



HARTWICK
COLLEGE

est. 1797

Code of Student Conduct

*Hartwick College
1 Hartwick Drive
Oneonta, NY 13820*



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PREFACE

- **Hartwick College (“Hartwick”) students, groups and organizations are responsible for knowing the information, policies and procedures outlined in this document.**
- 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 Student Experience. Students are responsible for having read and abiding by the provisions of the Code.
- 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, Residential Life staff, the Office of Student Experience and/or the Assistant Vice President for Student Experience (AVPSE). If you choose to report through Hartwick’s Silent Witness Program, you may do so by clicking the following link:
<http://info.hartwick.edu/forms/silentwitnessform.html>
- 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.
- This Code of Student Conduct (“Code”) is not to be regarded as a contract between a student and the College. Hartwick reserves the right to make changes to the Code 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.



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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.



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SECTION 1: OFFICE OF STUDENT CONDUCT: MISSION AND PHILOSOPHY**I. Mission Statement**

Hartwick College's Office of Student Experience collaboratively connects, supports, and educates students through engaging opportunities that foster inclusive communities, confidence and life skills.

II. 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 Student Experience 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 student, as a community member, has the right of freedom of speech and peaceful assembly, except where such rights conflict with the good of the community, and are in direct conflict with how Hartwick defines appropriate behavior. 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 the five (5) core values by engaging in a violation of the rules or expectations, 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.



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SECTION 2: JURISDICTION

I. Who is Covered by the Code

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.

The Code and the student conduct process apply to the conduct of:

- All students and all Hartwick-affiliated student groups or organizations on campus and off-campus.
- 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.
- An accused student that takes a leave of absence or withdraws, the College may continue the conduct process in its discretion.

II. The Conduct Process in Conjunction with a Leave, Withdrawal, or Departure from Hartwick College

The outcome of the conduct process will take precedence over any leave, withdrawal or departure from the College, which may include graduation, until all allegations are resolved.

- In addition, the College may preclude a student, subject to allegations of violations, from graduating until the allegations are resolved.
- 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.
- In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, Hartwick may invoke these procedures; should the former student be found responsible, Hartwick may revoke that student's degree.

III. The Conduct Process in Conjunction with Off-Campus Conduct

All Hartwick College students, affiliated student groups, organizations and athletic teams are required to adhere to the Code of Student Conduct at all times, whether they are on or off-campus, including, but 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.

IV. Additional Parties Covered by the Code

The Code also applies to guests of Hartwick College students. The Hartwick College student host may be held accountable for the misconduct of their guests.

The Code may also be applied to high school bridge/extension/partner/dual-credit and continuing education students and SUNY Oneonta and Hartwick exchange program students.

Visitors to and guests of Hartwick may seek resolution of violations of the *Code* committed against them through the processes outlined herein.

V. Handling of Violations of the Code of Student Conduct and the Sex Discrimination, Harassment and Misconduct Policy

If a student is charged with policy violations under both the Code of Student Conduct and the Sex Discrimination, Harassment and Misconduct Policy, the alleged violations will be handled through one process, engaging both the Title IX Coordinator and the AVPSE or designee.

In circumstances where there is a conflict between the procedures and/or processes set forth in the Code and those set forth in the Sex Discrimination, Harassment and Misconduct Policy, the procedure or process outlined in the Sex Discrimination, Harassment and Misconduct Policy will take precedence. If there is no procedure or process outlined in that policy to address the issue at hand, the process outlined in the Code of Student Conduct will be used.

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 student 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 student conduct process and must comply with all Educational Outcomes that are imposed.



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SECTION 4: STANDARDS OF CONDUCT

I. 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. 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 6, III.

A. Integrity

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: <https://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.; or
 - unauthorized possession, duplication or use of means of access to any Hartwick building (e.g., a key or card); or
 - failing to timely report (within 48 hours) a lost Hartwick identification card or means of access (e.g., a key or card); or
 - Misuse of access privileges to Hartwick premises; or
 - trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a Hartwick building; or
 - access to or presence in any Hartwick building that a student has been restricted from; or
 - access to or presence in any residence hall during times they are closed (i.e. Holiday Break, Summer).
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 Government Association, in consultation with the AVPSE).
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.

