



## **STUDENT CONDUCT AND RULES FOR THE MAINTENANCE OF PUBLIC ORDER**

Elyon College expects that students will conduct themselves in a manner consistent with the *highest educational and business standards*. To this end, the **Student Conduct Code** has been formulated pursuant to Article 129-A of the Education Law. The Code has been designed to protect the health and safety of the members of the College community and to maintain and protect property. These rules extend to all college activities. All students have to observe standards of social conduct and to wear appropriate attire. The use of profanity, alcoholic beverages, or drugs is not permitted at any time.

A copy of these rules is given to all students enrolled in Elyon College, is deemed to be part of the by-laws of all organizations operating on the campus of Elyon College, and is revised annually with the individuals affiliated with such organizations.

It is the policy of Elyon College that any criminal act; act or threat of violence; injury; destruction of College or personal property; or other situation that occurs on College property and that may constitute an emergency, a danger to the health and safety, or property of any person, or a threat to the public order be reported immediately to the Administration.

Nothing contained in this article shall be construed to limit or restrict freedom of speech and peaceful assembly; or prevent or limit Elyon college from setting forth additional standards of conduct for students.

### **Advisory Committee on Campus Security**

In compliance with the Provisions of the Article 129-A of the Education Law, Elyon College created an Advisory Committee on Campus Security, consisting of six members, including three females and two students. The committee reviews current campus security policies and makes recommendation for their improvement. The committee reports its findings and gives suggestions on enhancing security to the College President for further action, as specified in § 6431 of the said Article.

### **Campus Security Policy**

Elyon College complies with the articles contained in The Campus Awareness and Campus Security Act of 1990, or The Clery Act, which is named after Jeanne Clery who tragically lost her life after being raped while in college.

According to The Clery Act an institution of higher education in the United States is required to:

- Produce an annual report containing a three year history of campus crime, and certain statements of campus security policy
- Disclose crime statistics for the campus, public areas immediately adjacent to or running through the campus, and certain non-campus facilities and remote classrooms
- Provide “timely warning” of the crimes that have taken place and pose a “threat to students and employees”
- Send out emergency notifications once a dangerous situation involving an immediate threat to the well being and safety of the school’s community is confirmed
- Disclose in a public crime log any crime that has taken place on campus

### **Campus Crime Statistics**

The Student Right-to-know and Campus Security Act requires that each student be provided a detailed breakdown of campus crime statistics. Disclosures required by this law are made available upon request to students, faculty and staff through the Office. The *College Catalog*, *Student Handbook*, *Faculty Handbook*, and the College Website contain a link to Elyon College Annual Security report that is submitted to United States Department of Education. Its website is at <http://ope.ed.gov/security/index.asp>, and will also contain a designated college campus contact. The three-years crime statistics on Elyon College is to be found in *Appendix 3* of the current document.

### **Smoking Policy**

There is no smoking at any College facility. This includes all classrooms, library, laboratories, hallways, restrooms, conference and meeting rooms, entry ways, and areas used in common by students and employees.

### **Drug and Alcohol Policy**

In compliance with the Drug-Free Schools and Campuses Act Amendments of 1989 (Public Law 101-226), it is the policy of Elyon College to provide a drug and alcohol free environment conducive to a safe, healthy, and secure educational environment. All members of the Elyon community are advised that, in compliance with public health codes, federal, state and local statutes, Elyon College prohibits the unlawful manufacture, sale, purchase, possession, use, or distribution of controlled substances and alcohol at any college facility or at any college activity. Violations of any provisions will result in immediate termination or expulsion. The College supports federal, state, and local laws which make the unauthorized possession, sale, or purchase of controlled drugs and alcohol a crime. In New York State, it is illegal for any person under the age of 21 years to give, sell, or possess any alcoholic beverages for the purpose of consumption. Both the *Employee* and *Student Handbook* include information on Elyon College’s drug and alcohol policy. All new students and employees are also provided with the policy, acknowledged at the time of enrollment or hire.

The following is an excerpt from the *Elyon College Student’s Handbook*, p 21-32:

### ***Policy on Substance Abuse and Alcohol***

The United States Department of Education has issued regulations implementing the provisions of the Drug-Free Colleges and Communities Act Amendments of 1989. These regulations require that Elyon College distribute to you annually, in writing, the following information concerning the possession, use, or distribution of alcohol and illicit drugs in the College.

### ***Statement of Policy on Substance Abuse***

While we at Elyon College feel that an individual's actions are his or her personal responsibility, the possession, use, or distribution of illegal drugs anywhere on campus cannot and will not be condoned. It is a known fact that involvement with drugs may harm an individual personally and professionally.

Since an individual who possesses or uses drugs is violating the law, Elyon cannot protect anyone who may break these laws from apprehension and prosecution by civil authorities.

Elyon College must recognize the interest and rights of the students as well as those in the academic community as a whole. We realize that drug abuse may be a symptom of deeper personal or emotional problems and accept the responsibility for assisting the individual to seek the help that is needed.

Since Elyon College is also very much a part of the community, we recognize our obligation to show our concern by maintaining the safety and well being to that community. It is necessary, therefore, to adhere to the following guidelines regarding the unlawful possession, use and distribution of drugs:

- Elyon College will not tolerate the unlawful use, possession or distribution of drugs anywhere on College property or at any college related activity.
- Upon finding the evidence of the above by any student, Elyon will take appropriate disciplinary action including, but not limited to, probation, suspension or expulsion.

