

CONDUCT SYSTEM

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Purpose and Jurisdiction

1. The need for human beings to resolve conflicts is recognized by the college as an opportunity for individual growth, as well as a time to affirm the Code of Community Responsibility. Though it is not designed to be a contentious process, we do recognize that people do not always agree. In support of both individual and community needs, the college has established procedures for reporting incidents and for the resolution of conflicts in a timely and reasonable manner.

2. The procedures provided by Colby-Sawyer College are not a substitute for the rights and responsibilities citizens enjoy under the laws of New Hampshire and the United States of America. Though Colby-Sawyer College supports the laws of the land, the college does not desire to function in place of the state or federal law enforcement or judicial systems. This is true in part because the college is staffed to educate rather than to adjudicate; and, because the expertise and certification to detect, prosecute, defend, and enforce are not claimed as a primary competency. Individuals who wish to avail themselves of legal processes are advised to look outside the college. College proceedings are for the Colby-Sawyer College community and are closed to legal counsel whether by means of presence at the hearing or by recess and conference outside the hearing. Colby-Sawyer College, however, reserves the right to legal assistance whenever institutional liability is in question.

3. College procedures are intended to provide reasonable notice of the offense, issue or violation in question, and an opportunity to be heard. While all individuals are encouraged to meet their responsibilities as citizens, the college retains the authority to determine when behavior violates college standards, and to take action against a person or persons who are deemed to have violated the Code of Community Responsibility. Such actions may include suspension or dismissal from the college, and there is no right of appeal beyond the president of the college.

4. Infractions of the Code of Community Responsibility are considered by a resident director, the associate dean of students and director of citizenship education, the director of student affairs, the citizenship education coordinator, the Community Council, or an Administrative Hearing Panel. In some instances the vice president and dean of students may also conduct hearings. The kind of hearing will be determined by the associate dean of

students or designee with consideration given to such factors as the severity of the offense, privacy issues, and timely disposition of the matter.

5. The associate dean of students or designee has the authority to hear cases that arise during the week prior to final exams and during final examination and recess periods. Where academic honesty is in question, the academic dean shall have the same authority. The college reserves the right to hold a student's diploma until allegations of policy violations are resolved.

6. When resolution would require students to return from break, the college reserves the option to proceed with an administrative hearing during the break period or to hold the hearing in the next semester. Discretion is left to the associate dean of students or designee.

7. Should a student withdraw from the college prior to a conduct hearing, the case will be considered pending. Students may not continue in any program offered by Colby-Sawyer College until the disciplinary process is concluded.

8. Any attempt by a person to intimidate, harass, or punish an individual who is bringing a complaint or involved in the hearing process, will result in disciplinary action.

9. **Jurisdiction:** Students are expected to abide both by college policies as well as local, state and federal laws. If students are arrested for violations of local, state, or federal law, even if the alleged infraction occurred off campus, students may be subjected to disciplinary action on campus at the discretion of the associate dean of students or designee. If alleged infractions are violations of both public law and college standards, the conduct system neither requires nor precludes college jurisdiction. [Paragraph adapted from SNHU's handbook.]

Process

Alleged violations of the Code of Community Responsibility are reviewed by the associate dean of students and director of citizenship education, who examines the facts and identifies those that may be in conflict with the Code of Community Responsibility. The director may:

1. meet with the student and/or make a finding based on the information at hand;
2. schedule the student for an RD or Community Council hearing;
3. refer the case to the vice president and dean of students with the recommendation that an Administrative Hearing be scheduled; or
4. dismiss the case without formal action.

All conduct records are maintained by the associate dean of students and director of citizenship education. [See the "[Records](#)" section for more information.]

Administrative Hearing

The college reserves the right to investigate and conduct an administrative hearing on any matter, major or minor. The associate dean of students shall investigate any reported student misconduct, and shall give the student the opportunity to be heard by the vice president for student development and dean of students, or designee, or a student/faculty/staff panel to be

appointed by associate dean. Where academic honesty is in question, the academic dean shall function in the place of the associate dean.

2.

Community Council

1. The Community Council (CC), comprised of students, faculty, and staff, holds hearings, makes findings, and fixes appropriate sanctions for violations that do not warrant immediate suspension or dismissal. The CC may also mediate disputes between members of the campus community.

