Resolution #23, 1984-85

TO:    President John E. Van de Wetering

FROM:  The Faculty Senate

RE:    x I. Formal Resolution (Act of Determination)
       II. Recommendation (Urging the fitness of)
       III. Other (Notice, Request, Report, etc.)

SUBJECT: Student Conduct Code Revision

(see attached)

TO:    The Faculty Senate

FROM:  President John E. Van de Wetering

RE:    I. Decision and Action Taken on Formal Resolution
       a. Accepted. Effective Date
       b. Deferred for discussion with the Faculty Senate on
       c. Unacceptable for the reasons contained in the attached explanation

II., III. a. Received and acknowledged
          b. Comment:

DISTRIBUTION: Vice Presidents: Stolley, Marcus, McEady, White, Kelly
Others:

Distribution Date: 4/17/85

Signed: (President of the College)

Date Received by the Senate:
CODES OF STUDENT SOCIAL CONDUCT

SUNY College at Brockport

Introduction

The codes of conduct at SUNY College at Brockport cover essentially two areas of campus life: 1) responsible social conduct that shows consideration for people and property, and 2) restraint in group demonstration of ideas or protest, allowing the College to conduct its normal activity in an orderly manner. The two major codes of social conduct have been established by the Brockport College Council and the Board of Trustees of the State University of New York.

The President of the College is the ultimate authority to dispose of student disciplinary matters. However, responsibility for adjudication and other processing of most disciplinary matters is delegated to certain institutional offices and committees, including, but not limited to, residence hall staff, the Judicial Board, and the Office of the Vice President for Student Affairs. The Campus Judicial System is the system of judicial policies and procedures which is customarily used to adjudicate violations of the Codes of Social Conduct. The President of the College has authority to review and amend any disciplinary decisions.

Rules and Regulations for the Maintenance of Public Order

The Rules and Regulations for the Maintenance of Public Order are rules of conduct and judicial procedures relating to the public nature of the institution and minimum order needed among students to carry out its function. These Rules and Regulations are mandated to all SUNY campuses by the Board of Trustees of the State University of New York in compliance with Section 6450 of the Education Law of the State of New York and comprise Part 535 of Chapter V of Title 5 of the Official Compilation of Codes. Rules and Regulations of the State of New York appear in the Student Handbook.

March 27, 1985
STUDENT CONDUCT REGULATIONS

The Student Conduct Regulations were adopted by The Brockport College Council on [date].

I. Prohibited Behavior

Introductory Statement

Federal, state and local laws, rules, and regulations are, by their very nature the overall policy under which the College, as a State-operated institution, is governed. With specific reference to such laws, rules and regulations, each student is expressly advised that:

- they apply on campus in the same manner as they apply off campus;
- the College prohibits any conduct on campus which is not in conformity therewith;
- conduct on campus by students which is not in conformity therewith will be dealt with on campus by the College as a violation of College policy; and
- any alleged violator shall also be subject at all times to all of the same procedures and consequences before the law as would be applicable if the alleged conduct had occurred off campus.

The prohibited behaviors which may be the subject of disciplinary action (listed below) are divided into Major Violations and Minor Violations. Violations under the Major heading could result in Suspension or Dismissal from the College. Violations under the Minor heading could result in the disciplinary action of Conduct Probation.

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Major Violations

1. Conduct which violates federal, state, and/or local laws, rules, and/or regulations.

2. Forgery or any other act of knowingly furnishing false information to the institution; unauthorized alteration or use of institutional documents, including those stored on electronic or computer media, or instruments of identification (such as an I.D. card).

3. Theft of or damage to College property, theft of College services, or theft of or damage to property of a member of the institutional community on institutional premises. Property includes, but is not limited to, data and information stored on electronic or computer media.

4. Gaining unauthorized access to data or information on institutional files, including those files on electronic or computer media, or to data or information which is the property of a member of the institutional community stored on the College's electronic computer media.

