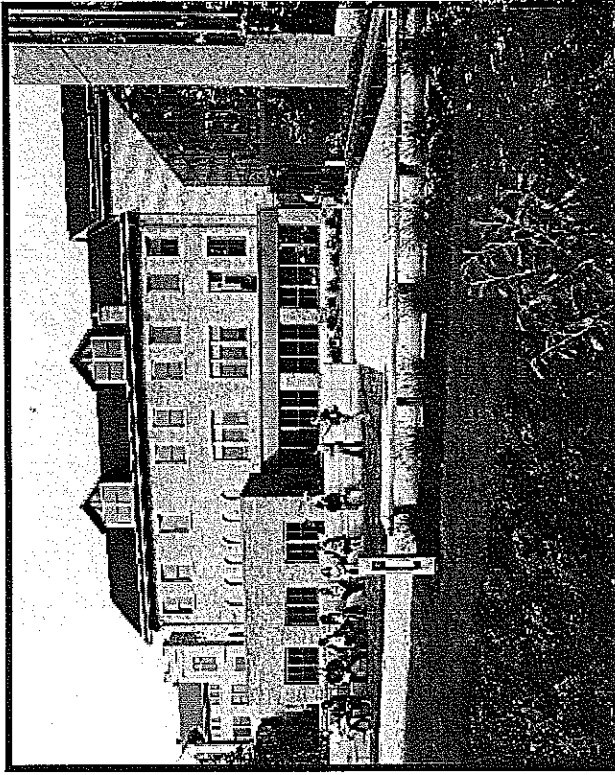




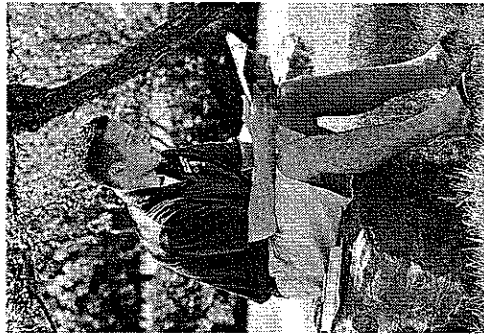
NIAGARA UNIVERSITY

Education That Makes a Difference



*Student Planner
and Handbook*

2008-2009



IV. RULES OF STUDENT CONDUCT, JUDICIAL PROCEDURES AND STUDENT RIGHTS

Student conduct rules and judicial procedures are viewed first and foremost within the educational mission and Vincentian traditions of Niagara University. As such, the system strives to instill moral and ethical values, most especially integrity and respect for human dignity; to ensure accountability and justice; and to create a safe and harmonious campus. Niagarans are expected to be serious students, thoughtful community members and responsible citizens.

The system provides a just, fair and equitable means of addressing student grievances and evaluating conduct. Rules governing student behavior are not laws, nor should the University Judicial Board be regarded as a court of law. Rather, the system is designed to inform students of the broad principles and high standards to which they will be held responsible as members of a community. It also is intended as a forum for assessing conduct and determining sanctions, when appropriate, that encourage behaviors that contribute to the well-being of the campus.

Studying at Niagara University is a privilege best safeguarded by each student's continued use of good judgment and consideration for the rights and property of others. Please note that all official notices go through campus e-mail and students are deemed to have received any notice sent to them via e-mail. Students should expect that they will be held accountable for their actions and will be afforded an opportunity to contribute to the examination of their alleged actions, as set forth below.

TABLE OF CONTENTS

- A. Niagara University Rules of Student Conduct
 - 1. Definitions
 - 2. Effect of Federal, State and Local Laws
 - i. Federal Law
 - ii. State Law
 - iii. Local Laws
 - iv. Reporting Violations: Whistleblowing
- 3. Prohibited Conduct on Campus
 - 3.1 Laws
 - 3.2 Conduct Incompatible with University Values
 - 3.3 Drug, Alcohol and Smoking Violations

- 3.4 Hazing
- 3.5 Property Related
- 3.6 General Welfare
- 4. Prohibited Conduct in the Residence Halls and Apartments
 - 4.1 Housing Rules
 - 4.2 Housing Contract
 - 4.3 Safety
 - 4.4 Visitors
 - 4.5 Nuisance Behavior
 - 4.6 Alcohol in Residence Halls
- 5. Prohibited Conduct Off Campus
 - 5.1 Continuing Application of Rules
 - 5.2 Representing the University
- 6. Niagara University in Ontario
 - 6.1 Laws and Rules
- B. Niagara University Judicial Procedures
 - 1. Filing of Complaint
 - i. Initiation of Complaint
 - ii. Contents of Complaint
 - iii. Administrative Removal Pending Action
 - iv. Complainant's Rights and Obligations
 - v. Charged Student's Rights and Obligations
 - vi. Student Witnesses' Rights and Obligations
 - 2. Responding to the Complaint
 - i. Accepting Accountability
 - ii. Denying Accountability
 - iii. No Protest
 - 3. Resolution Conference or Hearing
 - i. Resolution Conference by Assistant Dean of Student Affairs
 - ii. Venue
 - iii. Assembly of Judicial Board
 - iv. Scheduling of Hearing and Extensions
 - v. Conduct of Hearing
 - vi. Issuing of Determination and Sanctions After a Conference or Hearing
 - 4. Sanctions
 - 5. Appeal
 - i. Appeal Based on Procedure
 - ii. Appeal Based on New Evidence
 - iii. First Level of Appeal
 - iv. Second Level of Appeal
 - v. Forms for Appeal