2. Composition: The CC is comprised of no more than 12 members of the student body, who are in good academic standing (i.e.—possessing at least a 2.0 cumulative grade point average), and eight members of the faculty/staff. Members will be provided with an initial training period (approximately eight hours) followed by weekly meetings to prepare to hear cases and to continue to address training issues. Two chairpersons are selected through an interview process coordinated by the associate dean of students and director of citizenship education, who, in addition to the program assistants for citizenship education, serves as the advisor to the council. A minimum of five voting members—at least one of whom is a member of the faculty or staff—must be present in order for a case to be heard. Students may waive their right to a quorum. If so, this cannot be a basis for appeal.

3. Community Council student membership is open to full time students who have achieved sophomore, junior, or senior standing, and have been enrolled at CSC for at least two semesters. Selection of CC student members is coordinated by the associate dean of students and director of citizenship education and will include a written application and interview process. Faculty and staff members will be invited to join the council based on the nomination of seated members of the council.

Conduct System Guidelines

The following provisions apply to all conduct system activities (Community Council and Administrative) unless otherwise specified.

Appeals: Appeals are granted when there is a reasonable claim of new evidence likely to have a significant effect on the outcome of the hearing, evidence of substantive procedural irregularity, and/or imposition of an inappropriate or excessive sanction. Disagreement with the finding and/or sanction of a hearing body, or failure to appear at an appropriately scheduled hearing, or failure to comply with a sanction is not a sufficient basis for appeal.

A petition for appeal of a finding and/or sanction of a Community Council or Administrative hearing must be submitted in writing within ten (10) days of written notification of the decision of the hearing body. Petitions for appeal should be submitted to the vice president for student development and dean of students. If the vice president for student development and dean of students is a party to the decision being appealed, the petition will be referred to the academic dean for a determination. The petition for appeal must be sufficiently detailed to allow for a reasonable judgment on whether to grant the petition. The time allowed for insufficiencies to be addressed is determined by the vice president. Typically this time is from one (1) to seven (7) days.

If the petition is denied, no further institutional recourse is available. If the petition is granted, the associate dean of students and director of citizenship education shall prepare a summary of materials, including the procedural history of the case and any pertinent conduct system actions prior to the appeal to be considered by the person hearing the appeal.

Action in response to an appeal is limited to (1) rehearing by a hearing body appointed by the dean of students, (2) confirmation of the original findings and penalty, or (3) confirmation of the original findings and alteration of the penalty. Action on the appeal and notice of the action to the petitioner should normally occur within ten (10) working days of the receipt of the petition of appeal.

The vice president for student development and dean of students or designee may postpone the implementation of a sanction pending the outcome of an appeal. To do so, or not, is at the discretion of the vice president for student development and dean of students or designee.

Burden of Proof/Evidentiary Standards: Formal rules of evidence do not apply; however, evidence must conform to basic standards of fairness. A respondent is presumed not responsible, and the complainant must present sufficient information to demonstrate a breach of the Code of Community Responsibility to a reasonable person. The hearing body shall not consider written statements against a student unless the student has been advised of their content, the identity of those who made them, and has been given an opportunity to rebut unfavorable inferences which might be drawn from them. For Community Council or Administrative Hearing Panel, a simple majority is required for a valid finding and for sanctioning. Prior disciplinary activity may not be introduced as evidence with regard to the facts of a case, but may be used for considering an appropriate sanction once the facts have been determined.

Excused Member Participation: On the objection of the complainant or respondent, a member of the board who is otherwise personally involved shall not sit in judgment during the proceedings. This objection must be made known before the case is heard so that a quorum may be arranged. If a member of the Community Council or Administrative Hearing Panel feels that he or she should not participate in the hearing of a particular case, he or she should discuss the matter with the appropriate chair prior to the hearing. A voting member is not permitted to abstain from voting once the facts and issues of a case have been presented.

Hearing Advisor: A complainant or respondent involved with the conduct system may have an advisor from within the Colby-Sawyer College community, exclusive of legal counsel or members of the conduct system, who may accompany the person he or she advises. Such advisors may confer with the complainant or respondent during the hearing, but may not interfere with, advocate for or speak in place of the involved party.

Notice (timing and specificity): The respondent in a disciplinary proceeding shall receive written notice of the following at least 48 hours before the time of the proceeding:

1. a description of the behavior alleged to constitute a violation of the Code of Community Responsibility that is sufficiently specific to allow for the preparation of a response;
2. the time and place of the alleged behavior;

3. the name(s) of the person(s) reporting the alleged behavior;
4. the time and place of the hearing; and
5. referral to the conduct system process description.