B. Community

9. Disruptive Behavior – On Campus. Substantial disruption of a peaceful environment and/or Hartwick operations including:

- obstruction of teaching, research, administration, or other Hartwick activities; or
- other authorized non-Hartwick activities which occur on campus; or
- any type of disruption or conduct that interferes with the rights and opportunities of those who attend Hartwick for the purposes for which the College exists; or
- speech or behavior that materially and substantially disrupts the College living and/or learning environment that will not be tolerated (this may include but is not limited to behavior that is not in line with the College's Peaceful Assembly/Protest Procedures and Protocols and/or Guidelines).

The classroom disruption policy can be found at:

<https://www.hartwick.edu/academics/student-services/academic-affairs/academic-policies/>.

10. Disruptive Behavior – Off Campus. Substantial disruption of a peaceful environment and/or Hartwick operations including behavior(s) that takes place at an off-campus location. These include but are not limited to being a public inconvenience or substantial disruption that annoys, alarms, or that recklessly or intentionally causes disruption to operations or activities which serves no legitimate purpose.

11. 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.

12. Infringement of Certain Intellectual Property Rights. Unauthorized use or misuse of the names, images, logos, trademarks, service marks, or other infringement of intellectual property rights of Hartwick or an organization recognized by Hartwick.

13. Damage, Destruction and Vandalism. 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:
<https://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, residence hall rooms or common areas.
- 18. Fire Safety.** Violation of local, state, federal or campus fire policies including, but not limited to:
- Intentionally or recklessly causing a fire which damages Hartwick or personal property or which causes injury; or
 - Failure to evacuate a Hartwick controlled building during a fire alarm; or
 - Improper use of Hartwick fire safety equipment; or
 - 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 rushing, pledging, joining, recruiting for, perpetuating, or otherwise engaging in activities as an actual or prospective member of an undergraduate fraternal or similar selective membership organization not recognized by the College; anyone engaging in such activities, either as an actual or prospective member, will be held accountable under the Code, which may include suspension or expulsion.
- 20. Animals.** Animals are not allowed in any residence hall or other campus building at any time, with the exception of fish kept in bowls as pets, 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. Animal lab specimens are permitted solely in the academic buildings for those purposes and may not be in residence halls under any circumstance. 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, <https://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 right to charge individuals for the costs of repairing damage to Hartwick property caused by these activities.

C. Social Justice

22. Discrimination. Any act or failure to act that is based upon an individual or group's actual or perceived characteristics that is sufficiently severe that it interferes with, limits or denies the ability to participate in or benefit from Hartwick's programs or activities. The actual or perceived characteristics include, but are not limited to:

- Age;
- Race;
- Sexual/affectional orientation;
- Gender identity or gender expression;
- Disability;
- Genetic information;
- Predisposition of carrier status;
- Ethnic or national origin;
- Religion or belief;
- Military or veteran's status;
- Marital status;
- Domestic violence victim status;
- or other classes protected by applicable law.

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 Non-Discrimination and Non-Harassment policy can be found at:

<https://www.hartwick.edu/about-us/employment/human-resources/employees/non-discrimination-non-harassment/>.

23. Harassment. With intent to harass, annoy or alarm another person, the student strikes, shoves, kicks or otherwise subjects such other person(s) to physical contact or attempts or threatens to do the same; or the student engages in behavior or repeatedly commits acts which alarm or seriously annoy such other person(s) and which serves no legitimate purpose. The Non-Discrimination and Non-Harassment policy can be found at:

<https://www.hartwick.edu/about-us/employment/human-resources/employees/non-discrimination-non-harassment/>.

Bias Related Harassment.

A person engages in harassment as defined above based in whole or in part on perceived characteristics of the victim such as age, race, sexual/affectional orientation, disability, genetic information, predisposition of carrier status, ethnic or national origin, religion, military or veteran's status, marital status, domestic violence victim status, or other

classes protected by applicable law, regardless of whether the belief or perception is correct.

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.

- 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; or
- 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, the student disciplinary processes including, but not limited to:

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

D. Respect and Civility

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 or Intimidating Behaviors.

- **Threat.** Written or verbal conduct that causes a reasonable fear of injury to the physical or emotional health or safety of any person.
- **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.

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
- fear for his or her safety or the safety of others; or
 - suffer significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- 32. Sexual Misconduct.** Violating the Sexual Misconduct Policy, found at <https://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.