A. NIAGARA UNIVERSITY RULES OF STUDENT CONDUCT

1. DEFINITIONS

Academic days: Any day between the first day of the fall semester and the last day of the spring semester not designated as a holiday or vacation by the university's academic calendar.

Academic Integrity (AI) Policy: Niagara University's policy and process regarding alleged academic misconduct. The AI policy has a different disciplinary system that functions separately from the institution's judicial procedures.

Administrative withdrawal: Withdrawal initiated by the university's administration or records office.

Adviser: During the hearing, a charged student may have the assistance of an "adviser" who can take notes and confer with the charged student regarding the proceedings, but will otherwise have a silent role. The adviser must be a full-time student currently enrolled in the university.

Campus official: Person acting in the course of his/her authorized function at the university.

Charged student: A student charged with a rules violation.

Complaint: A formal charge of a rules violation, complete with the date of the alleged violation; the facts upon which the charge is based; and the specific rule(s) the student is charged with having broken.

Dismissal: Permanent denial of the right to participate in any academic or extracurricular activities of the university, with leave to reapply.

Expelled: Permanent denial of the right to participate in any academic or extracurricular activities of the university, without leave to reapply.

Federal law: The law of the United States of America.

Foreign law: The law of any country other than the United States of America.

Local law: The law of a county, city, town or village.

Official documents: Documents issued by a specific entity that convey a specific right, privilege or registration, or are official records.

Provincial law: The laws of a province of Canada.

Rules violation charge: Refer to "Complaint."

Removal from the university: When removed from the university, a student is withdrawn from all classes, removed from campus housing and prohibited from entering campus. When a student is removed, tuition, room and board fees are forfeited, unless specifically provided otherwise.

State law: The law of New York or any other state in the United States of America.

Student: All persons taking courses at the university, either full or part time, pursuing undergraduate, graduate or professional studies. Persons who withdraw after

allegedly violating the Rules of Student Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the university, or who have been notified of their acceptances for admission are considered "students" for purposes of this code and procedures.

Suspension: A fixed period of time during which the student may not participate in any academic or extracurricular activities of the university.

University Judicial Board (UJB): An assembly with the authority to hear and evaluate charges brought under the Niagara University Rules of Student Conduct and Judicial Procedures, the sanctions from which could remove the student from the university.

Voluntary withdrawal: A student voluntarily withdraws from the university by requesting the records office to remove her/him from classes and the campus housing office to remove her/him from campus housing. When a student voluntarily withdraws, there is the possibility of a prorated refund of tuition and/or housing fees, in accordance with applicable procedures.

2. EFFECT OF FEDERAL, STATE AND LOCAL LAWS

While the rules of Niagara University are not laws, it is against the rules to break the law; refer to Rule 3.1. This section contains a small sampling of the type of laws governing behavior on the federal, state and local levels.

i. Federal Law

Federal law is the law of the United States government. A sampling of federal laws relevant to college students follows.

Title 17 of the United States Code: Copyright

Copyright protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Materials supplied for classes are generally subject to copyright controls. If a copyright-protected work is used without authorization, the owner may be entitled to bring an infringement action. A severe infringement could bring criminal penalties. Further information is at www.copyright.gov.

Title 30 of the United States Code: Student Loan Fraud

Any person who knowingly obtains financial aid by fraud or conceals any record relating to the granting of financial aid may be criminally liable. Certain convictions related to controlled substances can lead to the loss of financial aid. Information on financial aid can be found at www.ed.gov.

Federal Regulations Enforced by the Department of Homeland Security

The Federal Food, Drug and Cosmetic Act (the Act) prohibits persons from importing into the United States any prescription drug not approved for sale. In virtually all instances, individual citizens are prohibited from importing prescription drugs into the United States. Student health services can assist with questions about medications. Information about import/export, travel and border issues can be found at www.cbp.gov.

ii. State Law

The state laws found below are those of New York; however, students are expected to abide by the laws of whatever state they are in.

