

## DEFINITIONS

**Alleged or Alleged Individual** is defined as a person accused of a violation of ESF's Code of Student Conduct who has not yet entered ESF's student conduct process.

**Advisor** is defined as any individual who provides a respondent or a complainant with support, guidance, and/or advice throughout the student conduct process and in related hearings and/or meetings.

**Affirmative Consent** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

**Amnesty** - The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. ESF recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including, but not limited to, domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. ESF strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to ESF officials. A bystander or a reporting individual acting in good faith who disclosed any incident of domestic violence, dating violence, stalking, or sexual assault to ESF officials or law enforcement will not be subject to ESF's Code of Student Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. ([ESF's Alcohol and Drug Amnesty policy](#) is distinct from this amnesty statement.)

**Business day** is defined as a day in which the administrative offices of ESF are officially open for business. During the academic year, ESF business hours are 8:00 AM until 4:30 PM, Monday through Friday, except for posted Federal holidays. During the summer, business hours are Monday through Friday, 8:00 AM until 4 PM, as posted on the [ESF Administrative Updates webpage](#).

**Bystander** is defined as a person who observes a crime, impending crime, conflict, or unacceptable behavior.

**Complainant** is defined as the person/entity bringing forth the formal allegation(s) of violation of *ESF's Code of Student Conduct*.

**Clery Act** - The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act is a federal statute (20 U.S.C. §1092(f)) is a consumer protection law that aims to provide transparency around campus crime policy and statistics. It requires colleges and universities that participate in federal financial aid programs to keep and disclose statistics about crime on or near their campuses. Compliance is monitored by the U.S. Department of Education. The College's Clery Reports can be found on the [University Police webpage](#).

**Code**, as defined throughout this Handbook and in other College publications, refers to the College of Environmental Science and Forestry's Code of Student Conduct, for which changes are subject to the approval of the College's Board of Trustees.

**College** is defined as the State University of New York College of Environmental Science and Forestry.

**College Official** includes faculty and staff of the College, student employees, and paraprofessionals who are carrying out assigned work responsibilities, and University Police officers. For the purposes of upholding this Handbook, this includes those Centennial Hall staff employed on behalf of the College Foundation.

**College Premises** includes all land, buildings, facilities, and other property in the possession of, owned by, associated with, used, or controlled by, the College (including adjacent streets and sidewalks).

**Conduct Hearing Board** is defined as a group of people authorized by the Dean of Students (or designee), in consultation with the President, to determine whether a student has violated the ESF Code of Student Conduct and to impose sanctions when a student is found responsible for a Code of Student Conduct violation.

**Confidential Resources** are defined as individuals who, with very few exceptions, are confidential resources to those willing to disclose sexual violence. Such resources are defined by law and include licensed medical professionals, licensed mental health counselors, and clergy.

**Dating Violence** is defined as any violent act or acts committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. The existence of a social relationship of a romantic or intimate nature with the victim is determined based on the reporting party's statement, the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

**Domestic Violence** is defined by the State of New York as: **A pattern of coercive tactics, which can include physical, psychological, sexual, economic, and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.** It is a crime of violence committed by any of the following individuals: current or former spouse or intimate partner of the victim; or a person with whom the victim shares a child in common; or a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or a person similarly situated to a spouse of the victim under the domestic or family laws of the jurisdiction in which the crime of violence occurred; or any other person against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Harassment** is defined as unwelcome behavior directed against a person that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the College's educational program and/or activities, and is

based on power differentials, the creation of a hostile environment, or retaliation. It may include: threatening or intimidating a person while creating a rational fear within that person; engaging in a course of conduct or repeatedly committing acts directed at another person which would seriously annoy a rational person; creating a condition which endangers or threatens the health, safety, or welfare of another person; and/or physically restraining or detaining another person, or removing any person from any place where they are authorized to remain.