E. Responsibility

- 34. Alcohol.** 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.
- **Use of Alcohol.** Use of alcoholic beverages by any student under the age of 21, use that jeopardizes the health and/or safety of any individual, or use that disrupts the normal operations of the College is prohibited.
 - **Possession of Alcohol.** Possession of alcoholic beverages by any student under the age of 21 is prohibited.
 - **Distribution/Sale.** The distribution and/or sale of alcohol to others, of legal age or not, is strictly prohibited.
 - **Paraphernalia.** Defined as full, partially full or empty alcoholic beverage containers, flask, mass-quantity drinking apparatuses (i.e. funnel, beer bong), items utilized as part of drinking games or other items that are known to be used primarily for consumption purposes.
 - **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 Apartment Complex, Town Houses, Leitzell Suites, and Pine Lake cabins and the lodge. All other residence halls are considered dry buildings.
 - **In the Presence of.** Being in the presence of alcoholic beverages or items that are, or in a context that is, otherwise prohibited by College policy.
 - **Bulk Alcohol.** Bulk alcohol is defined as two cases of beer or more, 8 bottles of wine or more, 3 bottles of liquor or more. Kegs, beer balls, etc. are not permitted on campus

except where provided by catering services or a permitted licensed 3rd party vendor. Bulk alcohol is not permitted in residence halls under any circumstance.

- **Advertisement.** Advertising alcohol in any way is not permitted on campus property.
- **Social Activities.** Alcohol is permitted at on-campus events when provided through Catering Services or another third-party vendor where a liquor license.
 - *Private* events must follow these guidelines:
 - The event must have a *responsible individual* identified as in charge of the event on all college documentation relating to the event.
 - The *responsible individual* has responsibility to see that all applicable laws and College policies and guidelines, are adhered to.
 - The event must be private, by invitation only.
 - Majority of attendees must be of legal drinking age in New York State.
 - All attendees who are 21 years of age and older must be given a designation, such as a wristband, provided by the host group, that identifies them as legal to consume alcohol.
 - Alcoholic beverages may only be served in single-serving units not to exceed 12 oz. beer, 4 oz. wine, or 1 oz. of another alcoholic beverage.
 - Non-alcoholic beverages and food must be available.
 - Signs must be prominently displayed stating that:
 - Alternate beverages are available; and
 - It is illegal for persons under age 21 to possess or consume alcoholic beverages.
 - Alcohol is not permitted at the following events:
 - Athletic events, except those approved as private events; or
 - Residence hall events, floor events, other housing unit events including special interest house events; or
 - New student programs; or
 - Fraternity, sorority or student organization events, unless approved as a private event.

35. Drugs. Hartwick College prohibits the possession, use, manufacture, control, sale and/or distribution of illicit drugs or paraphernalia.

- **Use of Drugs.** Use of illicit drugs is prohibited.
- **Possession of Drugs.** Possession of illicit drugs is prohibited.
- **Paraphernalia.** Defined as any equipment, product, or material that is utilized for making, using, modifying, or concealing drugs.
- **Distribution.** Selling or distributing illicit drugs, equipment or materials is prohibited.
- **Production.** Manufacturing of illicit drugs, equipment or materials is prohibited.
- **In the Presence of.** Being in the presence of drugs or items that are, or in a context that is, otherwise prohibited by College policy.

36. Prescription Medications. Abuse, misuse, unlawful sale, or unlawful distribution of prescription or over-the-counter medications.

- 37. 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.
- 38. 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.
- 39. Health and Safety.** Creation of health and/or safety hazards, which may include, but is not limited to:
- Dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.
 - Engaging in fighting or in violent, tumultuous or threatening behavior, or making unreasonable noise that causes a disturbance.
 - Using abusive or obscene language or making an obscene gesture.
 - Disturbing any authorized assembly or meeting of persons without lawful authority.
 - Obstructing vehicular or pedestrian traffic.
 - Congregating with other persons in a public place and refusing to comply with a legitimate request by an official to disperse.
 - Creating a hazardous or offensive condition by any act which serves no legitimate purpose.
- 40. Violations of Law.** Engaging in behavior that is a violation of applicable law that is not otherwise described in this code of conduct.
- 41. Other Policies.** Violating other published Hartwick policies or rules, including but not limited to all Pine Lake, Residence Life, Information Technology, Title IX and Academic related policies.