State Alcoholic Beverage Control Law and Rules of the State Liquor Authority

1. Any person who misrepresents the age of a person under the age of 21 years for the purpose of inducing the sale of any alcoholic beverage, as defined in the alcoholic beverage control law, to such person, is guilty of an offense and upon conviction thereof shall be punished by a fine of not more than \$200, or by imprisonment for not more than five days or by both such fine and imprisonment. (Alcoholic Beverage Control Law, Section 65-a)

2. Any person under the age of 21 years who presents or offers to any licensee under the alcoholic beverage control law, or to the agent or employee of such a licensee, any written evidence of age which is false, fraudulent or not actually his or her own, for the purpose of purchasing or attempting to purchase any alcoholic beverage, may be arrested or summoned and be examined by a magistrate having jurisdiction on a charge of illegally purchasing or attempting to illegally purchase any alcoholic beverage. If a determination is made sustaining such charge, the court or magistrate shall release such person on probation for a period of not exceeding one year, and may in addition impose a fine not exceeding \$100. (Alcoholic Beverage Control Law, Section 65-b)

3. Except as hereinafter provided, no person under the age of 21 years shall possess any alcoholic beverage with the intent to consume such beverage. A person under the age of 21 years may possess any alcoholic beverage with intent to consume if the alcoholic beverage is given to a person who is a student in a curriculum licensed or registered by the State Education Department and the student is required to taste or imbibe alcoholic beverages in courses which are part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during class conducted pursuant to such curriculum. (Alcoholic Beverage Control Law, Section 65-c)

4. Whenever a police officer as defined in subdivision 34 of section 1.10 of the criminal procedure law shall observe a person under the age of 21 years openly in possession of an alcoholic beverage with the intent to consume such beverage in violation of this section, said officer may seize the beverage, and shall deliver it to the custody of his or her department. (Alcoholic Beverage Control Law, Section 65-c, subdivision 5)

Computer Tampering (in the fourth degree)

A person is guilty of computer tampering in the fourth degree when s/he uses or causes to be used a computer or computer service and, having no right to do so, intentionally alters in any manner or destroys computer data or a computer program of another person.

Gambling

There are many forms of both illegal and legal gambling. According to the law, a person engages in gambling when they stake or risk something of value upon the outcome of a contest of chance or a future contingent event not under his control

or influence, upon an agreement or understanding that they will receive something of value in the event of a certain outcome. Niagara University does not tolerate illegal gambling, which includes illegal betting on sports events. A student having a problem with gambling addiction may seek confidential assistance at the university's counseling services.

§ 265.06. Unlawful possession of a weapon upon school grounds

It shall be unlawful for any person age 16 or older to knowingly possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or co2 cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution. Unlawful possession of a weapon upon school grounds is a violation.

Anyone seeking such authorization, including for purposes of training, theatrical weapons, and ROTC, shall consult with the director of campus safety to obtain authorization as required above.

Credit Card Marketing

Pursuant to Article 129-A of the New York State Education Law 6437 (Prohibition on the marketing of credit cards) the advertising, marketing, or merchandising of credit cards to students by vendors is prohibited at Niagara University, except those published in newspapers, magazines, or similar publications, or unless authorized by the Office of Campus Activities pursuant to the posting policy under "Advertisement and Postings" in this handbook.

iii. Local Laws

City of Niagara Falls and the Town of Lewiston

The university borders the City of Niagara Falls and the Town of Lewiston. Students leaving campus should be aware that cities, towns and villages have their own laws, and that students could be held accountable for breaking them. The university shall not provide bail, transport, or legal services to students who are arrested.

iv. Reporting Violations: "Whistleblowing"

Niagara University is committed to compliance with the laws and regulations to which it is subject, as well as to enacting policies and procedures to enable administration, faculty, staff, students, and the public at large to assist in that compliance. Students wishing to report university violations or suspected violations of the law may do so by sending a notice in any of the following ways:

- An e-mail to reporting@niagara.edu; include sufficient contact information so the report may be verified as needed. Anonymous reports will be read but may, due to lack of accountability, be accorded less credibility.
- A personal visit, call, letter, or e-mail to the university's dean of student affairs.
- A personal visit, call, letter, or e-mail to Niagara's general counsel's office.

The university will take whatever steps necessary to ensure that there shall be no retaliation against good-faith reporters. Further information can be found at www.niagara.edu/hugchwhistleblower.

3. PROHIBITED CONDUCT ON CAMPUS

3.1 Laws

- 3.1 Behavior contrary to any federal, state, provincial, or local law.
- 3.11 Behavior contrary to any foreign law the underlying conduct of which is determined to have relevance to Niagara University.

3.2 Conduct Incompatible with University Values

- 3.21 Failure to abide by established policies or the reasonable request of a campus official.
- 3.22 Dishonesty that causes damage and/or benefit to an individual.
- 3.23 Possession and/or display of pornography.
- 3.24 Physical abuse or harassment of another including, but not limited to, intentional assault or reckless contact, or engaging in a course of conduct designed to seriously annoy or debase another.

Complaints regarding any violations of discrimination laws or policies, including sexual harassments or failure to provide reasonable accommodation for a disability should be brought directly to the dean of student affairs.

Further information on federal anti-discrimination laws can be accessed on the U.S. Department of Education Web site; a Discrimination Guide is included on: www.ed.gov/about/offices/list/ocr/docs/sexhar00.html. More information on federal disability discrimination laws can be found on the U.S. Department of Justice Web site at www.usdoj.gov/crt/ada/ada.htm.

