

HARTWICK COLLEGE: CODE OF STUDENT CONDUCT

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**HARTWICK
COLLEGE**

est. 1797

*Hartwick College
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Oneonta, NY 13820*

PREFACE

Hartwick College (“Hartwick”) students, groups and organizations are responsible for knowing the information, policies and procedures outlined in this document.

Core Values of Student Conduct at Hartwick

- ***Integrity:*** Hartwick students exemplify honesty, honor and a respect for the truth in all of their dealings.
- ***Community:*** Hartwick students build and enhance their community.
- ***Social Justice:*** Hartwick students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.
- ***Respect and Civility:*** Hartwick students show positive regard for each other, for property and for the community. Students **will conduct themselves and treat others in a polite, reasonable and respectful manner.**
- ***Responsibility:*** Hartwick students are given and accept a high level of responsibility to self, to others and to the community.

Hartwick reserves the right to make changes to the Code of Student Conduct (“Code”) as necessary and once those changes are posted online, they are in effect. Students, groups and organizations are encouraged to check online for the updated versions of all policies and procedures.

SECTION 1: DEAN OF STUDENT LIFE OFFICE MISSION AND PHILOSOPHY

Mission Statement

The Office of the Dean of Student Life encourages student development and enhances the Hartwick experience through partnerships, connections, direct support, policy development and personal growth that promotes an inclusive campus climate and facilitates students' successful navigation of campus life.

Philosophy Statement

The Hartwick community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study and discourse. The student conduct program within the Office of the Dean of Student Life is committed to an educational and developmental process that balances the interests of students, groups and organizations with the interests of the Hartwick community.

A community exists on the basis of shared values and principles. At Hartwick, students, groups and organizations are expected to uphold and abide by certain standards of conduct that form the basis of the Code. These standards are embodied within a set of core values that include integrity, social justice, respect and civility, community and responsibility.

Each member of the Hartwick community bears responsibility for their conduct and to assume reasonable responsibility for the behavior of others. When members of the Hartwick community fail to exemplify these six (6) core values by engaging in a violation of the rules, campus proceedings are used to assert and uphold the Code and expectations of the community.

The student conduct process at Hartwick is not intended to punish students, groups or organizations; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with our policies. Educational Outcomes are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with Hartwick's expectations. When a student is unable to conform their behavior to Hartwick's expectations, the student conduct process may assist Hartwick in determining if the student should continue to share in the privilege(s) afforded to those participating in the Hartwick community.

Students should be aware that the student conduct process is different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures notification and a hearing before an objective decision-maker. No student, group or organization will be found in violation of a Hartwick policy without information showing

that it is *more likely than not* that a policy violation occurred and any Educational Outcome will be proportionate to the severity of the violation and to the cumulative conduct history of the student, group or organization.

SECTION 2: JURISDICTION

Students at Hartwick are provided a copy of the Code annually in the form of a link on Hartwick's website. Hard copies are available upon request from the Office of the Dean of Student Life. Students are responsible for having read and abiding by the provisions of the Code.

The Code and the student conduct process apply to the conduct of all students and all Hartwick-affiliated student groups or organizations. For the purposes of student conduct, Hartwick considers an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in Hartwick.

Hartwick retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If Educational Outcomes are identified, a hold may be placed on the student's ability to re-enroll and/or obtain official transcripts and/or graduate and all Educational Outcomes must be satisfied prior to re-enrollment eligibility. A responding student facing an alleged violation of the Code is not permitted to officially take a leave, withdrawal or graduate from Hartwick until all allegations are resolved. In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, Hartwick may invoke these procedures and should the former student be found responsible, Hartwick may revoke that student's degree.

The Code applies to behaviors that take place on campus, at Hartwick-sponsored events and may also apply to off-campus behavior when the Dean of Student Life or designee determines that the off-campus conduct affects a substantial Hartwick interest. A substantial Hartwick interest includes, but is not limited to:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of the student or others; or
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; or
- Any situation that is detrimental to the educational mission and/or interests of Hartwick.

The Code may be applied to behavior conducted online, via email or any other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if

evidence of policy violations is posted online. Hartwick does not regularly search for this information, but may take action if and when such information is brought to the attention of Hartwick officials.

The Code also applies to guests of community members whose hosts may be held accountable for the misconduct of their guests. The Code may also be applied to resident non-students, campers and high school bridge/extension/partner/dual-credit and continuing education programs by contractual agreements. Visitors to and guests of Hartwick may seek resolution of violations of the *Code* committed against them through the processes outlined herein.

There is no time limit on reporting violations of the Code; however, the longer someone waits to report an offense, the harder it becomes for Hartwick officials to obtain information and witness statements and to make determinations regarding alleged violations.

Though anonymous complaints are permitted, doing so may limit Hartwick's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to Campus Safety or the Office of the Dean of Student Life/Student Conduct. If you choose to report through Hartwick's Silent Witness Program, you may do so by clicking the following link:

<http://www2.hartwick.edu/silentwitness>

Hartwick's email system is Hartwick's primary means of communication with students. Students are responsible for all communication delivered to their Hartwick email address.

SECTION 3: VIOLATIONS OF THE LAW

Alleged violations of federal, state and local laws may be investigated and addressed under the Code. When an offense occurs over which Hartwick has jurisdiction, the Hartwick conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident.

Hartwick reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint (additional grounds for interim suspension are set forth herein).

Students accused of crimes may request to take a leave from Hartwick until the criminal charges are resolved. In such situations, Hartwick's procedure for voluntary leaves of absence is subject to the following conditions:

- The responding student must comply with all campus investigations; and
- The responding student must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- The responding student must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all Educational Outcomes that are imposed.

SECTION 4: STANDARDS OF CONDUCT

Core Values and Behavioral Expectations

Hartwick considers the behavior described in the following sub-sections as inappropriate for the Hartwick community and in opposition to the core values set forth at the beginning of this document. These expectations and rules apply to all students, groups and organizations. Hartwick encourages community members to report to Hartwick officials all incidents that involve the following actions. Any student, group or organization found to have committed or to have attempted to commit the following misconduct is subject to the Educational Outcomes outlined in Section G.

