell the truth, administered by a Notary Public. The Hearing Officer may exclude the use of written witness statements if the lack of an opportunity to cross examine the witness in front of the Hearing Officer is deemed prejudicial. If a necessary witness is unavailable or cannot reasonably appear, and the Hearing Officer determines that the written or recorded statement regarding the events pertaining to the issue are more probative than prejudicial, then such written statements may be allowed. Upon request, the Hearing Officer will continue the hearing to allow a party to question the witness providing written or recorded testimony.
4. **Exclusion of Witness from Proceeding:** The Respondent and Complainant, if any, are entitled to attend the hearing during all presentation of evidence. Other witnesses are required to wait outside the hearing room until they are called to testify and are required to leave the hearing room once dismissed by the Hearing Officer.

C. **Conduct of Hearing**: The Hearing Officer convenes the hearing at the designated date and time, and ensures that the proceeding is audio recorded, including the resolution of any pre-hearing issues. Before the presentation of the case commences, the Hearing Officer provides the parties with an overview of the hearing process to the parties.
   1. **Resolution of Pre-Hearing Issues.** The Hearing Officer asks parties if all pre-hearing issues have been resolved. If they have not been, the Hearing Officer addresses these issues first. If resolution of a prehearing issue will substantially impact the hearing process or outcome, the hearing should be re-set to another date and time while the parties are still present.
   2. **Opening Statements.** The Hearing Officer provides each party an equal opportunity to present a brief opening statement to describe their position and the evidence they will present that supports their position relative to the Charge or the proposed Sanction. Opening statements are not required, may be limited in time by the Hearing Officer, or may be waived the parties altogether.
   3. **Evidence in Support of Determination.** The Hearing Officer calls first on Case Administrator, or the alternate SENMC official, to present evidence and call witnesses in support of the determination on the Charge and the imposed Sanction. Respondent is given the opportunity to submit questions related to the evidence or witnesses presented by the Case Administrator, to be asked through the Hearing Officer.
   4. **Rebuttal.** The Hearing Officer calls on Respondent to present evidence including personal testimony and the testimony of witnesses to rebut the Charge, evidence presented by Case Administrator, or proposed Sanction. The Case Administrator is given the opportunity to submit questions related to the evidence or witnesses presented by the Respondent, to be asked through the Hearing Officer.
   5. **Hearing Officer Questioning.** The Hearing Officer may ask any question of any party or witness relating to the Charge, the evidence, or the proposed Sanction.
   6. **Evidentiary Issues.** The hearing is not a legal proceeding and the rules of evidence used by courts do not apply to SCC hearings. The Hearing Officer has discretion to make decisions about the relevance or admissibility of evidence, however, the exclusion of evidence should be rare and only to address possible prejudice or improper conduct by a party. If evidence is excluded, a party may summarize on the record the anticipated testimony or proffered evidence and its relevance to the case.
   7. **Closing Statements.** The Hearing Officer provides each party an equal opportunity to present a closing statement to summarize or comment on the evidence presented and how it supports their position relative to the Charge and the proposed Sanction. Closing

Statements are not required, may be limited in time by the Hearing Officer, or may be waived the parties altogether.

D. **Decision by Hearing Officer:** Within five (5) Days from the date the hearing was concluded, the Hearing Officer will issue the written decision to the Respondent with factual findings and imposing a sanction, if appropriate. The Hearing Officer decision will comport with the following:
    1. **Findings of Fact:** The decision memo or letter must clearly identify the Hearing Officer's findings of fact in support of the decision.
    2. **Decision to Dismiss:** If the Hearing Officer does not find the Respondent responsible, the decision must state that the Charge is dismissed, and no conduct record results.
    3. **Sanction Review:** If the Hearing Officer finds the Respondent responsible, the Hearing Officer will also review and impose appropriate Sanction(s), taking into consideration any Sanction previously proposed or imposed, the evidence presented by the Respondent.
    4. **Appeal Rights:** The Hearing Officer's decision must inform the Respondent and the Complainant, if any, of their right to appeal the decision as provided below.
    5. **Time Deadlines:** If the Hearing Officer needs more than time to issue the decision, a time extension may be requested.