SECTION 5: THE STUDENT CONDUCT PROCESS

I. General Provisions

A. Authority

The Office of Student Experience is vested with the authority over student conduct by the President of the College. The AVPSE or designee is responsible to oversee and manage the student conduct process and has discretionary authority to interpret and construe any uncertain or disputed aspects of the process. The AVPSE 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 AVPSE 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. Standard of Proof

The standard of proof in the student conduct process at Hartwick is based on a preponderance of the evidence. A preponderance of the evidence is defined as "is it more likely than not" that a violation occurred.

D. Procedural Advisors

Throughout the student conduct process, students are permitted to identify a Procedural Advisor to assist them. Procedural Advisors may assist students in all meetings during the student conduct process. Typically, Procedural Advisors are members of the Hartwick community, but students may select whomever they wish to serve as their Procedural Advisor. The Procedural Advisor is not permitted to make a presentation or represent the students involved at any level of the process. They may confer quietly with their advisee, exchange notes, and clarify procedural questions.

If a student does not have someone whom they know who can serve as their Procedural Advisor, they may request a Procedural Advisor at which time the AVPSE or designee will produce a list of names they can select from. Typically, when a Procedural Advisor is provided by the AVPSE or designee, they will be someone who is not already directly or indirectly, when possible, involved with the case.

E. Maxient as Student Conduct Database and Communication Tool

Maxient Conduct Manager has been procured for use at Hartwick College to provide a web-based program used to track student conduct records and facilitate all communications for students related to the student conduct process and procedures. Any electronic communication sent from Maxient to a student, should be opened, read and followed up on.

F. 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; or
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were otherwise reasonably foreseeable to the membership or its officers, and the membership or officers failed to take reasonable steps to prevent the violation(s).

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.

G. 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 AVPSE 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 AVPSE 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

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 AVPSE 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 link: <https://info.hartwick.edu/forms/silentwitnessform.html>.

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 AVPSE 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 link: <https://info.hartwick.edu/forms/silentwitnessform.html>.

All allegations should be submitted as soon as possible after the offending event occurs.

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 AVPSE 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 AVPSE 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 Assistant Vice for Student Experience 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 AVPSE or designee, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated Hartwick policy, and 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 two weeks to 30 days;

- i. In some cases, a comprehensive investigation can take longer due to variables out of the College's reasonable 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 determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the AVPSE or designee;
- 7) Interview all relevant and available individuals, and summarize the information;
- 8) Obtain all relevant documentary evidence and information that is available;
- 9) Obtain all relevant physical evidence that is available;
- 10) Complete the investigation promptly by analyzing all available evidence;
- 11) Present the investigation results and supporting evidence to the AVPSE or designee for review.

Should the AVPSE or designee, following receipt of the investigative report, determine based upon a preponderance of the evidence that it is not more likely than not that a policy violation has occurred, the inquiry into the complaint at issue will end and proper notification will be provided.

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

VI. Developmental Conversation

The purpose of the Developmental Conversation is for a Student Conduct Officer to discuss incidents that are deemed to be minor, first time offenses with the alleged policy violator(s). Notice will be in writing and may be delivered by one or more of the following methods: in person by the AVPSE 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 via Maxient. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.

While a Developmental Conversation generally does not result in formal Student Conduct charges, Educational Outcomes can be assigned.

VII. Notice of Educational Conference

Upon a determination by the AVPSE or designee, following a review of the investigative report, that it is more likely than not that a policy violation has occurred, notice will be given to the responding student of their right to participate in an Educational Conference with the AVPSE or designee.

Notice will be in writing and may be delivered by one or more of the following methods: in person by the AVPSE 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 via Maxient. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The notice letter will:

- Include the alleged violation(s);
- Set forth the date and time of the Educational Conference;
- Notify the responding student that at the Educational Conference the AVPSE or designee will set forth the basis for the College's charges;
- Notify the responding student that at the Educational Conference they will have the opportunity to discuss with the AVPSE 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;
- 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
- 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.

VIII. The Educational Conference

The purpose of the Educational Conference is so the AVPSE 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 AVPSE 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 AVPSE 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 AVPSE or designee will notify the responding student of the proposed charge(s) and proposed Educational Outcome(s) for the matter in dispute. At this point in time, the responding student will have the option of:

- 1) Accepting a finding of “responsible” and accepting the proposed Outcome(s) for all charges; or
- 2) Rejecting a finding of “responsible” and/or not accepting proposed Outcome(s) for all or some of the charge(s).