Integrity: Hartwick students, groups or organizations exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:

- 1) **Falsification.** Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments;
- 2) **Academic Dishonesty.** Violating the *Academic Honesty Policy*, found at: <http://www.hartwick.edu/academics/student-services/academic-affairs/academic-policies/>;
- 3) **Unauthorized Access.** Unauthorized access to any Hartwick building (including but not limited to access through unauthorized use of keys, cards, etc.), unauthorized possession, duplication or use of means of access to any Hartwick building or failing to timely report (within 48 hours) a lost Hartwick identification card or means of access (e.g., a key or card);
- 4) **Collusion.** Action or inaction in concert with another or others to violate the Code;
- 5) **Trust.** Violations of positions of trust within the community;
- 6) **Election Tampering.** Tampering with the election of any Hartwick recognized student organization (minor election code violations may be addressed by the Student Senate, in consultation with the Dean of Student Life);
- 7) **Taking of Property.** Intentional and unauthorized taking of Hartwick property or the personal property of another, including goods, services and other valuables;
- 8) **Stolen Property.** Knowingly taking or maintaining possession of stolen property;

Community: Hartwick students, groups and organizations build and enhance their community. Behavior that violates this value includes, but is not limited to:

- 9) Disruptive Behavior.** Substantial disruption of Hartwick operations including obstruction of teaching, research, administration, other Hartwick activities, and/or other authorized non-Hartwick activities which occur on campus;
- 10) Rioting.** Causing, inciting or participating in any disturbance that presents a clear and present danger, causes or creates a significant risk of, physical or emotional harm to self or others, and/or damage and/or destruction of property;
- 11) Unauthorized Entry.** Misuse of access privileges to Hartwick premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a Hartwick building;
- 12) Infringement of Certain Intellectual Property Rights.** Unauthorized use (including misuse) of the names, images, logos, trademarks or service marks, or other infringement of intellectual property rights, of Hartwick or an organization recognized by Hartwick;
- 13) Damage and Destruction.** Intentional, reckless and/or unauthorized damage to or destruction of Hartwick property or the personal property of another;
- 14) Information Technology and Acceptable Use.** Violating the Hartwick User Responsibility and Appropriate Use Policy, found online at:
<http://www.hartwick.edu/about-us/technology-services/policies-appropriate-use-of-it-resources/>
- 15) Gambling.** Gambling as prohibited by the laws of the State of New York. (Gambling may include raffles, lotteries, sports pools and online betting activities);
- 16) Weapons.** Possession, use, or distribution of explosives (including but not limited to fireworks and ammunition), guns (including but not limited to air, BB, paintball, facsimile weapons and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nun chucks, throwing stars, or knives having blades in excess of three (3) inches in length, including the storage of any item that falls within the category of a weapon in a vehicle parked on Hartwick property.
- 17) Smoking.** Smoking, including the use of electronic cigarettes, vaporizers, tobacco or related products, is only permitted when used 25 feet or more from any

building entrance, and is not within immediate vicinity of a building window or air intake. Additionally, it is not permitted in any Hartwick-owned vehicle, building and/or public spaces including outdoor athletic venues and outdoor residence hall rooms or common areas. Smoking is strictly prohibited.

18) Fire Safety. Violation of local, state, federal or campus fire policies including, but not limited to:

- a) Intentionally or recklessly causing a fire which damages Hartwick or personal property or which causes injury; or
- b) Failure to evacuate a Hartwick controlled building during a fire alarm;
- c) Improper use of Hartwick fire safety equipment; or
- d) Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on Hartwick property. Such action may result in a local fine determined by the Fire Marshal in addition to Hartwick Educational Outcomes;

19) Ineligible Pledging or Association. Pledging or associating with a student organization without having met eligibility requirements or an organization that does not meet the recognition standards established by Hartwick;

20) Animals. Personal pets are not allowed in any campus building at any time, with the exception of animals that provide assistance as permitted by law, and Guiding Eyes for the Blind dogs-in-training. Pets on campus must be on a leash at all times and their waste must be disposed of immediately and in appropriate refuse receptacles. Due to health hazards, no animals (including lab specimens) are permitted in residence halls, with the exception of bowls containing fish. Fish are the only permissible pets. Individuals in violation of this policy will have their animals confiscated and will be subject to disciplinary action; See *Residence Life: Animals* policy for detailed clarification on service and emotional support animals on campus, <http://www.hartwick.edu/campus-life/housing/residential-life-housing-policies/>

21) Wheeled Devices. Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted to be used inside Hartwick buildings, residence halls or on tennis courts without written permission from the Athletic Director or designee. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or other fixtures that may be damaged by these activities and Hartwick reserves the rights to charge individuals for the costs of repairing damage to Hartwick property caused by these activities.

Social Justice: Hartwick students, groups and organizations recognize that respecting the dignity of every person is essential for creating and sustaining a flourishing university community. They understand and appreciate how their decisions and actions impact others and are just and equitable in their treatment of all members of

the community. They act to discourage and challenge those whose actions may be harmful to and/or diminish the worth of others. Conduct that violates this value includes, but is not limited to:

22) Discrimination, Sex Discrimination, Sexual Harassment and Sexual Misconduct. Any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, gender identity, gender expression, sexual orientation, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, or sexual orientation, or other protected status) that is sufficiently severe that it interferes with, limits or denies the ability to participate in or benefit from Hartwick's programs or activities. Hartwick reserves the right to sanction discrimination even if the behavior in question does not rise to the level of legally recognized or actionable discrimination. The Sex Discrimination, Sexual Harassment and Sexual Misconduct policy can be found at: <http://www.hartwick.edu/about-us/employment/human-resources/employees/non-discrimination-non-harassment/>

23) Harassment. With intent to harass, annoy, alarm another person, the student strikes, shoves, kicks or otherwise subjects such other person(s) to physical contact or attempts to threaten to do the same; or the student engages in a course of behavior or repeatedly commits acts which alarm or seriously annoy such other person(s) and which serves no legitimate purpose

24) Retaliation. Any intimidation, harassment, discrimination, retaliation or other adverse action against an individual as a result of that individual participating in, or cooperating with, Hartwick processes (including without limitation student disciplinary processes).

25) Bystanding.

- a) Complicity with or failure of any student to appropriately address, either by safe intervention which is lawful and consistent with Hartwick policy, or by reporting to appropriate Hartwick authorities, any known, suspected or obvious violations of the Code or applicable law;
- b) Complicity with or failure of any organized group to appropriately address, by safe intervention which is lawful and consistent with Hartwick policy, or otherwise by reporting to appropriate Hartwick authorities, known, suspected or obvious violations of the Code or applicable law by its members.

26) Abuse of Conduct Process. Abuse or interference with, or failure to comply in, Hartwick processes including student disciplinary processes including, but not limited to:

- a) Falsification, distortion, or misrepresentation of information;

- b) Failure to provide, destroying or concealing information during an investigation of an alleged policy violation;
- c) Attempting to discourage an individual(s) proper participation in, or use of, the campus conduct system;
- d) Failure to comply with the Educational Outcomes imposed by the campus conduct system;
- e) Influencing, or attempting to influence, another person, group or organization to commit an abuse of the campus conduct system.

Respect: Hartwick students, groups and organizations show positive regard for each other and for the community. Behavior that violates this value includes, but is not limited to:

27) Harm to Persons. Intentionally or recklessly causing physical or emotional harm or endangering the physical or emotional health or safety of any person.

28) Threatening of Intimidating Behaviors:

- a) **Threat.** Written or verbal conduct that causes a reasonable fear of injury to the physical or emotional health or safety of any person.
- b) **Intimidation.** Express or implied acts that cause a reasonable fear of injury to the physical or emotional health or safety of any person or damage to any property.
- c) **Vandalism.** Intentional or reckless damage to any property of another person, organization, or Hartwick.

29) Bullying and Cyberbullying. Bullying and cyberbullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally.

30) Hazing. Any act that endangers the mental or physical health or safety of a person, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent and/or failing to discourage and/or failing to report those acts may also violate this policy and subject the student to disciplinary action.