5. Removal or unauthorized possession of books, materials and/or equipment from a College library without following the normal check-out procedure.

6. Physical abuse of any person on institution premises or at institution sponsored and supervised functions.

7. Intimidation, harassment, or other conduct which threatens and/or endangers the life, health and/or welfare of any member of the institution.

8. The unauthorized possession or use on institution premises of firecrackers, explosives or any other dangerous chemicals or substances which may kill or cause injury to life and limb.

9. Possession of any rifle, shotgun, pistol, revolver, or other firearm or weapon on campus or at any institution sponsored event without the written authorization of the President of the College whether or not a license to possess same has been issued.

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10. Setting off false fire alarms in any building or institution premises.

11. Use or possession of illegal drugs on institution premises. Exceptions regarding marijuana are included in Minor Violations (#19).

12. Knowingly giving false testimony as a witness, complainant or accused person in a hearing conducted under the Student Conduct Regulations Campus Judicial System.

Minor Violations

13. Violations of rules and regulations governing residence halls (these rules publicized by the Office of Residential Life in the Apartment and Residence Hall license).

14. Loitering -- Unauthorized persons loitering in the College buildings or on campus grounds may be subject to a charge of loitering. Related to loitering, it should be noted that other regulations require students to present identification cards upon request of College personnel, require registration of guests who will be on campus overnight, and require prior written permission of the Vice President for Student Affairs for solicitations or selling on campus. While all College personnel are expected to be aware of the law and to assist in its enforcement, the Department of Public Safety should be contacted to question a suspected loiterer.

15. Students may not advertise, solicit, or sell any goods or services on campus without prior written permission from the Vice President for Student Affairs.

16. Disorderly conduct or obscene conduct or expression on campus or at institution sponsored functions.

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17. Failure to comply with directions of College staff members acting in their assigned responsibilities for College facilities, classroom procedures, College services, or student conduct.

18. Students are required to carry their identification cards at all times and are required to produce them upon request of College personnel. Exceptions are allowed in confirmed instances in which the student may have temporarily surrendered his I.D. card as required to obtain certain services of the College. Identification cards are not transferable and any transfer of an I.D. card subjects both parties to a charge of violations of Student Conduct Regulations #2.

19. Possession or use of marijuana in a quantity up to 25 grams as a first offense.

20. Use, possession or sale of alcoholic beverages on institution premises other than in authorized areas, without the permission of the appropriate offices of the institution. Details of the College policy on use of alcohol on campus are found in the current Student Handbook. There are two conditions under which prohibited behavior normally considered a Minor Violation would become a charge of Major Violation:

1. If a Minor Violation is committed by a student who is on Conduct Probation;

2. The current charge or charges are of such a serious and compounded nature and/or the student has an accumulated record of official disciplinary actions that the current charge exceeds the normal bounds of a simple first offense.

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II. Range of Disciplinary Actions

The range of possible disciplinary actions which may be taken in cases of proven violations of Student Conduct Regulations is:

A. **Official Warning**

Notice that further violations may be cause for more severe disciplinary action. Actions C., D., E., and F-1 and F-2 below may be taken additionally.

B. **Conduct Probation**

Status of the student is probationary during a set period of time and further violation of rules and regulations may warrant suspension or dismissal from the College. Actions C., D., E., and F. (1. and 2.) below may be applied additionally as conditions of Conduct Probation.

C. **Restitution**

Payment for or replacement of damaged or misappropriated property.

D. **College Service**

The student may be assigned work in a campus area related to the offense. College service is in lieu of a stronger official sanction (e.g., an Official Warning and College Service instead of Conduct Probation) and is at the option of the student when suggested by the Judicial Officers. Responsible completion of the service assignment will be credited to the student’s record. Failure to complete the assignment will cause the more severe sanction to be applied.

E. **Restriction from Facilities**

The student may be denied use of or otherwise may be restricted from specified campus facilities.