E. Maintenance of Hearing Record: The Hearing Officer organizes and preserves the record of the fact finding hearing, including pre-hearing correspondence and notices, the audio recording, and exhibits or other evidence, labelled by the party who introduced it. The hearing record is transferred to the Vice President for Student Affairs and is maintained as required by the state's record retention laws and SENMC policy.

APPEAL PROCEDURES

A. **Notice of Appeal; Time Limit**: A Respondent or a Complainant may appeal the Hearing Officer's decision by sending a Notice of Appeal in writing to the Vice President for Student Affairs, within five (5) Days from receipt of the Hearing Officer's determination in a fact finding hearing. The Vice President for Student Affairs submits the Notice of Appeal to the SENMC official designated to serve as the Appeal Officer, and ensures that each party receives a copy of the Notice of Appeal.

B. **Grounds for Appeal/Standard of Review:** The purpose of the appeal process is to provide a limited, final review based on the hearing record, to determine if there was a substantial miscarriage of justice in the resolution of the case. To avoid summary dismissal, the appealing party must assert at least one of the following grounds for appeal, and establish that, but for the asserted grounds, a different outcome would have resulted.
    1. **Procedural error:** Significant procedural error occurred in the processing of the case that resulted in a substantial likelihood that the outcome was affected.
    2. **Conflict of Interest or Bias:** Objective facts demonstrate that a decision-maker was biased or had a conflict of interest of such significance that a reasonable person would not believe that the decision maker could be objective in making the decisions regarding the case.
    3. **Arbitrary or Capricious:** The record does not reveal evidence from which a reasonable person could find that the Student engaged in the alleged misconduct by a Preponderance of the Evidence; accordingly, the decision appears to be arbitrary or capricious.

4. **New Evidence:** New significant evidence was discovered that was not reasonably available or discoverable at the time of the hearing, which presents a substantial likelihood that it would have affected the decision.
5. **Nature/Level of Sanction:** The level or nature of the Sanction imposed is not appropriate for the level or nature of the violation the Respondent is found responsible for.

C. **Summary Dismissal:** The Appeal Officer determines if the Notice of Appeal was timely submitted, and whether the Notice sufficiently states appropriate grounds for review of the hearing decision. If the Notice of Appeal is not timely or does not provide any description of how one of the required grounds for appeal applies to their SCC conduct case, the appeal is summarily dismissed.

D. **Appeal Review:** If the appeal is accepted for a record review, the following procedures will apply:
    1. The Appeal Officer notifies the Vice President for Student Affairs, the Respondent and the Complainant, if any, that the appeal is accepted for review.
    2. The Vice President for Student Affairs ensures that the hearing record is transmitted to the Appeal Officer within three (3) days of receiving the notification.
    3. The Appeal Officer reviews the hearing record, including the evidence submitted by the parties, any relevant policies or law, and the arguments raised in the Notice of Appeal and any response submitted by the non-appealing party.
    4. Within twenty (20) Days from the date of receipt of the SCC hearing record, the Appeal Officer issues a final appeal decision based upon evidence in the record. The decision may uphold, modify or reverse the decision of the Hearing Officer, or in extraordinary circumstances, if necessary to ensure a just and impartial resolution, may remand the matter for a new hearing. The decision of the Appeal Officer is final.
    5. The Appeal Officer provides Notice of the decision to the Respondent, the Complainant (if any) and the Vice President for Student Affairs. The Appeal Officer assembles the appeal record and transfers both the hearing record and the appeal record to the Vice President for Student Affairs for record retention purposes.
    6. The Vice President for Student Affairs is responsible for taking necessary steps to implement the decision of the Appeal Officer.