31) Stalking. Stalking is a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances and with similar identities to the victim to (a) fear for his or her safety or the safety of others; or (b) suffer significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling;

32) Sexual Misconduct. Violating Hartwick's Sex Discrimination, Sexual Harassment and Sexual Misconduct Policy, found at <http://www.hartwick.edu/about-us/employment/human-resources/title-ix/>

33) Public Exposure. Deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts.

Responsibility: Hartwick students, groups and organizations are given and accept a high level of responsibility to self, to others and to the community. Behavior that violates this value includes, but is not limited to:

1. **Alcohol.** Use, possession, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by New York State law and Hartwick College policy. Behavior that generates disorder due to intoxication, which implies consumption, may be subject to the disciplinary process. This includes creating a disturbance, damaging property, presenting a health risk to self or others, or otherwise not meeting responsible consumption expectations.
 - a) **Paraphernalia.** Defined as full, partially full or empty alcoholic beverage containers, shot glasses, champagne or wine glasses, flask, mass-quantity drinking apparatuses, items utilized as part of drinking games or other items that are known to be used for consumption purposes.
 - b) **Residence Halls.** Alcohol is permitted for use and possession by those individuals who are of legal drinking age according to New York State law in the Town Houses, Leitzell Suites and Pine Lake cabins and the lodge. All other residence halls are considered dry buildings.
 - c) **In the Presence of.** Being in the presence of alcoholic beverages or items that do not otherwise meet the acceptable definition.
 - d) **Bulk Alcohol.** Bulk alcohol is defined as two cases of beer or more (or equivalent for other types of alcohol), kegs, beer balls, etc. and are not permitted on campus except were provided by catering services or a permitted licensed 3rd party vendor. Bulk alcohol is not permitted in residence halls under any circumstance.
 - e) **Advertisement.** Advertising alcohol in any way is not permitted on campus property.
 - f) **Social Activities.** Alcohol is permitted at on-campus events when provided through Catering Services or another third-party vendor where a liquor license is obtained and where the event is considered *private*, by invite only, and a majority of those in attendance will be of legal drinking age in New York State. Examples include faculty/staff social events, Board of Trustee events College Advancement events and designated senior class events. Determination of other events will be made by the Vice President of Student Affairs or designee at their sole discretion.

- 1) Alcohol is not permitted at the following events:
 - a. Athletic events, except those approved as private (invitation only) events.
 - b. Residence hall events, floor events, other housing unit events including special interest house events.
 - c. New student programs.
 - d. Fraternity, sorority or student organization events especially those identified, directly or indirectly, as part of the new member process.
- 2) *Private* events must follow these guidelines:
 - a. The event must have a *responsible individual* identified as in charge of the event on all college documentation relating to the event.
 - b. The event must be private, by invitation only.
 - c. All attendees who are 21 years of age and older must be given a designation, such as a wristband, that identifies them as legal to consume alcohol.
 - d. Alcoholic beverages may only be served in single serving units not to exceed 12 oz. beer 4 oz. wine or 1 oz. of other alcoholic beverage.
 - e. Non-alcoholic beverages and food must be available.
 - f. The *responsible individual* has responsibility to see that all New York State laws, policies and guidelines are adhered to.
 - g. Signs must be prominently displayed stating that:
 - i. Alternate beverages are available.
 - ii. It is illegal for persons under age 21 to possess or consume alcoholic beverages.

34) Drugs. Hartwick is committed to a drug-free environment. Local, state and federal laws prohibit the possession, use, manufacture, control, sale and/or distribution of drugs or drug paraphernalia. The penalties by local, state, and federal agencies are severe. Hartwick will not offer protection or immunity from prosecution of its community members and will cooperate with local agencies. Members of the Hartwick community found in violation of the College policy may be subject to separation from the College.

- a) **Paraphernalia:** Defined as any equipment, product, or material that is utilized for making, using, modifying, or concealing drugs.

35) Prescription Medications. Abuse, misuse, sale, or distribution of prescription or over-the-counter medications;

36) Failure to Comply. Failure to comply with the authorized directives of Hartwick officials or law enforcement officers during the performance of their duties and/or failure to accurately identify oneself to these persons when requested to do so;

37) Financial Responsibilities. Failure to promptly meet financial responsibilities to Hartwick, including, but not limited to; restitution affiliated with an Educational Outcome assigned as part of the conduct process, or knowingly passing a worthless check, money order or providing fraudulent credit card information in payment to Hartwick or to an official of Hartwick acting in their official capacity.

38) Arrest. Any student arrested by any off-campus law enforcement agency for any crime or offense (including but not limited to non-custodial or field arrests). Students who report this information to the Dean of Student Life Office within seventy-two (72) hours of release, may be given leniency in the student conduct process based on their display of integrity and responsibility for personal choices.

39) Other Policies. Violating other published Hartwick policies or rules, including but not limited to all Pine Lake, Residence Life, and Academic related policies;

40) Health and Safety. Creation of health and/or safety hazards, which may include, but is not limited to:

- a) Dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.
- b) Engaging in fighting or in violent, tumultuous or threatening behavior, or making unreasonable noise that causes a disturbance;
- c) Using abusive or obscene language, or making an obscene gesture;
- d) Disturbing any authorized assembly or meeting of persons without lawful authority;
- e) Obstructing vehicular or pedestrian traffic;
- f) Congregating with other persons in a public place and refusing to comply with a legitimate request by an official to disperse;
- g) Creating a hazardous or offensive condition by any act which serves no legitimate purpose.

41) Violations of Law. As defined in Section 3, herein.

SECTION 5: THE STUDENT CONDUCT PROCESS

I. General Provisions

A. Authority

The Dean of Student Life is vested with the authority over student conduct by the President of the College. The Dean of Student Life or designee is responsible to oversee and manage the student conduct process. The Dean of Student Life or designee may appoint members of the community, as deemed necessary, in order to efficiently and effectively assist in the administration of the student conduct process.

The Dean of Student Life or designee will assume responsibility for the investigation of all allegations of misconduct to determine if the complaint of misconduct has merit.

B. Hartwick as Convener

Hartwick is the convener of every action adjudicated pursuant to Hartwick's Code. The responding student, group or organization is the person who is alleged to have violated the Code. The party bringing the complaint, who may be a student, employee, visitor, guest, or the College may choose to be present and participate in the process as fully as the responding student, group or organization. There are witnesses, who may offer information regarding the allegation, as well as others who may be identified through the investigation. There is an investigator(s) whose role is to present the allegations and share the evidence that Hartwick has obtained regarding the allegations.

C. Group Violations

A student group or organization and its officers and membership may be held collectively and/or individually responsible when violations of this Code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

During a student conduct hearing for a student, group or organization, individual determinations as to responsibility will be made and Educational Outcomes may be assigned collectively and/or individually and will be proportionate to the involvement of

each individual and the organization. For purposes of this Section of the Code, all references to a “responding student,” unless specifically stated otherwise, reference any student with charges for a policy violation and shall also refer to Hartwick student groups and organizations.