- 3.25 Stealing or knowingly benefiting from theft.
- 3.26 Gambling, as prohibited by federal, state and local law, and any athletic conference in which Niagara University participates.
- 3.27 Indecent conduct.

3.28 Sexual assault, which is any actual or attempted nonconsensual sexual activity including, but not limited to, forcible anal or oral sex, attempted intercourse, sexual touching, by a person(s) known or unknown to the victim, up to and including rape, which is: the perpetration of an act of sexual intercourse with a person against his/her will and consent, whether his/her will is overcome by force or fear resulting from the threat of force, by drugs administered without consent, or when the person is unconscious or otherwise physically unable to communicate willingness.

In the Event of Alleged Sexual Assault

A student complaining of sexual assault by another Niagara student may notify residence life staff, student affairs (286-8566) or campus safety (286-8111), and will be assisted in notifying law enforcement if the student so chooses. The student may contact the Office of the Dean of Student Affairs to obtain assistance changing academic and/or living situations after the alleged incident, if such changes can be reasonably accommodated.

During the university disciplinary process of an alleged sexual assault, the accuser and the accused are entitled to the same opportunities to have others present. Both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault. More information on student affairs' procedures can be found at www.niagara.edu/sal/sexualassault.

For information regarding sexual assault, including what action to take regarding the preservation of evidence and counseling, consult the "Campus Guide to Safety and Security" on the campus safety Web site at www.niagara.edu/safety/sexualassault.

- 3.29 Failure to report any pending criminal charges or convictions. Reports should be made to the dean of student affairs.

3.3 Drug, Alcohol and Smoking Violations

- 3.31 Possession, provision, sale or use of a controlled substance as defined by state and federal laws.
- 3.32 Possession or provision of controlled substance-related paraphernalia.
- 3.33 Possession and/or consumption of alcohol by a person under the age of 21.
- 3.34 Providing alcohol to a person under the age of 21.
- 3.35 Consumption of alcohol under circumstances where such consumption is prohibited.
- 3.36 Attending class under the influence of a controlled substance.
- 3.37 Disruptive behavior while under the influence of alcohol.
- 3.38 Operating a motor vehicle on campus while under the influence of drugs or alcohol.
- 3.39 Smoking in an area designated as smoke-free.

Drug Free Schools and Communities Act Amendments of 1989

In conjunction with the law, Niagara University is committed to clear and concise policies on substance abuse and a strong program of counseling and referral for continuing treatment. Students should be aware of the following information:

- Student rules and regulations prohibit the unlawful possession, use or distribution of illicit drugs and alcohol on campus properties or as part of its activities. All provisions of the State Alcoholic Beverage Control Law and all rules of the State Liquor Authority apply on campus. No person under the age of 21 can possess any alcoholic beverage with the intent to consume. State and federal drug and narcotic laws are also enforced on campus.
- Free, confidential information and assessments are available at counseling services, which offers a number of programs and activities designed to assist students. Referrals will be made to community treatment programs as necessary.
- The university will impose on students appropriate disciplinary sanctions, which may range from warnings to expulsion for violation of the Rules of Student Conduct. Student conduct violations are considered by the judicial board.
- Local, state and federal laws for the unlawful possession or distribution of illicit drugs and alcohol are enforced on campus. These include New York State Penal Code provisions on the possession and sale of controlled substances and federal controlled substance possession and trafficking sanctions. Violations of state laws can result in fines and up to life in prison. Federal sanctions are similar.
- The use and overdose of illicit drugs and alcohol can lead to physical and psychological dependence, behavioral changes, physical and psychological damage, and possible death. Even low doses may significantly impair judgment and coordination.

Parental and Guardian Notification/Alcohol and Drug Violations

Niagara University may advise parents or guardians of students under the age of 21 of certain alcohol and drug violations. Notification may be made for municipal, state or federal alcohol and drug violations when the student violation involves:

- "clear and present danger" to the student, other persons or campus property; and/or
- an arrest and custody of the student; and/or
- medical intervention due to use of alcohol or drugs; and/or
- violation of a general or housing rule; and/or
- possible removal of the student from the university, programs or facilities (e.g., campus housing).

In general, alcohol and drug violation notifications to parents and guardians will be made by the university in an effort to provide support for the individual student's development, academic success and physical well-being. Generally, notifications will be made by mail and will include:

- the type and possible consequences of the student violation;
- campus/community services available to address the student alcohol or drug situation; and
- encouragement to parents/guardians to contact the student and assist him/her in addressing any substance issues and promote use of available services.

Notifications may be made, as appropriate, by the offices of the vice president for student life, the dean of students affairs or student health services. The dean of student affairs office will coordinate the notification process, approve parental notifications (in advance), maintain appropriate records, and arrange for necessary follow-up.