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II. E. College Service, cont'd.

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F. Social Restriction

The student may be restricted from participation in College sponsored activities for a specified period of time.

G. Suspension

The student's status in the College is terminated temporarily for a specified period of time. He/she is restricted from access to campus premises except by written permission of the Vice President for Student Affairs. "Conduct Suspension" will appear on the student's transcript with the period of suspension specified.*

H. Dismissal

The student's status in the College is terminated and he/she is permanently separated from the College. He/she is restricted from access to campus premises except by written permission of the Vice President for Student Affairs. "Conduct Dismissal" will appear on the student's transcript.*

III. Organization of the College Judicial System

A. Judicial Coordinator

The Campus Judicial System at Brockport is under the direction of the Judicial Coordinator who is appointed by the Vice President for Student Affairs.

**"A student who is dismissed for academic or disciplinary reasons prior to the end of an academic term shall be liable for all tuition and fees due for that term." (OS7.1.2, B. S.U.N.Y. Administrative Policy).**

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III. A. Judicial Coordinator, cont'd.

The Judicial Coordinator is charged with the responsibility for seeing that due process is provided to students accused of violating college regulations. To accomplish this task the Judicial Coordinator has the following duties:

1. Publishes each year the Codes of Student Social Conduct and recommends revisions as needed.
2. Orient Judicial Board members to the judicial system and their role and responsibilities.
3. Acts as a Judicial Officer and supervises other Judicial Officers appointed by the Vice President for Student Affairs. The Judicial Coordinator systematically assigns judicial cases among the Judicial Officers for preliminary review and resolution.
4. Receives charges against individual students for violations of college regulations.
5. Schedules and arranges Judicial Board hearings as required and presents cases at these hearings.
6. Maintains the official judicial records.

B. Judicial Officers

Judicial Officers are appointed by the Vice President for Student Affairs to adjudicate student conduct charges in preliminary reviews and administrative hearings. The Judicial Officer:

1. Receives cases referred by the Judicial Coordinator for adjudication.
2. Sets up a preliminary review with each student so charged to discuss the charges and the student’s rights.

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III. B. Judicial Officers, cont'd.

3. Determines the sanction to be applied when the student has admitted to charges in a preliminary review or is found guilty in an administrative hearing.

4. Officially communicates all judicial charges and decisions to each student so charged and communicates with any other College officials who have a legitimate interest in the disciplinary status of the student.

5. Conveys case files to the Judicial Coordinator for filing when a case has been resolved.

C. Judicial Board

1. The Judicial Board is composed of a student, a faculty member, and an administrator appointed by the President of the College. The College President designates a chairperson and appoints alternate members. The student member and the faculty member will be appointed from at least three persons recommended by the presidents of the Brockport Student Government and Faculty Senate, respectively. Alternates may be appointed from the student body or faculty generally.

2. The Judicial Board has the following responsibilities:

a. Hears cases as scheduled by the Judicial Coordinator.

b. Hears all statements and evidence related to the case in question.

c. Seeks answers to all questions pertaining to statements and evidence presented.

d. Determines the merits of the charges against the student after a full discussion of the case in closed session.

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III. C. Judicial Board, cont'd.

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e. Determines disciplinary action if the charges are substantiated.
f. Acts in an advisory capacity upon the request of the Judicial Coordinator in a case where the student has admitted to charges but where the penalty may be so severe that a full review of all relevant facts is desired for a fair perspective.

D. Appeal Officer
The Vice President for Student Affairs (or the College President's designee in his/her absence) will hear appeals of penalties under procedures described in IV. F.

IV. Judicial System Procedures
A. Judicial Referral

1. Any person may refer a student for judicial action when it is believed that the student has violated a College regulation.
2. Referrals are made to the Judicial Coordinator in the Office of the Vice President for Student Affairs by completing a Complaint Form on which the alleged offense(s) will be described in detail. The form will be signed by the complainant. Referrals from the Department of Public Safety may be made on that office's Crime Report or Service Report.
3. The Judicial Coordinator will assign the complaint to the appropriate Judicial Officer.