D. Amnesty

1. For Victims

Hartwick provides amnesty to victims who may be hesitant to report to Hartwick officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident.

2. For Those Who Offer Assistance

To encourage students to offer help and assistance to others, Hartwick pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Dean of Student Life or designee, amnesty may also be extended on a case-by-case basis to the person receiving assistance.

3. For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of Hartwick are offered amnesty for their minor violations.

Abuse of amnesty requests can result in a decision by the Dean of Student Life or designee not to extend amnesty to the same person repeatedly.

4. Safe Harbor

Hartwick has a Safe Harbor rule for students. Hartwick believes that students who have a drug and/or addiction problem deserve help. If any Hartwick student brings their own use, addiction, or dependency to the attention of Hartwick officials outside the threat of drug tests or conduct Educational Outcomes and seeks and completes assistance, a conduct complaint is likely not to be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student, and appropriate waivers may be sought to verify follow through of the action plan. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

II. Reporting of Alleged Violations:

- A. Any member of the Hartwick community, visitor or guests may allege a policy violation(s) by any student, group or organization for misconduct under this Code by reporting the alleged conduct to Campus Safety, the Dean of Student Life or designee and/or to the Title IX Coordinator, when appropriate and/or through Hartwick's Silent Witness Program, you may do so by clicking the following URL: <http://www2.hartwick.edu/silentwitness>.
- B. Any victim or third party may allege a policy violation(s) by any student, group or organization for misconduct under this Code by reporting the alleged conduct to Campus Safety, the Dean of Student Life or designee and/or to the Title IX Coordinator, when appropriate and/or through Hartwick's Silent Witness Program, you may do so by clicking the following URL: <http://www2.hartwick.edu/silentwitness>.
- C. All allegations should be submitted as soon as possible after the offending event occurs.
- D. Hartwick has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.

III. Notice of An Alleged Violation:

Once notice is received from any source (victim, incident report, third party, online, etc.) of an alleged violation of the Code by any student, group or organization, Hartwick shall notify such student, group or organization of the allegations at issue as appropriate.

IV. Interim Action:

Under the Code, the Dean of Student Life or designee may impose restrictions and/or separate a student, group or organization, from the community pending the completion of its investigation into the matter if Hartwick has a reasonable basis to believe that the student, group or organization represents a threat of harm to self or others, is facing allegations of criminal activity, to preserve the integrity of an investigation, to preserve Hartwick property and/or to prevent disruption of, or interference with, the normal operations of Hartwick.

Interim actions can include separation from Hartwick or restrictions on participation in the community pending the scheduling of a campus hearing on alleged violation(s) of the Code.

A student, group or organization who receives an interim suspension may request a meeting with the Dean of Student Life or designee to demonstrate why they believe an interim suspension is not merited. Regardless of the outcome of this meeting, Hartwick may still proceed with student conduct process.

V. Investigation:

The Dean of Student Life or designee will appoint an Investigator(s) for all allegations of misconduct under this Code. The following steps will be taken, if not already completed:

- 1) Initiate any necessary interim actions;
- 2) Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, the alleged victim, or a Hartwick proxy or representative;
- 3) Conduct an immediate preliminary investigation to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint;
 - a) If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the victim;
 - b) Notify the victim of whether Hartwick intends to pursue the complaint regardless of their involvement, and inform the victim of their rights in the process and options to become involved if they so choose;
 - c) Preliminary investigation usually takes between 1-7 business days to complete, however in some cases may take longer;
- 4) If indicated by the preliminary investigation and authorized by the Dean of Student Life or designee, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated Hartwick policy, and to determine what specific policy violations should serve as the basis for the complaint;

- a) If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action;
- b) A comprehensive investigation usually takes between one day and two weeks;
 - In some cases a comprehensive investigation can take longer due to variables out of our control. Every effort will be made to conclude the process within 60 days.
- 5) Meet with the complainant or party bringing the complaint to finalize their statement, which may be drawn up by the Investigator as a result of this meeting;
- 6) Commence a thorough, reliable and impartial investigation;
 - a) Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause preponderance of evidence determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the Dean of Student Life or designee;
- 7) Interview all relevant individuals, summarize the information;
- 8) Obtain all documentary evidence and information that is available;
- 9) Obtain all physical evidence that is available;
- 10) Complete the investigation promptly by analyzing all available evidence;
- 11) Present the investigation results and all available evidence to the Dean of Student Life or designee for review.

Should the Dean of Student Life or designee, following receipt of the investigative report, determine based upon a preponderance of the evidence that it is more likely than not that no policy violation has occurred, the inquiry into the complaint at issue will end and proper notification will be provided.

Upon a determination by the Dean of Student Life or designee, following a review of the investigation results, that it is more likely than not that a policy violation has occurred, the Dean of Student Life or designee will notify the responding student and schedule an Educational Conference with the responding student.

VI. Notice of Educational Conference:

Once a determination is made that reasonable cause exists for the Dean of Student Life or designee to proceed with charges against a student, group or organization, notice will be given to the responding student of their right to participate in an Educational Conference with the Dean of Student Life or designee.

Notice will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Student Life or designee; mailed to the local or permanent address of the responding student as indicated in official Hartwick records; or emailed to the responding student's Hartwick-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The notice letter will:

1. Include the alleged violation;
2. Set forth the date and time of the Educational Conference;
3. Notify the responding student that at the Educational Conference the Dean of Student Life or designee will set forth the basis for the College's charges and proposed Educational Outcome;
4. Notify the responding student that at the Educational Conference they will have the opportunity to discuss with the Dean of Student Life or designee why they maintain that they are not responsible for the charges at issue or any other mitigating factors applicable to the charges at issue;
5. Inform the responding student that participating in the Educational Conference is optional; however, failure to respond will result in the matter at issue being referred directly to a hearing body; and
6. Advise the responding student that at the Educational Conference they will be asked to either accept or reject the College's proposed charges and Educational Outcome. Accordingly, prior to the Educational Conference the responding student, group or organization will be advised to consult with those people he/she deems appropriate.

VII. The Educational Conference:

The purpose of the Educational Conference is so the Dean of Student Life or designee can explain to the responding student the nature and basis for the charges at issue and

the student conduct process, should the responding student elect to proceed with said process.

At the Educational Conference, the responding student will have the ability to review the documentation available relating to the charges, be provided the opportunity to set forth the basis as to why they dispute the charges at issue and provide the Dean of Student Life or designee any information believed to be relevant to the charges at issue.

The Educational Conference is designed so that the responding student and the Dean of Student Life or designee can engage in a less formal exchange and dialogue than what may occur if the matter is adjudicated by a hearing body. A student may not have or make copy, create an image or otherwise duplicate any documentation included as part of the student conduct record, however a student may take handwritten notes.

At the conclusion of the Educational Conference, the Dean of Student Life or designee will notify the responding student of the proposed charges and proposed Educational Outcome for the matter in dispute. At this point in time, the responding student will have the option of:

- (i) Accepting a finding of “responsible” and accepting the proposed Outcome;
- (ii) Accepting a finding of “responsible” and rejecting the proposed Outcome; or
- (iii) Rejecting a finding of “responsible.”