3.4 Hazing

3.41 Above and beyond the New York Penal law, Niagara University interprets hazing as any act, whether physical, mental, emotional, or psychological, which subjects another person, voluntarily or involuntarily, to anything that may abuse, mistreat, degrade, humiliate, harass or intimidate the person, or which may in any fashion compromise the inherent dignity of the person. In addition, any requirements by a member compelling another member to participate in any activity which is against university policy or state/federal law will be defined as hazing.

3.5 Property Related

- 3.51 Use of Niagara University's name and affiliated trademarks without permission.
- 3.52 Tampering, misuse, or duplication of any university document, password, key, swipe card, or other instrument of access or identification, or of any official document.
- 3.53 Unauthorized entry on university property, including computers.
- 3.54 Willful or reckless disruption or obstruction of a campus activity, event or process, to include sporting events.
- 3.55 Unauthorized use or misuse of parking tags and vehicle-related documentation.
- 3.56 Destruction, damage or defacing of property.
- 3.57 Activity that compromises the security of university facilities or threatens the good order of the university.

3.6 General Welfare

- 3.61 Failure to report a dangerous condition, hazard or situation that could lead to harm.
- 3.62 Failure to report an incident involving injury to another.
- 3.63 Leaving the scene of a motor vehicle accident without reporting it to campus safety.

3.64 Sale, possession, production, purchase, or use of a weapon. A "weapon" is an instrument that can cause physical harm to persons or property, or a replica thereof.

3.65 Creation and or possession of an incendiary device.

3.66 Failure to report the presence of a weapon or dangerous device on campus. Reports may be made to residence life staff members, student affairs office (286-8566), or campus safety (286- 8111).

3.67 Failure to observe fire safety requirements.

3.68 Contributing to or condoning violations of university rules.

4. PROHIBITED CONDUCT IN THE RESIDENCE HALLS AND APARTMENTS

Residents of university housing are subject to additional regulations under the student housing system. All Niagara students should familiarize themselves with the "Campus Housing" section of the student handbook and other rules of campus housing. Commuting students are still responsible for honoring the below rules and shall be charged under the disciplinary procedures for violating them. Violations may be referred to the student disciplinary process at the discretion of the housing staff. Room reassignment or removal from the residence halls is within the authority of the housing staff, independent from the disciplinary procedures.

4.1 Housing Rules

4.11 Violation of any rule set by the dean of student affairs or housing staff. The dean and the housing staff reserve the right to change said rules as needed, without notice.

4.12 Violation of any housing rule by a guest, including those referenced in Rule 4.11.

4.2 Housing Contract

4.21 Violation of the student housing agreement.

4.22 Unauthorized room change.

4.3 Safety

4.31 Duplication of a student housing key or possession of an unauthorized key.

4.32 Failure to lock a door, propping a door or otherwise circumventing a security measure.

4.33 Failure to abide by fire safety procedures including, but not limited to: failure to exit during a fire alarm, maintaining an open flame and tampering with fire safety equipment.

4.34 Cooking outside of designated kitchenette areas.

4.35 Throwing objects into or out of a window.

4.4 Visitors

- 4.41 Hosting or being a visitor in a manner that interferes with the rights of other residents.
- 4.42 Hosting or visiting in violation of co-educational housing restrictions.
- 4.43 Hosting or visiting in violation of the guest pass requirement.
- 4.44 Failure to produce proper identification to a campus official.

4.5 Nuisance Behavior

- 4.51 Excessive noise.
- 4.52 Possession of pets or other non-service animals.
- 4.53 Roughhousing and sports play in the buildings.

4.6 Alcohol in the Residence Halls

- 4.61 Visible intoxication resulting from irresponsible alcohol use.
- 4.62 Possession of excessive amounts of alcohol to include kegs and beer balls.
- 4.63 Participation in activities or drinking games which encourage rapid consumption of alcohol.
- 4.64 Possession of open alcohol containers in hallways, lounges or other common areas.
- 4.65 Possession of glass beer bottles.

5. PROHIBITED CONDUCT OFF CAMPUS

5.1 Continuing Application of Rules

- 5.11 Any conduct prohibited on campus that can also be effected off campus is prohibited by this rule.

5.2 Representing the University

- 5.21 Any off-campus conduct that disgraces the name of the university including, but not limited to, public displays of aggression, rudeness or violations of the law.

6. NIAGARA UNIVERSITY IN ONTARIO

6.1 Laws and Rules

- 6.11 Failure to abide by the rules set forth above, including the rules regarding federal, state, local, and foreign laws.

Note: The venue for judicial proceedings of students enrolled in Niagara's Ontario program shall be in Ontario, at a site selected by the assistant dean of students affairs.