If a student chooses to accept responsibility for *some* but not all of the identified charges, the student should select option (2) and the process will be forwarded to a hearing body. As part of the formal hearing process, a responding student will have the ability to accept responsibility for some or all of the charges identified.

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

To the extent a responding student rejects a finding of “responsible,” the final adjudication of the Outcome(s) will be decided by a hearing body. All hearing bodies are provided the discretion to render any Educational Outcome(s) they deem appropriate and are not bound by any prior proposals that may have been made by the AVPSE or designee. In the aforementioned situation, the hearing body’s Educational Outcome(s) would be the only matter that is subject to appeal.

To the extent a responding student chooses to reject responsibility for the underlying charges, the determination 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 AVPSE, or designee. In the aforementioned situation, a hearing body’s decision would be subject to appeal.

Lastly, to the extent the AVPSE 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(s) may warrant modification, these modifications can be made during the Educational Conference if both parties agree or can

adjourn the meeting. The AVPSE or designee will then have three (3) business 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) business days to either accept or reject the proposed charges and Educational Outcome(s).

IX. Hearing Bodies

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

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

A. Types of Hearing Bodies

1. Administrative Body

Generally used when a responding student chooses not to contest the allegation of responsibility but merely disputes the Outcome (but may be used in other circumstances as deemed appropriate by the AVPSE or designee). Those who serve as Administrative Hearing Officers to comprise an Administrative Body 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 AVPSE or designee reserves the ultimate discretion to use an Administrative Body when the AVPSE or designee deems it appropriate to use such a hearing body as opposed to a College Hearing Board or SGA Judicial Board, 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 AVPSE or designee. There are three (3) members of the Board that must be present to hold a hearing.

3. Student Government Association Judicial Board (SGA Judicial Board)

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 of the members of the SGA Judicial Board is the responsibility of the Student Government Association and is defined in Article III of the SGA Constitution. The SGA Judicial Board is comprised of five Justices, one student from each class year (first year, sophomore year, junior year, and senior year students) and one student from three-year degree students. The training of these Justices with regards to the student conduct process is the responsibility of the AVPSE or designee. All Justices have the opportunity to serve on a hearing body for active student conduct cases and there must be three (3) Justices present to hold a hearing.

B. Requirements for Serving on a Hearing Body**1. Serving on the Administrative Body or College Hearing Board**

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 AVPSE 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.

2. Serving on the Student Government Association Judicial Board

To serve on the SGA Judicial Board, the student member (Justice) must:

- 1) Be currently enrolled at Hartwick, in good academic standing, and have a cumulative GPA of at least 2.5.
- 2) Have a record of good campus citizenship and be in good standing with the Office of Student Conduct throughout the term(s) in which they serve.
 - a. Good standing is defined as having no record of misconduct during the term(s) in which a Justice wishes to serve on the Judicial Board.
 - b. Justices who are documented during the term(s) in which they are serving may be prohibited from participating in future hearings for the duration of their term(s) based on a determination by the AVPSE.
- 3) Be available for the identified SGA Judicial Board meeting time(s) if requested by the Office of Student Conduct or the AVPSE or designee.
- 4) Not serve as a Resident Advisor as this would be a clear conflict of interest.
- 5) Participate in the mandatory training facilitated by the AVPSE 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.

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

All hearing bodies are provided the discretion to render any Educational Outcome(s) deemed appropriate and are not bound by any prior proposals that may have been made by the AVPSE or designee.

X. Student Conduct Hearing Options and Preparation

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

The AVPSE or designee has the ultimate discretion to determine which hearing body will adjudicate the dispute at issue.