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IV. Judicial System Procedures, cont'd.

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B. Notice of Judicial Charges

1. Upon receipt of the complaint from the Judicial Coordinator, the Judicial Officer will first investigate to ascertain whether the charge appears to have basis in fact. The investigation will include discussion with the complainant and accused.

2. If the Judicial Officer finds that the charge does appear to be based in fact, he/she shall notify the student to make an appointment for a preliminary review regarding pending charges. If the student cannot be contacted by other means, he/she will be notified in writing (by certified mail, if off-campus) of pending charges and the need to contact the Judicial Officer within 5 days of the postmark to schedule an appointment for a preliminary review. The student is sufficiently notified if the letter is personally delivered to or mailed to the student's local and/or home address appearing on official College records.

3. If the accused student fails to respond within five (5) business days from the postmark date of the notification letter, he/she will be deemed to have waived his/her right to choose either a Judicial Board hearing or administrative hearing. The Judicial Coordinator will then determine the type of hearing and the date and time it will be held. The student will be notified of the charges against him/her, the date, time, and location of the hearing, and will receive the published Campus Judicial System procedures which includes the student's rights.

C. Preliminary Review

1. The Judicial Officer states the charge against the student and reviews the judicial process and the rights of the student.

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IV. C. Preliminary Review, cont'd.

2. The student may admit to the violation at the time of the pre-
liminary review. In this case, the Judicial Officer may deter-
mine an appropriate sanction if no further information is
necessary.

3. In cases where the student admits to the violation and the
Judicial Officer contemplates Suspension or Dismissal from the
College, the Judicial Officer may do one of the following:
   a. Refer the case to the Judicial Board as an advisory body
      (see III.C.2.f.).
   b. Refer the case to the Judicial Coordinator who will present
      the case to the Judicial Board for final disciplinary
      action.
   c. Allow the student two (2) business days to present addi-
tional statements, a character witness, and/or other rele-
vant information. After this review the Judicial Officer
   will consult with the Judicial Coordinator before reaching
   a decision. The student may accept the Judicial Officer’s
   decision, or if the decision is Suspension or Dismissal,
   the student may use option 4.b. stated below.

4. The student may deny the charge in the preliminary review.
   a. If the Judicial Officer determines that the nature of the
      offense warrants no more than an Official Warning and is
      not sufficient to justify an administrative hearing or
      Judicial Board hearing, the Judicial Officer will hear the
      student’s information and make a determination of guilt or
      innocence.

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b. If the sanction for the violation would be greater than an Official Warning, the student may choose to have a hearing before the Judicial Officer (administrative hearing) or before the Judicial Board. The student's hearing will be held within ten (10) business days from the date of the preliminary review, unless, in the judgment of the Judicial Officer or Judicial Board, legitimate grounds exist for delay. The student will be provided written notice of charges, the date, time and place of the hearing, possible consequences of being found guilty of the charge, and a copy of the Codes of Student Conduct. The Student will be advised at the preliminary review that these documents will be available for the student at the Office of the Judicial Officer no less than three (3) business days before the date of the hearing. The student will be responsible for obtaining these documents.

D. Judicial Board Hearing

1. The Judicial Coordinator presents the case to the Judicial Board. He/she may be aided by the Judicial Officer who held the preliminary review.

2. In the case of a student who denies the charges, the Judicial Board determines the merits of the charges and determines disciplinary action if charges are substantiated.

3. The Judicial Board shall reach its determination on the merits of the charges and disciplinary action by majority vote.

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IV. Judicial System Procedures, cont'd.