B. NIAGARA UNIVERSITY JUDICIAL PROCEDURES

1. FILING OF COMPLAINT

i. Initiation of Complaint

Any member of the university community may complain of violations of the Rules of Student Conduct by reporting the allegation to the assistant dean of student affairs. The assistant dean shall work with campus officials to monitor reports of alleged misconduct. When an incident warrants, the assistant dean shall conduct an investigation to determine if the allegations have merit and/or if they can be dis-

posed of administratively by mutual consent of the parties involved on a basis acceptable to the dean of student affairs. If not, the assistant dean shall draft and deliver a complaint to the charged student.

ii. Contents of Complaint

A complaint, drafted by the assistant dean of student affairs as set forth above, will contain:

- date of the alleged violation;
- rule(s) violated;
- allegations upon which the complaint is based;
- date the complaint was presented to the charged student;
- option to either (1) accept accountability, (2) deny accountability, or reply with (3) no protest;
- notice regarding a two-day deadline to respond; and
- notification regarding whether potential sanctions are severe enough to warrant a hearing before the University Judicial Board; if they are, the charged student may select to have a resolution conference with the assistant dean or a hearing before the University Judicial Board.

iii. Administrative Removal Pending Action

a) At any point after an alleged rules violation, a student may be subject to immediate administrative action including, but not limited to, suspension or removal from university housing, if determined, upon information currently in the administrator's possession, that the student may pose a risk to himself or others. A student so subject shall be provided with a letter from the dean of student affairs detailing the reason for the administrative action and the conditions of return. Such action can be appealed to the vice president for student life; refer to "Appeal" Section 5, subsection iv.

b) At any point, a student may be diverted from the disciplinary process and administratively withdrawn if the student, as the result of a mental disorder, lacks the capacity to respond to pending disciplinary charges or did not know the nature or wrongfulness of the conduct at the time of the offense. In doing so, the dean of student affairs shall consult the appropriate mental health professionals as needed. A student subject to such withdrawal shall be given an opportunity to appear personally before the dean of student affairs (or designee) to review the reliability of the information upon which the withdrawal was based.

c) A student may be diverted from the disciplinary process and administratively withdrawn if the student lacks the capacity to respond to pending disciplinary charges. A student subject to such withdrawal shall be given an opportunity to appear personally before the vice president for student life (or designee) in order to review the reliability of the information upon which the withdrawal was based.

d) This section shall in no way limit or affect other university policies with regard to administrative action for non-disciplinary matters.

iv. Complainant's Rights and Obligations

- a) Right to Information
In all cases, the complainant shall have the right to know that a complaint has been filed. Both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault or violence.
- b) Right to Confidentiality and Limitations
In all cases, access to the proceedings and the records thereof shall be maintained to ensure the complainant's rights under FERPA and university policy and procedures. However, both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault or violence.
- c) Obligation to Cooperate
There shall be an expectation that the complainant shall cooperate with the investigation of the allegations underlying the complaint and shall, if necessary, appear as a witness at judicial proceedings.

v. Charged Student's Rights and Obligations

- a) Right to Consideration of Collateral Consequences
If the facts underlying a rules violation charge could be used as the basis of a criminal charge or civil claim in a public court, the student may determine it is in their best interest not to comment on the disciplinary process, in which case they may enter a response of "No Protest."
- b) Right to Closed Proceedings
Access to hearings shall be limited to the charged student, the University Judicial Board, witnesses (only when offering testimony), and, if the charged student so chooses, his/her adviser [refer to B(1)(v)(f)].
- c) Right to Confidentiality and Limitations
In all cases, access to the proceedings and the records thereof shall be maintained to ensure the complainant's rights under FERPA. However, both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault or violence.
- d) Right to Protest Perceived Partiality
In the event of a hearing, the charged student shall have the right to raise any concerns regarding the impartiality of a member of the University Judicial Board and to request the recusal of any member, except the assistant dean. Such concerns must be submitted to the UJB chair in writing prior to the beginning of the hearing. The chair shall discuss the concerns with the charged student in private and tender a decision regarding the application.
- e) Obligation to Testify
In the event of a hearing, the charged student shall testify as to the charge(s) which has been brought against the student in the disciplinary process.
- f) Right to Adviser
Should the charged student choose a hearing before the UJB, the charged student may have an adviser present. The adviser must be a currently enrolled full-time student. The adviser may not speak or otherwise advocate for the charged student, but

will be allowed to witness all proceedings. The adviser may take notes, organize papers and otherwise assist the charged student in evaluating his/her case and defense.

vi. Student Witnesses' Rights and Obligations

- a) Right to Respectful Treatment
Niagara University students called as witnesses in disciplinary matters will be treated with respect. They shall be given proper notice of proceedings. Records referencing their participation shall be disclosed only on a need-to-know basis, with all due consideration given to redaction as required by FERPA.
- b) Obligation to be Truthful
Both during an investigation and when offering testimony, student-witnesses shall be truthful. Dishonesty during any part of the proceedings shall be a violation of the Rules of Student Conduct (Rule 3.22).
- c) Obligation to Cooperate
Student-witnesses are obligated to cooperate with any investigation conducted in conjunction with a student disciplinary matter, so long as said cooperation is not in derogation of the student-witnesses own rights. (For instance, a student-witness may refuse to answer a question the answer to which would incriminate him/her.) Students with such concerns should raise them promptly upon being requested to cooperate.
- d) Obligation to Be Discrete
To the greatest extent possible, confidentiality is expected of student-witnesses, who should consider the consequences of discussing their cooperation with the investigation prior to divulging their experience.