Students subject to a hearing will be given a minimum of five (5) business 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 AVPSE 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 via Maxient. 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 generally will not serve as the party bringing the complaint. Hartwick administration will generally 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) business days before any scheduled hearing, the following will occur:
 - a. The *responding student* may choose to deliver to the AVPSE or designee a written response to the charges;
 - b. The *responding student* will deliver to the AVPSE or designee a written list of all witnesses, with direct knowledge of the incident, for Hartwick to attempt to call at the hearing who are not identified in the initial incident documentation;
 - c. The *responding student* will deliver to the AVPSE or designee all physical evidence the student intends to use or needs to have present at the hearing that is not already in the College's possession and/or will indicate who has possession or custody of such evidence, if known, so that the AVPSE or designee can attempt to arrange for its presence;

- d. The *complainant* will deliver to the AVPSE or designee a written list of all witnesses, with direct knowledge of the incident, for Hartwick to attempt to call at the hearing who are not identified in the initial incident documentation;
 - e. The *complainant* will deliver to the AVPSE or designee all items of physical evidence needed at the hearing that are not already in the College's possession and/or will indicate who has possession or custody of such evidence, if known, so that the AVPSE or designee can attempt to arrange for its presence;
 - f. The *complainant* and the *responding student* will notify the AVPSE 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 name(s) of the panelist(s) or hearing officer(s) will be shared with the parties in advance of any hearing. If the parties have concerns with any panelist or hearing officer, the party must contact the AVPSE or designee and raise their concerns in writing. The AVPSE or designee will then determine if the panelist or hearing officer's potential bias precludes an impartial hearing and act accordingly.
 - 5) The AVPSE or designee will ensure that the hearing information and any other available written documentation is shared with the parties at least four (4) business days before any scheduled hearing.

XI. Student Conduct Hearing Panel Procedures

In the case of a hearing adjudicated by either a College Hearing Board or SGA Judicial Board, the AVPSE 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 the other party's presentation, witness testimony to the hearing body or deliberations. If either the complainant or the responding student cannot attend the hearing, it is that student's responsibility to notify the AVPSE or designee as identified no less than three (3) business days prior to the scheduled hearing. Except in cases of grave or unforeseen circumstances, which will be considered by the AVPSE or designee in advance, if the student, group or organization fails to give the requisite minimum three (3) business day notice, or if the student, group or organization fails to appear, the hearing will proceed as scheduled and a determination will be made *in absentia* utilizing the information included in the hearing documentation and information/testimony from others at the hearing. Hartwick also reserves the right to drop the charges, as determined by the AVPSE 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 AVPSE or designee.
 - a. The parties involved are considered to include, but are not limited to, the following: the hearing body membership, the complainant or respondent, their procedural advisor, other involved parties, any identified witness(es) and the AVPSE or designee.
- 3) In hearings involving more than one responding student the standard procedure will be to hear the case jointly if permitted by applicable law; however, the AVPSE 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 AVPSE or designee may permit this to be combined into one case if permitted by applicable law.
- 5) The parties have the right to a procedural advisor of their own choosing. Please note that the procedural advisor may not be affiliated or otherwise involved with the case under review. Once the case is concluded, the role of the procedural advisor is also concluded.
- 6) The hearing body will have the ability 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 AVPSE or designee. It should be noted that the hearing body is the only party permitted to ask questions of those directly involved. A complainant or responding student does not have the privilege to question the other party or witnesses during a College hearing process.
- 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 AVPSE or designee and subject to their final decision.
- 9) After a hearing is completed, a determination will be made based on a preponderance of the evidence whether the responding student has violated the Code. In the case of a hearing conducted by the College Hearing Board or SGA Judicial Board, 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 AVPSE or designee will be present and available as a resource during deliberations. Once a finding is determined, if the finding is that of a policy violation, the hearing body will determine an appropriate Educational Outcome(s). The AVPSE 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 AVPSE 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.

The AVPSE 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 AVPSE 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 AVPSE or designee would provide a written report detailing the justification for the modification, as permitted by law and Hartwick policy.

The AVPSE or designee will then provide the decision letter and inform the responding student, group or organization and party bringing the complaint (if permitted by law and Hartwick policy) of the final determination. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the AVPSE 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 via Maxient. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.



HARTWICK COLLEGE

est. 1797

SECTION 6: Conduct Point System and Educational Outcomes

I. Conduct Point System

The conduct point system was put into place in order to make the Educational Outcome process clear, more consistent, and more predictable for students. Under the conduct point system, a student found responsible for violating the Code is assigned points using the table below as a guideline. The consequences resulting from these points are in addition to, and not in lieu of, other Educational Outcomes that may be assigned as provided 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 may be 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. In addition, policy violations that occur during the last week of classes through the start of the following term may result in double point assignments.