In the event that the responding student accepts responsibility and accepts the proposed Outcome, the matter at issue is deemed fully adjudicated. A responding student who accepts responsibility, whether it is for the charges at issue and/or the Outcome, or merely just the charge, cannot subsequently appeal such an acceptance of responsibility.

To the extent a responding student accepts responsibility for the underlying charge but contests the proposed Outcome, the final adjudication of the Outcome will be decided by a hearing body. All hearing bodies are provided the discretion to render any Educational Outcome it deems appropriate and is not bound by any prior proposals that may have been made by the Dean of Student Life or designee. In the aforementioned situation, the hearing bodies Educational Outcome(s) would be the only matter that is subject to appeal.

To the extent a responding student chooses to contest responsibility for the underlying charges, the final adjudication of responsibility, as well as the Educational Outcome will

be decided by a hearing body. All hearing bodies are provided the discretion to render any finding they deem appropriate and are not bound by any prior proposals that may have been made by the Dean of Student Life or designee. In the aforementioned situation, all of the hearing bodies decisions would be subject to appeal.

Lastly, to the extent the Dean of Student Life or designee determines, based upon the information provided by the responding student during the Educational Conference, that Hartwick's original proposed charges and/or Educational Outcome may warrant modification, these modifications can be made during the Educational Conference if both parties agree or can adjourn the meeting. The Dean of Student Life or designee will then have three (3) days from the adjourned Educational Conference to inform the responding student of the modified charges, if any. Upon being notified of the modified charges, if any, the responding student will have three (3) days to either accept or reject the proposed charges and Educational Outcome.

VIII. Hearing Bodies:

At Hartwick, hearing bodies consist of three possible types: (1) Administrative Body; (2) College Hearing Board; or (3) Student Hearing Panel.

The Dean of Student Life or designee is responsible for identifying the appropriate type of hearing body to adjudicate any and all disputes.

1. **Administrative Body.** Generally used when a responding student chooses not to contest the allegation of responsibility but merely disputes the Outcome. Those who serve as Administrative Hearing Officers are professional staff members who work within Hartwick and receive specialized training. An Administrative Body may consist of one (1) or two (2) member panels. The Dean of Student Life or designee reserves the ultimate discretion to use an Administrative Body when the Dean of Student Life or designee deems it appropriate to use such a hearing body as opposed to a College Board or Student Board hearing body, in addition to determining the number of members on the body.
2. **College Hearing Board.** Generally used when a responding student chooses to contest all the allegations and the case is determined to be best heard by administrators, faculty or staff due to the nature of the case. The selection and training of these College Board members is the responsibility of the Dean of Student Life or designee. There are three (3) members of the Board that must be present to hold a hearing. The Chairperson is a non-voting member of this panel unless a majority vote is necessary to determine an outcome of the hearing.

3. **Student Hearing Panel.** Generally used when a responding student chooses to contest all the allegations and the case is determined to be best heard by a panel of peers due to the nature of the case. The selection and training of these Student Board members is the responsibility of the Dean of Student Life or designee. There are eight (8) members of the Panel and at least four (4) voting members must be present to hold a hearing. The Chairperson is a non-voting member of this Panel unless a majority vote is needed to determine an outcome of the hearing.

To serve on the Student Hearing Panel, the student member must:

1. Currently be enrolled at Hartwick and in academic good standing, having completed 15 hours of academic credit with a cumulative GPA of at least 2.5.
2. Have a record of good campus citizenship and be in good standing with the conduct process throughout the semester in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel. A serious history of misconduct could disqualify a student from service.
3. Be available for the common hour on Mondays from 12:20 – 1:30 p.m. during the course of the academic year.
4. Students may be asked to submit a letter of recommendation from a faculty member or administrator from within the Hartwick community.
5. Participate in the mandatory training facilitated by the Dean of Student Life or designee.
6. Develop a clear understanding of the Code of Student Conduct.
7. Become familiar with the procedure for handling a case.
8. Make a collective, informed, unbiased decision for each hearing.

To serve on the Administrative Body or College Hearing Board, the administrative, faculty and/or staff member must:

1. Participate in the mandatory training done by the Dean of Student Life or designee.
2. Develop a clear understanding of the Code of Student Conduct.

3. Become familiar with the procedure for handling a case.
4. Make a collective, informed, unbiased decision for each hearing.

The Dean of Student Life or designee will have final authority to approve all those serving on any of the hearing bodies. The Dean of Student Life or designee is responsible for training the panel. In the event someone resigns from a hearing body, the Dean of Student Life or designee will solicit a replacement in a timely manner.

All hearing bodies are provided the discretion to render any Educational Outcome deemed appropriate and is not bound by any prior proposals that may have been made by the Dean of Student Life or designee. A hearing bodies Educational Outcome decision could be subject to appeal.

IX. Student Conduct Hearing Options and Preparation

In the event a responding student rejects either the proposed charges or the Educational Outcome set forth by the Dean of Student Life or designee at the Educational Conference, a formal hearing will occur and the hearing will be adjudicated by one of three possible types of hearing bodies.

The Dean of Student Life or designee has the ultimate discretion in determine which hearing body will adjudicate the dispute at issue.

Students who deny a violation for which a hearing will be held will be given a minimum of seven (7) days to prepare unless all parties wish to proceed more quickly. Preparation for a hearing, regardless of which type of hearing body adjudicates the dispute, is summarized in the following guidelines:

1. Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Student Life or designee; mailed to the local or permanent address of the student as indicated in official Hartwick records; or emailed to the student's Hartwick-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
2. If there is an alleged victim of the conduct in question, the alleged victim may serve as the party bringing the complaint or the Hartwick administration may serve as the party bringing the complaint forward. Where there is no alleged victim or the victim chooses not to pursue, Hartwick administration will serve as the party bringing the complaint forward.

3. At least four (4) days before any scheduled hearing, the following will occur:
 - a) The responding student will deliver to the Dean of Student Life or designee a written response to the complaint;
 - b) The responding student will deliver to the Dean of Student Life or designee a written list of all witnesses for Hartwick to call at the hearing;
 - c) The responding student will deliver to the Dean of Student Life or designee all physical evidence the student intends to use or needs to have present at the hearing and/or will indicate who has possession or custody of such evidence, if known, so that the Dean of Student Life or designee can arrange for its presence;
 - d) The party bringing the complaint will deliver to the Dean of Student Life or designee a written list of all witnesses for Hartwick to call at the hearing;
 - e) The party bringing the complaint will deliver to the Dean of Student Life or designee all items of physical evidence needed at the hearing and/or will indicate who has possession or custody of such evidence, if known, so that the Dean of Student Life or designee can arrange for its presence;
 - f) The party bringing the complaint and the responding student will notify the Dean of Student Life or designee the name of their procedural advisor, if any, who may be assist them in their preparation and the hearing process. Please note that the procedural advisor may not be affiliated or otherwise involved with the case under review.