Hearings shall not be convened to conflict with scheduled classes of a complainant or respondent. Hearings take priority over all other college activities.

Order of Hearings

1. Administrative Hearing

- a. The associate dean of students or designee may meet with the parties to an alleged breach of the Code of Community Responsibility alone, together, or with the assistance of other members of the college community.
- b. Evidence is presented by the complainant, then the respondent, and both may make closing statements with the respondent speaking last.
- c. The hearing officer or board will come to a conclusion on the facts, and then, if appropriate, will determine an appropriate sanction.

2. Community Council Hearing

- a. All of the parties involved in the case appear before the Community Council, together or individually at the discretion of the council.
- b. Each party presents their view of the facts at issue. The Community Council members may then ask questions to aid in reaching a decision on the facts.
- c. Once the parties have been heard and questions have been asked and answered, the Community Council will reach a decision on the facts. Thereafter, if the respondent(s) are found responsible, the Community Council will determine a sanction.

Publicity: In accordance with Public Law 101-542, The Campus Security Act of 1990, as amended, Colby-Sawyer College reserves the right to publish, or otherwise communicate information about alleged violations of the Code of Community Responsibility, as well as alleged violations of public laws, including investigations in progress as specified by, but not limited to the provisions of the aforementioned law. All conduct system hearings are closed; however, conduct system activity may be made public so that students, faculty, and staff are aware of how the Code of Community Responsibility is being upheld. Victims of violent crimes will be notified of the outcome of their hearings.

Records: For all disciplinary proceedings, there shall be a record containing, in writing, a statement of facts and actions taken. In some cases, a tape recording of the hearing may be made when a written summary is not feasible; students may request a copy. Copying costs are the student's responsibility. Generally, access to these records is limited to directly concerned persons and offices, however, disciplinary information may be sent to the student's faculty advisor, organization/activity advisor, coach, or parents (if the student's parents are financially responsible for the student's financial obligations to the college or if the student is under 21 years of age and the offense is a violation of alcohol and other drug laws) at the discretion of the vice president for student development and dean of students or designee. Student disciplinary records shall not be released to parties outside the college unless there is written consent from the student, except as specified in Section 438 (b) of the 1975 Federal Provision Act. If required to release records in compliance with a judicial order or subpoena, the college will show due diligence in attempting to notify the student prior to complying as permitted by said order.

The Office of Citizenship Education retains disciplinary records in accordance with the following.

1. Records of minor disciplinary action (e.g., warning letter, fines \$50 and under, etc.) are kept on file until the student withdraws or graduates.
2. Records of general disciplinary action (e.g., behavioral agreement, removal from housing, etc.) are kept on file for seven years.
3. Records of major disciplinary action (i.e., suspension, dismissal) are maintained permanently in the Office of Citizenship Education and the Office of the Registrar.

Colby-Sawyer College reserves the right to contact parents of underage students who are involved in alcohol or drug violations and of dependant students whose conduct may result in temporary or permanent removal from the residence halls or separation from the institution.

Rationale: To comply with the Campus Security Act, we must keep alcohol, drug, violence, and harassment, etc. records for seven years. Fire safety violations can be destroyed after the student leaves the institution.

Refund policy for disciplinary cases: No refunds for tuition, fees, or housing are given for disciplinary action that results in the loss of housing, suspension, or dismissal of a student.

Reporting Infractions: When an alleged violation of the Code of Community Responsibility occurs, it should be promptly reported to Campus Safety and/or a member of the Residential Education staff. A written Incident Report should also be completed as soon as possible. Incident Reports may be completed by any member of the Colby-Sawyer College community and should be given to Campus Safety or the Office of Citizenship Education. Incident Reports may be reviewed by the director of campus safety, associate dean of students and director of citizenship education, the vice president for student development and dean of students, and/or the appropriate resident director. If further review and/or a hearing is deemed to be appropriate, the Incident Report is referred for investigation and/or a disposition by the appropriate hearing body.

Sanctions: Sanctions are the community's way of repairing that which may have been harmed by a breach of the Code of Community Responsibility. In addition to restitution, sanctions attempt to educate individuals, maintain the safety of the community, and strengthen the community.

Student Proposal: The student always has the option and is encouraged to present to the hearing body a proposal of what the student thinks would be an appropriate sanction. The student may enlist the help and support of the Student Development staff in preparing a sanction proposal.