E. Administrative Hearing

In an administrative hearing the Judicial Officer hears the case. Like a Judicial Board hearing, it is a hearing with full presentation of evidence and witnesses. In an administrative hearing the Judicial Officer weighs the evidence as presented, determines the merits of the charges and decides upon the sanction if appropriate.

F. Appeal Process

1. The student may appeal any disciplinary action listed under II Range of Disciplinary Actions.

2. The Judicial Coordinator may appeal cases from the Judicial Board.

3. An appeal may be heard on the following grounds only:
   a. The Judicial Board or Judicial Officer failed to observe the procedural requirements established by this code;
   b. New evidence has appeared subsequent to the initial hearing which could have substantially affected the original findings;
   c. The sanction is grossly inappropriate to the proven offense.

4. Any appeal must be requested in writing within five (5) business days after the postmark of the written judicial decision addressed to the student.

5. Appeals are to be submitted to the Office of Vice President for Student Affairs (or to the College President's designee in the Vice President for Student Affairs' absence).

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IV. F. Appeal Process, cont'd.

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6. The reason for the appeal must be stated in detail based on one or more of the grounds stated in IV.F.3. above.

7. The Vice President for Student Affairs, upon receiving a written appeal, will determine whether or not sufficient cause has been given for an appeal hearing to be granted.

8. In the appeal hearing the Vice President for Student Affairs will determine, in the case of IV.F.3., a. and b. above, whether a rehearing is needed based on sufficient evidence of improper procedures or new evidence. Depending on the nature of the case and the procedures or evidence in question, the Vice President for Student Affairs may hear the case himself and make a final decision or remand it back to the Judicial Officer or Judicial Board that originally heard the case.

9. In an appeal hearing in which the severity of sanction is in question, the Vice President for Student Affairs will make the final decision and may amend the sanction as appropriate.

V. Student's Rights when Charged with a Violation

A. The burden of proof in a hearing is with the party bringing the charges. The College meets this burden by an admission of guilt by the student or by the presentation of information and evidence at a hearing which results in the Judicial Board or Judicial Officer finding the charge meritorious.

B. The right to be given written notice of the nature of the charges and to be informed of one's rights prior to a hearing.

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C. The right to receive upon request a list of the witnesses who will appear in the hearing in support of the charges. The provision of such a list of witnesses shall not preclude the testimony of witnesses who were unknown at the time of such request.

D. The right to receive upon request the names of the Judicial Board members. If the student feels any member or members of the Judicial Board cannot objectively and fairly hear the case, the objection must be made to the Judicial Coordinator within twenty-four (24) hours of the hearing. The Judicial Officer will determine the merits of the complaint, based on substantive information, and will decide whether or not to replace the Board members in question. The accused may not discuss with Judicial Board members any matters related to the pending hearing.

E. The right to deny the charge in a preliminary review and, where the contemplated sanctions is greater than Official Warning the right to:
1. A hearing before the Judicial Board, composed of students and staff, etc,
2. An administrative hearing before the Judicial Officer.

F. The right to bring witnesses and/or a representative to the hearing. If the student chooses to bring legal counsel, counsel may only advise the accused student and may not participate in the hearing, e.g., by presenting the student’s case or examining witnesses. Postponement of a scheduled hearing may be allowed by the Judicial Coordinator on the basis of unavailability of important witnesses or representative, but only if sufficient cause for said unavailability is shown. No postponement will go beyond ten (10) business days.

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V. Student's Rights, cont'd.

G. The right to question witnesses and the person making the charge.
H. The right to produce witnesses and documentary evidence in his or her own behalf.
I. The right of access to the taped proceedings of the hearing.
J. The right to appeal his/her case if a penalty has been imposed.