2. RESPONDING TO THE COMPLAINT

i. Accepting Accountability

A charged student may accept accountability for the charges set forth in the complaint by agreeing to "accept accountability." The assistant dean of student affairs or designee will then determine the appropriate sanctions, with the charged student being able to present any facts felt to be relevant to mitigation or leniency.

ii. Denying Accountability

A charged student may deny accountability for the charges set forth in the complaint by checking "deny accountability," at which point the student will select the form of resolution desired and prepare his/her defense.

iii. No Protest

This plea is only available to those whose conduct could be actionable in court. As stated in section B(1)(v)(a), if the facts underlying a charge could be used in a future court proceeding, the charged student may determine that it is not in his/her best interest to comment on the disciplinary process. Selecting "no protest" means the student does not accept accountability, and will not be required to speak regarding the allegations upon which the complaint is based. However, pleading "no protest" also means that the charged student will not be accorded a resolution conference or

hearing, nor be allowed or expected to speak on his/her own behalf, either in defense or mitigation as the university proceeds with the case. Failure to respond to the complaint will be determined at the discretion of the assistant dean of students.

3. RESOLUTION CONFERENCE OR HEARING

i. Resolution Conference with Assistant Dean of Student Affairs

Upon answering the complaint "deny accountability," the charged student shall have a resolution conference with the assistant dean of students, residence hall director, other designee, or, if so entitled, may request a hearing by the University Judicial Board.

ii. Venue

All proceedings shall be conducted on the campus of Niagara University unless the alleged violation involves a student registered in a "Niagara University in Ontario" class. Proceedings for these students shall take place at the program's site in Ontario.

iii. Assembly of University Judicial Board

The UJB shall comprise: the chair (appointed by the university president); two faculty members (appointed by the president); two undergraduate students (elected by the student body); and the assistant dean of student affairs or designee (in a nonvoting capacity). If a member must leave due to his/her excused unavailability or concerns about impartiality [refer to B(1)(v)(d)], the UJB shall proceed with those members available to participate.

iv. Scheduling of Hearing and Extensions

Within 30 academic days of receiving a plea of "deny accountability," the assistant dean of students affairs shall schedule a resolution conference or hearing, to be held no later than 60 academic days after the receipt of the plea.

Extensions

The university reserves the right to adjust any deadlines set forth to accommodate timing issues. Examples of such issues are: the end of a semester; the excusable absence of a witness or UJB member; or an emergency that disrupts the schedule of the university. Should the charged student need more time to meet any of the above deadlines, a request will be sent at least two academic days before the expiration of the deadline.

v. Conduct of Hearing

- a) The UJB is to consider the matter put before it and to decide if the charged student is accountable for the violations set forth in the complaint. In so deciding, the board shall base its decision on its own discretion, sense of accountability and fairness.
- b) The chair shall conduct the proceedings. As necessary, the chair shall emphasize that rules are not laws, that the University Judicial Board overseeing the procedure is not a court of law, and that technical rules, such as the rules of evidence, do not apply.
- c) Access to the hearing shall be limited to the charged student, UJB members, witnesses (only when offering testimony), and, if the charged student so chooses, his/her adviser [refer to B(1)(v)(f).]

d) Should the charged student not be present for the hearing at the designated time, the hearing will proceed at the discretion of the chair.

e) A copy of each piece of evidence to be submitted by the assistant dean of student affairs shall be provided to the charged student prior to the start of the hearing. A copy of each piece of evidence to be submitted by the charged student shall be provided to the assistant dean prior to the start of the hearing.

f) The chair shall begin the proceedings by ensuring that all witnesses are available. In the event a witness is unavailable, the chair shall decide whether there is sufficient participation to go forward. The chair shall then read the allegations and applicable rules violations set forth in the complaint.

g) The assistant dean of student affairs shall make an opening statement, after which, the charged student may make an opening statement.

h) After the charged student's opening statement, if one is made, the assistant dean shall coordinate the presentation of such statements, evidence and witnesses as necessary to convey the results of the investigation to the UJB.

i) After offering testimony, each witness shall be available for questioning by the UJB members and the charged student. The chair shall oversee the order and conduct of questioning.

j) After submission of all evidence by the assistant dean, the charged student may offer his/her own collection of statements, evidence and witnesses as necessary to convey further relevant information to the UJB.

k) After offering testimony, each witness shall be available for questioning by the assistant dean and the UJB members.

l) Following the submission of all evidence and a full opportunity for the UJB to ask questions and examine documents as necessary, the assistant dean shall offer a closing statement summarizing the evidence showing a violation of the rules.

m) Following the assistant dean's closing statement, the charged student has the option to offer a closing statement summarizing his/her defense.

n) At all times the chair is responsible to ensure that the parties are afforded adequate time to present relevant evidence. The chair, however, is also responsible for preventing redundancy, hyperbole, and irrelevant testimony from entering the proceedings.

o) In all questions of procedure left undetermined by the above, the chair shall use his/her discretion to ensure a timely and fair process.

vi. Issuing of Determination and Sanctions After a Conference or Hearing
The assistant dean of student affairs or the University Judicial Board shall issue findings within 30 academic days of a determination.