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

- **4 - 5 points**, the student's parent(s) or guardian may be notified of the infraction(s).
- **6 - 9 points**, all of 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 AVPSE 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, and points may be assigned for other violations as appropriate.

| Point Range | Violation |
|-------------|--|
| 0 | Good Samaritan opportunity for a student or organization who discovers and assists a student whose 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. |
| 0-1 | Under the age of 21 in the presence of alcohol. |
| 0-1 | Open container of alcohol. |
| 0-1 | In the presence of empty alcohol containers or alcohol paraphernalia on campus where not permitted. |
| 0-2 | In the presence of alcohol where not permitted on campus, student is 21 or older. |
| 0-2 | Possession of alcohol under the age of 21. |
| 0-2 | Excessive noise. |
| 0-2 | Violation of smoking policy. |
| 0-4 | Failure to comply with a college official. |
| 0-6 | Disruptive behavior. |
| 0-6 | Public exposure, lewd or indecent behavior. |
| 2-3 | Failure to leave building during fire alarm. |
| 2-4 | Falsification. |
| 2-4 | Possession of drug paraphernalia. |
| 2-4 | Public drunkenness on or off campus. |
| 2-4 | Consumption of or in the presence of alcohol while under the age of 21. |
| 2-6 | Serving alcohol to individuals under the age of 21. |
| 2-6 | Heavy intoxication (student loses consciousness or is transported for medical assistance). |
| 2-6 | Violation of bulk alcohol policy. |
| 3-6 | Marijuana use and/or possession. |
| 3-10 | Weapons policy violation |
| 4-10 | Theft. |
| 4-10 | *Intentional or reckless destruction of college or private property. |
| 5-8 | Disabling or tampering with a fire safety device. |
| 6-10 | Hazing. |
| 6-10 | Altering/falsifying college documents. |
| 6-10 | Physical violence. |
| 8-10 | Illegal drug use and/or possession (not marijuana). |
| 10 | Distribution of any illegal/controlled substances. |
| 10 | Drinking accompanied by violence regardless of age (fighting, forced entry, etc.) that results in physical injury. |

* Students found responsible for intentional or reckless destruction of Hartwick or private property may be assigned 10 points and 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 AVPSE 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.

II. Point Forgiveness

Two (2) points are forgiven every six (6) months. Any new points from subsequent violation(s) are added to those from the previous violation. Zero (0) points is the lowest points allowable.

III. Educational Outcomes

In addition to the consequences resulting from accumulation of points, 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. 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 AVPSE 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) **Judicial Educator Module.** Requirement to complete an online module. Instructions for accessing and completing the module are provided when the Notice of Outcomes is issued.
- 10) **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.
- 11) **Restriction of Visitation Privileges.** May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- 12) **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 AVPSE 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.
- 13) **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 AVPSE or designee.
- 14) **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.
- 15) **Hartwick Housing Suspension.** Removal from Hartwick housing for a specified period of time after which the student is eligible to return. Conditions for readmission 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 AVPSE 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 AVPSE. This Educational Outcome may include restrictions on visitation to specified buildings or all Hartwick housing during the suspension.

- 16) **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.
- 17) **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.
- 18) **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 AVPSE or designee. During the suspension period, the student is banned from Hartwick property, functions, events and activities without prior written approval from the AVPSE 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.
- 19) **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.
- 20) **Other Educational Outcomes.** Additional or alternate Educational Outcomes may be created and designed as deemed appropriate to the offense with the approval of the AVPSE 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 some or all privileges (including status as a Hartwick registered group/organization), for a specified period of time or permanently.

Please note that this is not a comprehensive list and other outcomes may be developed depending on the situation.

IV. 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 student's 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 the

federal Family Educational Rights and Privacy Act (FERPA) or with written consent of the student.

V. 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 non-forcible 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 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 findings and Outcomes.