Sanctions may include, but are not limited to:

Admonition: Official written notice that conduct is inappropriate, future compliance with the Code of Community Responsibility expected, and a disciplinary file created. A minimum penalty

Restitution: Reimbursement for (1) damage to, destruction of, or misappropriation of, college property or any property of any member of the

college community, and/or (2) any personal injuries inflicted. The student may also be required to provide service appropriate to the offense (e.g. cleaning/repairing a vandalized area).

Educational Program/Service Project: The student is required to complete a project specifically relevant to the student's infraction. In addition, the student may be required to provide an educational service/project to other students of the Colby-Sawyer College community. The program or project assigned will be designed to increase the student's and or the community's understanding of the policy that was violated.

Fines: A sum of money, independent of restitution, assessed against an individual. Fines are to be paid in cash or by check made out to Colby-Sawyer College. Fines may be paid at the Office of Citizenship Education or Business Office. Students have the option of completing an equitable number of community service hours in lieu of paying a fine.

Disciplinary Probation: A conditional continuation of a student for a specified period of time which shall not exceed two semesters. Further violations of the Code of Community Responsibility could result in housing probation or revocation.

Behavioral Agreement/Contract: A statement of agreement between the student and a hearing body or college official (1) acknowledging the infraction(s) of the Code of Community Responsibility, (2) identifying a behavior/action plan, and (3) agreeing to the specified consequence(s) of failure to adhere to the behavior/action plan.

Loss of Privileges: The removal of certain student privileges, including but not limited to the following: visitation privileges to residence halls or other college buildings, the privilege of living in a residence hall (see Housing Contract Probation/Revocation below), the privilege to have stereos or other sound equipment, restriction of participation in extra-curricular activities.

Housing Contract Probation/Revocation: A conditional continuation of a student's on campus housing privileges for a specified period of time. Further violations of the Code of Community Responsibility could result in revocation of campus housing privileges, suspension or dismissal from the college. Other sanctions may be imposed for reinstatement in good standing. Students on housing contract probation or revocation may, during this conditional period, be ineligible to live in certain residences halls and college owned housing or for certain college honors or awards.

Probationary Suspension: Suspension for a specified period of time with the understanding that the suspension is stayed pending uninterrupted good behavior or the completion of an assigned educational opportunity by a specified date. Any violation of specified policies, regardless of seriousness, which occurs during the probationary period, may result in immediate activation of the suspension.

Suspension: Separation from the college for a specified period of time after which the student may apply for re-admission to the college. A suspended student is subject to arrest for trespass and is not welcome on college grounds without the prior written authorization by the director of campus safety or designee. In order to be eligible for readmission, the student must present a written account of activity, progress, and behavior during the

period of suspension to the vice president for student development and dean of students. The vice president for student development and dean of students will make the final determination, and may request additional information on which to base a decision.

Dismissal: Required permanent separation from the college with no opportunity to apply for re-admission. A dismissed student is subject to arrest for trespass and is not welcome on college grounds without the prior written authorization of the director of campus safety.

Withholding Grades: In cases involving restitution or fines, the college reserves the right to withhold grades, diplomas or transcripts until payments have been made. Other sanctions may also apply.

Summons to appear/sanction compliance: Failure on the part of anyone associated with a case to cooperate with an investigation, or to be present in response to a timely hearing notice, or to comply with all or part of a sanction will result in disposition of the case, including sanctioning, and may also result in additional administrative sanctioning for failure to appear and/or to comply. Failure to appear or comply shall not constitute reasonable grounds for an appeal.

Suspension Pending Hearing/Investigation: If a student's presence on campus or in particular locations on campus affects the ability of others to continue their education or of the college to provide education, the academic vice president, the vice president & dean of students, or associate dean of students may administratively suspend the student from class and/or ban the student from all or any part(s) of campus. A hearing, if appropriate, shall be held as one can be arranged. If a student under such a suspension must return to campus for any reason—for example meeting with an administrator regarding the hearing process, that student must have the permission of the person who originally delivered the Suspension Pending a Hearing.

Witnesses: Witnesses may be asked to testify to a dispute, or summoned by the chair of a hearing body. The chair has the authority to determine the appropriateness and number of witnesses who may be called. Witnesses must submit their testimony 24 hours in advance of the hearing and be present at the hearing to answer any questions from the board. Witnesses summoned by the chair are required to appear, and refusal or failure to appear may result in conduct system sanctioning. Witnesses who withhold information or intentionally mislead the board are subject to disciplinary action. As a student's character is not in question rather than student's behavior, so called character references are not necessary.