4. The Dean of Student Life or designee will ensure that the hearing information and any other available written documentation is shared with the parties at least two (2) days before any scheduled hearing. In addition, the parties will be provided with the name(s) of those panelists in advance of any hearing. Should any party object to any panelist, that party must raise all objections, in writing, to the Dean of Student Life or designee immediately, defined as no less than 24 hours before the scheduled hearing. Hearing Panel members will only be unseated if the Dean of Student Life or designee concludes that their bias precludes an impartial hearing of the complaint. Additionally, any

hearing panel member who feels they cannot make an objective determination must recuse themselves from the proceedings no less than 24 hours before the scheduled hearing.

X. Student Conduct Hearing Panel Procedures:

In the case of a hearing adjudicated by either a College Hearing Board or Student Hearing Panel, the Dean of Student Life or designee will appoint one panelist as the Chairperson for the hearing. The parties have the right to be present during their portion of the hearing; however, they do not have the right to be present during deliberations. If either the complainant or the responding student cannot attend the hearing, it is that student's responsibility to notify the Dean of Student Life or designee as identified no less than three (3) days prior to the scheduled hearing. . Except in cases of grave or unforeseen circumstances, which will be considered by the Dean of Student Life or designee in advance, if the student fails to give the requisite minimum three (3) day notice, or if the responding student, group or organization fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped unless Hartwick chooses to pursue the allegation on its own behalf, as determined by the Dean of Student Life or designee.

All hearings, regardless of the specific hearing body, will be conducted according to the following guidelines:

1. Hearings will be closed to the public.
2. Admission to the hearing of persons other than the parties involved will be at the discretion of the Dean of Student Life or designee.
 - a. Most hearings will include the parties involved to include: the hearing body membership, the complainant or respondent, their procedural advisor, other involved parties, any identified witness(es) and the Dean of Student Life or designee.
3. In hearings involving more than one responding student the standard procedure will be to hear the case jointly; however, the Dean of Student Life or designee may permit the hearing related to each responding student to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding student, group or organization.

4. In a hearing involving more than one complainant the standard procedure will be to hear each complainant separately; however, the Dean of Student Life or designee may permit this to be combined into one case.
5. The parties have the right to a procedural advisor of their own choosing. Typically advisors are members of the Hartwick community, but the parties may select whomever they wish to serve as their advisor. The advisor may not make a presentation or represent the party bringing the complaint or responding student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions and suggest questions to their advisee. Please note that the procedural advisor may not be affiliated or otherwise involved with the case under review.
6. The hearing body will have the privilege of questioning all present witnesses and questioning all present parties. Unduly repetitive witnesses can be limited at the discretion of the Chairperson and/or the Dean of Student Life or designee.
7. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the hearing body. Formal rules of evidence are not observed. The hearing body may limit the number of witnesses presented or may accept written affidavits instead. Character witnesses and/or character witness statements are not considered relevant.
8. All procedural questions are directed to the Dean of Student Life or designee and subject to their final decision.
9. After a hearing is completed, a determination will be made whether it is more likely than not that the responding student has violated the Code. In the case of a hearing conducted by the College Hearing Board or Student Hearing Panel, majority vote will govern.
10. There will be a single verbatim record, such as an audio recording, for all hearings. Deliberations will not be recorded. The record will be the property of Hartwick and maintained according to Hartwick's record retention policy. Students may not make personal recordings of any nature.

The Dean of Student Life or designee will be present and available as a resource during all considerations. Once a finding is determined, if the finding is that of a policy violation, the hearing body will determine an appropriate Educational Outcome. The Dean of Student Life or designee is responsible for informing the hearing body of

applicable precedent and any previous conduct violations or other relevant pattern information about the responding student. The hearing body will prepare a written report and deliver it to the Dean of Student Life or designee, detailing their finding, the information cited by the panel in support of its recommendation, and any information the panel excluded from its consideration and why. This report should conclude with the Educational Outcomes. This report must be submitted to the Dean of Student Life or designee within three (3) business days of the end of the hearing.

The Dean of Student Life or designee will review the recommendations of the panel to ensure that the outcomes are proportionate to the offense and are consistent with practice. The Dean of Student Life or designee may make appropriate modifications to the panel's decision if/when it is determined that the outcomes are disproportionate and/or not consistent with previously established precedent. In this case, the Dean of Student Life or designee would provide a written report detailing the justification for the modification, as applicable by law and Hartwick policy. The Dean of Student Life will then provide the decision letter and inform the responding student, group or organization and party bringing the complaint (if applicable by law or Hartwick policy) of the final determination within five (5) business days of receiving the hearing body decision. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Dean of Student Life or designee; mailed to the local or permanent address of the student as indicated in official Hartwick records; or emailed to the student's Hartwick-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.

SECTION 6: Conduct Point System and Educational Outcomes

A. Point System

The point system was put into place in order to make the Educational Outcome process clear, more consistent, and more predictable for students. Under the point system, a student found responsible for violating the Code is assigned points according to the table below.

Points and/or other Educational Outcomes are assigned at the conclusion of the hearing process when a person is found responsible. Points are cumulative. Higher point values may be assigned to repeat or more egregious offenses. For example, an underage student found responsible for possessing an open container of alcohol is assigned two (2) points [one (1) point for an open container and one (1) point for underage drinking]. Similarly, a student who is assigned one (1) point in September for underage drinking and, in October, is found responsible for disabling a fire safety device, is assigned six (6) additional points. The student's point total is now seven (7) points.

If through one incident or a series of incidents, a student accumulates:

- **4 - 5 points**, the student's parent(s) or guardian and coach may be notified of the infraction(s).
- **6 - 9 points**, the above and the student will be placed on a status of disciplinary probation. Students with 6 or more points may be prohibited from studying abroad, may not be eligible to live off campus when applicable and are penalized in the housing lottery (100 additional points will be subtracted from their housing points for housing selection).
- **10 or more points**, all of the above and the student may be separated from the College for a period of time to be determined by the Dean of Student Life or designee, but no less than one term.

The chart below shows examples of violations and the associated point values. Points are assigned within a given range based upon the circumstances of the specific incident. This list is not inclusive of all possible violations.