VI. Policies Pertaining to the Judicial System
A. A student who withdraws from the College after being charged with a violation will not be exempt from campus judicial action. The normal judicial process will be followed with the accused student receiving due notice of hearings. Any resulting sanction of Suspension or Dismissal will replace the "Withdrawal" status on the transcript. Lesser sanctions will be kept on file for reference if the student applies for readmission.
B. A graduating senior who is found guilty of a violation and who received a Suspension for a period extending beyond his/her graduation date may not receive the diploma until the term of Suspension has been served.
C. A student who is charged with a violation just prior to the termination of a semester, when there is not sufficient time to hold a hearing before the semester ends, will be given a hearing as soon after the semester ends as is feasible. The accused student who leaves the Brockport area is responsible for transportation and other expenses related to his/her right to be present at the hearing as scheduled.

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VI. Policies Pertaining to Judicial System, cont'd.

D. Failure to appear in response to the charge(s) on the date fixed for hearing, unless there has been a continuance approved by the Judicial Coordinator prior to the hearing, shall be deemed an admission of the facts stated in such charge(s). The hearing will be held and a determination of sanction will be made. The student will be notified of the sanction. Within five (5) business days of the postmark date of notice of sanction, if the student shows good cause for failure to appear and failure to give prior notice of intention not to appear, the Judicial Coordinator may withdraw the sanction and arrange a re-hearing.

E. All judicial hearings will be taped. Upon request, one copy of the tape will be available to the student.

F. All judicial hearings are closed unless the accused student requests in writing in advance of the hearing that the hearing be open. The request is made to the Judicial Coordinator who also will consult with the complainant. The Judicial Coordinator will determine whether the hearing will be open or closed. In an open or closed hearing, no witnesses will observe the hearing but will be called in individually when their testimony is needed. In an open hearing no observers may speak. Some or all observers may be dismissed from the room by the Judicial Board chairperson if crowding or behavior interferes with the orderly process of the hearing.

G. A campus judicial hearing shall not be bound by technical rules of evidence, but may hear and receive any testimony or evidence which is relevant and material to the issues presented by the charge(s) and which will contribute to a full and fair disposition of the charge(s). The criterion for determining the merit of charges in a campus judicial hearing is the preponderance of evidence.

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VI. Policies Pertaining to Judicial System, cont'd.

H. Cameras or tape recorders other than the College tape recorder are not permitted in a hearing.

I. Any sanctions which result from a preliminary review or hearing will be written and sent to the student by certified mail if off-campus. A copy of the decision letter will be kept on file in the Vice President for Student Affairs' office. A copy will be sent to the parents of dependent students. The file may be used as a disciplinary record in any future judicial proceedings involving the student in order to determine appropriate disciplinary action.

J. In accordance with the Family Educational Rights and Privacy Act of 1974, the College may release information pertaining to individual judicial cases to appropriate College personnel and to parents of students who are dependent. Information from a student's judicial file will not be made available without the student's written consent to anyone other than the student, appropriate College personnel, and parents of dependent students, except by court order.

K. A sanction of Suspension or Dismissal from the College will appear on the student's transcript as "Conduct Suspension," with period of suspension specified, or "Conduct Dismissal."

L. A student's judicial record will be maintained for a period of seven (7) years from the date of the last entry or until the student graduates, except in a matter of Suspension or Dismissal, in which case the record is maintained indefinitely.

M. The term "business days" used in this code with reference to scheduling and notification means days on which the administrative offices of the College are officially open for business.

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VI. Policies Pertaining to Judicial System, cont'd.

N. The College President or his designee may place a student on interim Suspension pending a full hearing upon determining that, because of the nature of the student's offense, his/her presence on campus would constitute clear danger to himself or herself or to the safety of other persons or property on the premises of the College, or would pose an immediate threat of disruptive interference with the normal conduct of the College's activities. An immediate hearing will be held in which the College President or his designee may inform the student of the basis for such interim Suspension.

O. A student who is charged with a civil or criminal off-campus violation may be subjected to College judicial proceedings if it is believed that such violations could adversely affect the normal educational function of the College or could injure or endanger the welfare of others in the College.

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