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

A “crime of violence” includes but is not limited to the following list:

- Arson
- Assault offenses (includes simple assault, aggravated assault, intimidation or stalking)
- Burglary
- Criminal Homicide—manslaughter by negligence
- Criminal Homicide—murder and non-negligent manslaughter
- Destruction/damage/vandalism of property
- Kidnapping/abduction
- Robbery
- Forcible sex offences
- Non-forcible sex offences

VI. Failure to Complete Conduct Educational Outcomes

All students, as members of the Hartwick community, are expected to comply with Educational Outcomes within the timeframe specified by the AVPSE or designee. Failure to follow through on Educational Outcomes by the date specified, whether by refusal, neglect or any other reason, may result in additional Educational Outcomes and/or charges of additional policy violations at Hartwick. In such situations, resident students may be required to vacate Hartwick housing within 24 hours of notification by the AVPSE or designee, though this deadline may be extended upon application to, and at the discretion of, the AVPSE 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 AVPSE or designee.



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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 by filing a written request to the AVPSE or designee, subject to the procedures outlined below.

Should an appeal involve a Title IX violation, the student will complete the *Notice of Desire to Appeal* form as part of their written notice, and the appeals process outlined in the Sex Discrimination, Harassment and Misconduct Policy (section IV, E) will be utilized. If charges relating to the Code of Student Conduct are also being appealed, the AVPSE or designee will serve as a resource to policy, procedure and precedent for the appeals panel throughout the appeal process.

Appeal requests are limited to the following grounds:

- 1) A procedural error occurred that is alleged to have a direct impact on the outcome of the hearing; and/or
- 2) To consider new evidence, that has come to light that could have a direct impact on the outcome and which was not available before or during the investigation and/or hearing process (a detailed summary of this new evidence and its potential impact must be included in the request for appeal); and/or
- 3) The Outcomes imposed are substantially disproportionate to the severity of the violation(s).

II. Initial Appeal Procedures

- 1) All appeals must be filed in writing, through the completion of the *Notice of Desire to Appeal* form and submitting it to the AVPSE or designee within three (3) business days of receiving their *Notification of Outcomes* letter which identifies the hearing decision, barring exigent circumstances. Exceptions to the abovementioned filing deadline are up to the discretion of the AVPSE 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 AVPSE or designee will share the appeal with the non-appealing party or 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 AVPSE or designee.
- 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 AVPSE or designee, and the Title IX Coordinator when appropriate 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) Efforts should be made to use remand when appropriate, 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. Generally, the College will make attempts to complete this process within 14 days, barring extenuating circumstances.

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 an Administrative Hearing Officer, nor were they on the SGA Judicial Board 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 AVPSE or designee.

The AVPSE or designee serves as the non-voting advisor to the panel ensuring a fair process for the complainant and responding student and ensures the hearing process is in accordance with all policies and procedures of the College.

B. Designation of the Appeals Panel

- The Appeal Review Officer will have final authority to approve and designate all those serving on the Appeals Panel.
- 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. Procedures for challenging a panelist follow the same procedure as challenging a hearing officer which is outlined in Section 5, X, 4.
- 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 AVPSE or designee, will solicit a replacement.

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:
 - a) Affirm the original hearing body's finding and Educational Outcome(s).

- b) Remand the matter to the original hearing body with specific instructions as to basis for remand and issues to address on remand.
- c) Modify either the original hearing body's findings or Educational Outcome(s), with clear justification for the modification.
- d) Reverse the original hearing body's findings, with clear justification for the reversal.

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 AVPSE 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.

SECTION 8: Administrative Notification

I. 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.

II. Approval and Implementation

This *Code of Student Conduct* was last edited on July 24, 2019 and implemented on July 24, 2019.



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Addendum: Graduate Students**I. Student-Graduate Assistant - Faculty Relationship**

The professor in the classroom and in conference shall encourage free discussion, inquiry, and expression; teaching or research assistants shall also abide by this and the following statements in this section as applicable to either or both of their capacities as teaching assistants and students. Students shall be free to take reasoned exception to the data or views offered in any course of study, based on acceptable interpretation and/or documentation, and to reserve judgment about matters of opinion.

II. Professional Ethics

All members of the Hartwick Community, regardless of position, should share the common values that nurture the development and wellbeing of themselves, each other, the students, employees, and the College. It is expected that no one in privileged positions of leadership and power would inappropriately exploit their position for personal advantage. Because of a power asymmetry, a teaching or research assistant is prohibited from having a sexual or romantic relationship with an undergraduate student. Moreover, in accord with College-wide employee policies, discrimination and harassment in all its forms, including sexual harassment are considered to be serious offenses that are prohibited at Hartwick College, not only as a matter of policy, but as a matter of Federal and State law.



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