Item	Point Range	Violation	Fine
	0	Underage in the presence of Alcohol	
	0	Good Samaritan opportunity for a student or organization who discovers and assists a student who's health or safety is at risk by contacting a college administrator, campus safety or health care professional.	
	0	Amnesty opportunity for a student or organization that discovers and assists a student whose health or safety is at risk by contacting a college administrator, campus safety or health care professional.	
	0	Alcohol or drug violation where a student opts to utilize the Safe Harbor opportunity.	
	0-2	In the presence of alcohol where not permitted on campus, student is over 21	\$25.00
	1	Underage in the presence of Alcohol	\$50.00
	1	Open container of alcohol	
	1	In the presence of empty alcohol containers or alcohol paraphernalia on campus where not permitted	\$50.00
	1-2	Possession of alcohol under 21	\$75.00
	1-2	Excessive noise	
	1-2	Violation of smoking policy	\$50.00
	1-4	Failure to comply with a college official	
	1-6	Disruptive behavior	
	1-6	Public exposure, lewd or indecent behavior	
	2-4	Falsification	
	2-4	Possession of drug paraphernalia	\$100.00
	2-6	Serving alcohol to minors	\$100.00

	2-6	Heavy intoxication (student loses consciousness or is transported for medical assistance)	\$100.00
	2-6	Violation of bulk alcohol policy	\$100.00
	2-4	Public Drunkenness on or off campus	\$50.00
	2-4	Underage consumption or in the presence of alcohol	\$150.00
	2-3	Failure to leave building during fire alarm	\$50.00
	3-10	Weapons policy violation	
	3-6	Marijuana use and/or possession	\$100.00
	4-10	Theft	
	4-10	*Intentional or reckless destruction of college or private property	
	5-8	Disabling or tampering with a fire safety device	\$150.00
	6-10	Hazing	
	6-10	Altering/falsifying college documents	
	6-10	Physical violence	
	8-10	Illegal drug use and/or possession (not marijuana)	\$150.00
	10	Distribution of any illegal/controlled substances	\$200.00
	10	Drinking accompanied by violence regardless of age (fighting, forced entry, etc.) that results in physical injury.	\$200.00

* Students found responsible for intentional or reckless destruction of Hartwick or private property may be assigned 10 points and be separated from Hartwick. Exception will be given to those students who show integrity and responsibility and turn themselves in to Campus Safety, Residential Life or the Dean of Student Life within 48 hours following the incident. These students will be assigned a minimum of four (4)

points and required to pay twice the cost of the repair, up to \$1000, with a \$100 minimum charge.

B. Point Forgiveness

Two (2) points are forgiven six (6) months from the date of the violation, provided the student commits no subsequent violations. If the student is found responsible for any additional violations during that six (6) month period, no points are forgiven at the six (6) month anniversary of the first violation. Any new points from subsequent violation(s) are added to those from the previous violation. Two (2) points are forgiven, if there are no further violations, on the six-month anniversary of the most recent violation.

C. Educational Outcomes

One or more of following Educational Outcomes may be imposed upon any student for any single violation of the Code:

- 1) *Warning*: An official written notice that the student has violated Hartwick policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at Hartwick.
- 2) *Restitution*: Compensation for damage caused to Hartwick or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine, but rather a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- 3) *Fines*: Reasonable fines may be imposed.
- 4) *Community/Hartwick Service Requirements*: For a student or organization to complete a specific supervised Hartwick service.
- 5) *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
- 6) *Confiscation of Prohibited Property*: Items whose presence is in violation of Hartwick policy will be confiscated and will become the property of Hartwick. Prohibited items may be returned to the owner at the discretion of the Dean of Student Life or designee and/or Campus Safety.
- 7) *Behavioral Requirement*: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.

- 8) *Reflective Assignment*: This may include requiring the student to complete a reflective action including but not limited to responding to specific questions outlined in the decision letter, researching and providing reflection to a specific topic, or responding to an identified reading assignment.
- 9) *Educational Program*: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- 10) *Restriction of Visitation Privileges*: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- 11) *Hartwick Housing Probation*: Official notice that, should further violations of Residence Life or Hartwick policies occur during a specified probationary period, the student may immediately be removed from Hartwick housing. Regular probationary meetings may also be imposed.
- 12) *Hartwick Housing Reassignment*: Reassignment to another Hartwick housing facility. The Director of Residential Life and Housing will decide on the reassignment details in consultation with the Dean of Student Life or designee.
- 13) *Hartwick Housing Suspension*: Removal from Hartwick housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to Hartwick housing may be specified. Under this Educational Outcome, a student is required to vacate Hartwick housing within 24 hours of notification of the action, though this deadline may be extended upon request to, and at the discretion of, the Dean of Student Life or designee. This Educational Outcome may be enforced with a trespass action if deemed necessary. Prior to reapplication for Hartwick housing, the student must gain permission from the Dean of Student Life. This Educational Outcome may include restrictions on visitation to specified buildings or all Hartwick housing during the suspension.
- 14) *Hartwick Housing Expulsion*: The student's privilege to live in, or visit, any Hartwick housing structure is revoked indefinitely. This Educational Outcome may be enforced with a trespass action if deemed necessary.
- 15) *Hartwick Probation*: The student is put on official notice that, should further violations of Hartwick policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.

- 16) *Eligibility Restriction*: The student is deemed “not in good standing” with Hartwick for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Student Life or designee and terms of this Conduct Educational Outcome may include, but is not limited to, the following:
- a) Ineligibility to hold any office in any student organization recognized by Hartwick or hold an elected or appointed office at Hartwick; or
 - b) Ineligibility to represent Hartwick to anyone outside Hartwick community in any way, including: participating in the study abroad program, attending conferences, or representing Hartwick at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- 17) *Hartwick Suspension*: Separation from Hartwick for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Dean of Student Life or designee. During the suspension period, the student is banned from Hartwick property, functions, events and activities without prior written approval from the Dean of Student Life or designee. This Educational Outcome may be enforced with a trespass action as necessary. This Educational Outcome will be noted as a Conduct Suspension on the student’s official academic transcript.
- 18) *Hartwick Expulsion*: Permanent separation from Hartwick. The student is banned from Hartwick property and the student’s presence at any Hartwick sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. This Educational Outcome will be noted as a Conduct Expulsion on the student’s official academic transcript.
- 19) *Other Educational Outcomes*: Additional or alternate Educational Outcomes may be created and designed as deemed appropriate to the offense with the approval of the Dean of Student Life or designee.

The following Educational Outcomes may be imposed upon groups or organizations found to have violated the Code:

- 1) One or more of the Educational Outcomes listed above; and/or
- 2) Deactivation, de-recognition, loss of all privileges (including status as a Hartwick registered group/organization), for a specified period of time.

D. Parental Notification

Hartwick reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and drug violations, or where the outcome changes the students living or attendance status. Hartwick may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or drug violations. Parental notification may also be utilized discretionarily by administrators when permitted by FERPA or with written consent of the student.

E. Notification of Outcomes

The outcome of a campus hearing is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, Hartwick will inform the alleged victim/party in writing of the final results of a hearing regardless of whether Hartwick concludes that a violation was committed. In addition, Hartwick will notify others as where permitted by local, state and federal law. Such release of information may only include the alleged student’s/responding student’s name, the violation committed, the Outcomes assigned (if applicable), and whether Outcomes were completed. In cases of sexual misconduct and other offenses covered by Title IX, the decision will be shared with all parties to the complaint in addition to the finding and Outcomes.

In cases where Hartwick determines through the student conduct process that a student violated a policy that would constitute a “crime of violence” or nonforcible sex offense, Hartwick may also release the above information publicly and/or to any third party.