**Hazing** is defined as any act which endangers the mental, physical, or emotional health or safety of a student, including, but not limited to, making physical contact or requiring physical activity of such student, or which 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. As a guiding principle, any activity required of new members that is not required of more senior members is likely to constitute hazing under this definition.

**Policy** is defined as the written regulations of the College found in College published documents including, but not limited to, the official ESF website, the ESF Student Handbook, Ranger School policies, parking rules and regulations, State University of New York policies, and policies pertaining to advertising on campus, Centennial Hall, use of campus facilities, student organizations, smoking, and Board of Trustees' policies.

**Preponderance of the Evidence** is the standard of proof in all cases alleging violation of ESF's Code of Student Conduct, including sexual assault, dating/domestic violence, and stalking. It asks whether it is "more likely than not" that a violation occurred. This standard of proof does not require that one side or the other prove that something happened. It is less adversarial and requires less of a burden than the criminal standard of beyond a reasonable doubt. If the evidence presented meets the preponderance standard, the respondent should be found responsible.

**Privacy** may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than is necessary to comply with the New York State and other laws, including informing appropriate College officials. (See also Confidential Resources.)

**Reporting Individual** encompasses the terms complainant, and any other term used to reference an individual who brings forth a report of a violation.

**Respondent** is defined as a person accused of violation(s) of ESF's Code of Student Conduct who has entered ESF's student conduct process.

**Retaliation** is defined as adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequences, and bullying. Reports of retaliation should be directed to the Division of Student Affairs or the College's [Title IX Coordinator](#). All allegations of retaliation will be thoroughly reviewed and may result in administrative and/or student conduct action.

**Sex Discrimination** is defined as all forms of sexual harassment, sexual assault, and other sexual violence by employees, students, or third parties against employees, students, or third parties. Students, employees, and third parties are prohibited from harassing others whether or not the harassment occurs on ESF's campus or whether or not it occurs during work hours. Sex discrimination can be carried out by other students, by College employees, or by third parties. All

acts of sex discrimination, including sexual harassment and sexual violence, are prohibited by law and by College policy.

**Sexual Assault** is defined as a physical sexual act or acts committed against another person without consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as “rape” (including what is commonly called “date rape” and “acquaintance rape”), fondling, statutory rape, and incest. For statutory rape, the age of consent in New York State is 17 years old.

**Sexual Harassment** is defined as unwelcome, gender-based verbal, non-verbal, or physical conduct that is sexual in nature and sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from the College’s educational program and/or activities, and is based on power differentials, the creation of a hostile environment, or retaliation.

**Sexual Violence** is defined as a physical sexual act or acts perpetrated against a person’s will or perpetrated where a person is incapable of giving consent. Several different acts fall into the category of sexual violence including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

**Stalking** is defined as engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for their safety or the safety of others or causes that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person, repeatedly committing acts that alarm, cause fear, or seriously annoy such other person and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person in a manner to intimidate, annoy, or alarm them.

**Student** is defined as an individual who has been accepted to or who is taking courses through the College on a full-time or part-time basis. Persons who are not officially enrolled for a particular term but who have been previously enrolled and have a continuing relationship with the College or who withdraw after an alleged violation of the ESF Code of Student Conduct are considered students for the purpose of adjudication through the College student conduct process.

**Student Conduct Officer** is defined as any person authorized by the Dean of Students (or designee) to conduct a meeting or conference with a student(s) to discuss allegations of misconduct. This includes professional staff members within the Division of Student Affairs and Centennial Hall.

**Student organization** is defined as any group of students who have complied with the formal requirements for College recognition.

**Violence Against Women Act (VAWA)** is federal law providing coverage for all victims of domestic violence, dating violence, stalking, and sexual assault.

**Weapon** is defined as any instrument, device, or object capable of inflicting physical harm or death and designed or specifically adapted for use as a weapon, or possessed, carried, or used as a weapon.

**Witness** is defined as anyone with direct information regarding an alleged violation of the ESF Code of Student Conduct.