4. SANCTIONS

Sanctions shall be at the discretion of the assistant dean of student affairs.

A. Disciplinary Warning: A disciplinary warning is issued when specific behavior or a series of actions is unacceptable to the point that repetition would most likely result in one of the more serious sanctions.

B. Restitution or Fine:

Fine — In cases when there are willful violations of rules guiding safe and orderly campus life, a fine up to \$200 may be imposed. Unpaid fines double after 10 calendar days.

Restitution — Students will be held financially accountable for damages that they caused to another's property. If damage is to Niagara University property, the amount may be put on the student's bill, and registration or transcript release may be delayed until the debt is settled. Residents are responsible for the actions of their guests while they are visiting on campus.

C. Special Educational Project and/or Supervised Work Assignments: Individuals or groups of students may be assigned educational projects or meetings on or off campus, and/or work assignments which must be completed by a set deadline.

D. Loss of Privileges, including but not limited to:

Residence Hall Reassignment — This sanction is imposed when it is deemed to be in the best interests of the student and/or the residence hall community that a change of room and/or building is necessary. Students are expected to follow standard housing check-out procedures. If reassignment to a single room is necessary, any additional cost will be assessed to the reassigned student.

Residence Hall Expulsion — In cases where students commit serious or repeated offenses, this sanction can be assigned. Student behavior which has shown to resist correction by those in authority or behavior that is harmful to self or others would necessitate eviction. A student must vacate the residence halls following standard housing check-out procedures. Students are restricted from entering any residence hall and the dining hall while under this sanction. Refund of room and board costs will not be authorized. Guardians, academic deans and appropriate directors will be notified of this sanction. Evicted students acting out in any way will be subject to more serious disciplinary actions.

Loss of Privileges Commensurate with Actions — In cases where students commit an offense related to a specific privilege at the university, the assistant dean of student affairs may consult with related campus officials and restrict the student from such privilege.

E. Community Service: Individuals may be assigned to activities that address human needs in the community, either internal or external to the university.

F. Disciplinary Probation: DP may be imposed with or without the loss of designated privileges for a definite period of time. Violation of the terms of the probation or a subsequent sanction may result in removal from the university.

G. Permanent Transcript Notation: The University Judicial Board or assistant dean of student affairs may recommend the permanent notation on a transcript of serious offenses, such as hazing, the sale of drugs or alcohol, etc.

H. Suspension: Students are not permitted to attend classes or examinations and must vacate university property by the time specified. Suspended students are restricted from the campus and cannot attend any Niagara University functions off campus. A student can be suspended from one day up to an indefinite period,

depending on the nature of the violation. No refund of room, board, tuition, and fees will be given to suspended students. Suspended students will automatically be on disciplinary probation during the first semester of their return. Guardians, campus safety, academic deans, and appropriate directors will be notified of this sanction.

I. Check-stop in the Event of Noncompliance: The assistant dean of student affairs (or designee) shall monitor the compliance of students in fulfilling their sanctions. In the event of noncompliance by a deadline, a "check-stop" preventing the student from registering the preceding semester shall be put into place, to be lifted only after the student has received permission from the dean of student affairs.

J. Expulsion: All relations are permanently severed between the student and the university. A student may not take examinations or attend classes and must vacate university property immediately. The student may not return to the campus or attend off campus activities at any time. Guardians, campus safety, academic deans, and appropriate department heads will be notified of this sanction. No refunds will be granted when a student is expelled. Expelled students may not reapply for admission.

5. APPEAL

i. Appeal Based on Procedure

The first basis for an appeal is procedural. Such an appeal shall be based on an alleged deviation from the process as set forth in Section 3 above.

ii. Appeal Based on New Evidence

The second basis for an appeal is new evidence. Such an appeal shall be based on the discovery of new evidence, not reasonably available to the charged student prior to the hearing, the inclusion of which could have led to a different result.

iii. First Level of Appeal

The first level of appeal shall be to the dean of student affairs. Appeals based on procedure must be made within one week of the imposition of sanction. Appeals based on newfound evidence must be made within one year of the imposition of sanction.

iv. Second Level of Appeal

The second level of appeal shall be to the vice president for student life, and must be made within one week of the student being provided with a copy of the result of the first level of appeal.

v. Forms for Appeal

Appeals shall be submitted using forms approved by the Office of the Dean of Student Affairs which shall supply them upon request.