FERPA defines “crimes of violence” to include:

- 1) Arson
- 2) Assault offenses (includes stalking)
- 3) Burglary
- 4) Criminal Homicide—manslaughter by negligence
- 5) Criminal Homicide—murder and non-negligent manslaughter
- 6) Destruction/damage/vandalism of property
- 7) Kidnapping/abduction
- 8) Robbery
- 9) Forcible sex offences
- 10) Non-forcible sex offences

F. Failure to Complete Conduct Educational Outcomes

All students, as members of Hartwick community, are expected to comply with conduct Educational Outcomes within the timeframe specified by the Dean of Student Life or designee. Failure to follow through on conduct Educational Outcomes by the date

specified, whether by refusal, neglect or any other reason, may result in additional Educational Outcomes and/or be faced with additional policy violations at Hartwick. In such situations, resident students may be required to vacate Hartwick housing within 24 hours of notification by the Dean of Student Life or designee, though this deadline may be extended upon application to, and at the discretion of, the Dean of Student Life or designee. In addition, if a student's conduct history warrants, a separation from Hartwick may be imposed in the form of a suspension for a designated period of time. A suspension will only be lifted when compliance with the student conduct Educational Outcomes is satisfactorily achieved and the time frame identified has expired. This determination will be made by the Dean of Student Life or designee.

SECTION 7. – THE APPEALS PROCESS

I. Grounds for Appeal

Any party may request an appeal of a decision that was rendered through a student conduct hearing, whether heard by administrative officer or hearing body, by filing a written request to the Dean of Student Life or designee, subject to the procedures outlined below.

Appeal requests are limited to the following grounds:

- 1) A procedural error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
- 2) To consider new evidence, not reasonably available during the original hearing or investigation, that could substantially impact the original finding or Outcome. A detailed summary of this new evidence and its potential impact must be included in the request for appeal;
- 3) The Outcomes imposed are disproportionate to the parameters or guidelines set by Hartwick for this type of offense or the cumulative conduct record of the responding student.
- 4) Failure to apply the preponderance of the evidence standard.

II. Initial Appeal Procedures

- 1) All appeals must be filed in writing with the Dean of Student Life or designee within three (3) business days of the notice of the outcome of the hearing body determination, barring exigent circumstances. Exceptions to the above-mentioned filing deadline are up to the discretion of the Dean of Student Life or designee and, when appropriate, the Title IX Coordinator.
- 2) All appeals must set forth, in writing, the grounds for the appeal as identified in Section 7, I.
- 3) Upon receipt of a request for an appeal, the Dean of Student Life or designee will share the appeal with the non-appealing party (parties) when appropriate.
- 4) Upon receipt of a request for an appeal, such a request will be reviewed and referred to an Appeal Review Officer, identified by the Vice President for Student Affairs.
- 5) The Appeal Review Officer will conduct an initial review of the appeal to determine if the request meets the limited Grounds for Appeal (Section 7, I) and is timely (Section 7, II (1)). The Appeal Review Officer may consult with the Dean of Student Life or designee and/or Title IX Coordinator on any procedural or substantive questions that arise.

- 6) If the Appeal Review Officer determines that the appeal is not timely or adequate grounds for appeal have not been claimed, the original finding and Outcome will stand and the decision is final.
- 7) If the Appeal Review Officer determines that the appeal is timely and adequate grounds for the appeal have been set forth, the Appeal Review Officer will determine whether to:
 - a. Refer the appeal directly to an Appeals Panel or;
 - b. Remand the proceeding back to the original hearing body.
- 8) Should a matter be remanded back to the original hearing body and a showing is made that the original hearing body is unduly biased by a procedural or substantive error, a new hearing body may be constituted to reconsider the matter, the decision of which can in turn subsequently be appealed.
- 9) When a matter is remanded to the original hearing body, it is expected that a review, or in some cases a re-convened hearing, will take place within 3-5 business days of the remand. Efforts should be made to use remand whenever possible, with clear instructions that on remand the proceeding will be limited to those grounds identified in the appeal and the case will not be reconsidered in its entirety.

III. The Appeals Panel

A. Composition

The Appeals Panels shall consist of three (3) members, with the following requirements to serve:

- 1) they did not serve as either the Administrative Hearing Office, nor were they on the Student Hearing Panel or College Hearing Board for the initial hearing;
- 2) they were not involved in the investigation in any way; and
- 3) they have been properly trained on the appeals procedures by the Dean of Student Life or designee.

Should Hartwick allow students to serve on the Appeal Panel, they must:

- 1) Be in good academic standing and have completed 15 hours of academic credit with a cumulative GPA that matches that of the Student Hearing Board standard (Sec.5, VIII).
- 2) Be in good standing with respect to the conduct process throughout the term in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel, as well as not currently being on any probation. A serious history of misconduct could disqualify a student for service.

The Dean of Student Life or designee serves as the non-voting advisor to the panel, with responsibility for training the panel, conducting preliminary investigations, and ensuring a fair process for the complainant and responding student.

B. Designation of The Appeals Panel

- 1) The Appeal Review Officer will have final authority to approve and designate all those serving on the Appeals Panel.
- 2) The Appellant may challenge a panelist(s) on the basis of potential bias, and any panelist who cannot render an impartial decision must recuse themselves.
- 3) The Appeal Review Officer will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Appeals Review Officer, in consultation with the Vice President for Student Affairs, will solicit a replacement from the pool of panelists.

IV. Hearings before the Appeals Panel

- 1) Appeals are not intended to be full re-hearings of the original case (de novo). In most situations, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal.
- 2) Appeals are not an opportunity for the Appeals Panel to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or Educational Outcomes. Appellate decisions are to be respectful to the original hearing body, making changes to the finding only where there is clear error and to the Educational Outcomes only if there is a compelling justification to do so.
- 3) On appeal, the appealing party will have the opportunity to present his/her case to the Appeals Panel in writing and provide support as to why the decision of the original hearing body should be reversed and/or modified.
- 4) On appeal, the non-appealing party will similarly have the opportunity to present to the Appeals Panel in writing why the decision of the original hearing body should be upheld.
- 5) Following a review of the documentation presented in the appeal, the Appeals Panel can render one of the following decisions:
 - i. Affirm the original hearing body's finding and Educational Outcome.
 - ii. Remand the matter to the original hearing body with specific instructions as to basis for remand and issues to address on remand.
 - iii. Modify either the original hearing body's findings or Educational Outcome, with clear justification for the modification.
 - iv. Reverse the original hearing body's findings, with clear justification why it could not be remanded back to the original hearing body and why the original decision was reversed.

V. Treatment of Original Hearing Body's Determination Pending Appeal

The presumptive stance of Hartwick is that all decisions made by any hearing body and/or Outcomes imposed by the original hearing body are to be implemented during the appellate process.

At the discretion of the Dean of Student Life or designee, and in consultation with the Title IX Coordinator when necessary, implementation of Educational Outcomes may be stayed pending review only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood, as determined by the Appeals Review Officer and Dean of Student Life or designee, in consultation, that the appeal would result in a reversal of the finding and/or substantial modification of the Educational Outcomes.

SECTION 8. – Administrative Notification

Disciplinary Records

All conduct records are maintained by Hartwick for seven (7) years from the time graduation or separation from the college, except those that result in separation due to suspension or expulsion, and those that fall under Title IX, which are maintained indefinitely.

Approval and Implementation

This *Code of Student Conduct* was last edited on February 6, 2017, and implemented on February 6, 2017.