In addition to the sanctions of Elyon College, students may also be subject to criminal prosecution under federal and state laws that specify fines or imprisonment for conviction of drug-related offenses. If necessary and appropriate the College will fully cooperate with law enforcement agencies.

### ***Statement of Policy on Alcoholic Beverages***

#### **Elyon College Regulations**

The possession or use of alcoholic beverages anywhere in the College is discouraged and restricted. Any serving of alcoholic beverages is governed by the New York State Alcoholic Beverage Control Law and other laws of the State of New York. The following are the policies of Elyon College:

- Alcohol is banned at all student-sponsored functions
- At all staff functions and/or academic department events which students may attend, the organization sponsoring the activity must see that there is strict adherence to the New York State Alcohol Beverage Control Laws.

#### **Alcohol health risks**

Alcohol is chemically known as ethyl alcohol, a colorless liquid, and medically is a depressant that slows the activity of the brain and spinal cord. It has the potential to be abused because it affects the mind. Alcohol is usually ingested orally. One drink is the equivalent of 12 oz. of beer, 5 oz. of wine or 1 ½ oz. of hard liquor. The legal age for sale and consumption of alcohol is 21 in New York State. People that abuse alcohol may harm themselves or others. Alcohol abuse often results in automobile crashes, arrests, accidents and broken families. Very high doses cause respiratory depression and death. Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants may have irreversible physical abnormalities and mental retardation. Research indicates that children of alcoholic parents are of greater risk of becoming alcoholics. One in eleven drinkers become alcoholics when they lose control over their drinking. This may result in the loss of employment, family and health problems. Continued heavy drinking can cause malnutrition, severe anxiety, hallucination, convulsions, heart disease, brain damage, ulcers and liver damage.

## **College sanctions**

If it is deemed that you have violated the College's Statement of Policy on Substance Abuse, a member of the faculty, administration, staff or any other student may file a complaint against you. You may be suspended or placed on probation and/or be subject to possible prosecution by federal and state drug enforcement agencies.

### **Sanctions**

#### **Institutional**

Elyon is committed to both the safety and health of all employees and students. In order to maintain a drug-free environment, the College maintains the following sanctions for all members of the community: warning, suspension, referral to a substance abuse program and termination or expulsion. The College reserves the right to immediately terminate or expel any employee or student who presents a risk to others.

#### **State**

See attached handout of the New York Penal Code involving controlled substances.

#### **Federal**

First conviction: Up to one year imprisonment and fine of \$1,000 but no more than \$100,000 or both.

After one prior drug conviction: At least 15 days in prison, not to exceed two years, and fine of at least \$5,000 but not more than \$250,000, or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least five years in prison, not to exceed 20 years and fined up to \$250,000, or both, if:

1. First conviction and the amount of crack possessed exceeds five grams;
2. Second crack conviction and the amount of crack possessed exceeds 3 grams;
3. Third and subsequent crack convictions and the amount of crack possessed exceeds one gram.

Forfeiture of personal and real property used to possess or facilitate possession of a controlled substance if that offense is punishable by more than one year imprisonment.

Forfeiture of vehicles, boats, aircraft, or any other conveyance used to transport or conceal a controlled substance.

Civil fines of up to \$10,000.

Denial of federal benefits such as student loans, grants, contracts, and professional and commercial license, up to one year for the first offense, up to five years for second and subsequent offenses.

Ineligible to receive or purchase a firearm.

Revocation of certain federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., are vested within the authorities of the individual federal agencies.

### **Risks of Drug Use**

## **HEALTH RISKS**

### **Hallucinogens**

Types: Phencyclidine, Lysergic Acid Diethylamide, Mescaline, Peyote, and Psilocybin

Phencyclidine (PCP) interrupts the functions of the neocortex, the section of the brain that controls the intellect and keeps instincts in check. Because the drug blocks pain receptors, violent PCP episodes may result in self-inflicted injuries.

The effects of PCP vary, but users frequently report a sense of distance and estrangement.

Time and body movement are slowed down. Muscular coordination worsens and senses are dulled. Speech is blocked and incoherent.

Chronic users of PCP report persistent memory problems and speech difficulties. Some of these effects may last six (6) months to a year following prolonged daily use. Mood disorders-depression, anxiety, and violent behavior - also occur. In later stages of chronic use, users often exhibit paranoid and violent behavior and experience hallucinations. The physical effects may include dilated pupils, elevated body temperature, increased heart rate and blood pressure, loss of appetite, sleeplessness and tremors.

## **Stimulants**

Types: Amphetamines, Methamphetamines, Ritalin, Cylert, Preludin, Didrex, Pre-State Voranil, Tenuate, Tapanil, Pondimin, Sandrex, Plegine, Ionamin, Nicotine, Cocaine, and Crack.

Stimulants can cause increased heart and respiratory rates, elevated blood pressure, dilated pupils, and decreased appetite. In addition, users may experience sweating, headache, blurred vision, dizziness, sleeplessness, and anxiety. Extremely high doses can cause a rapid or irregular heartbeat, tremors, loss of coordination, and even physical collapse. An amphetamine injection creates a sudden increase in blood pressure that can result in stroke, very high fever, or heart failure. In addition to the physical effects, users report feeling restless, anxious, and moody. Higher doses intensify the effects. Persons who use large amounts of amphetamines over a long period of time can develop an amphetamine psychosis that includes hallucinations, Delusions and paranoia. These symptoms usually disappear when drug use ceases. The use of nicotine in cigarette form can increase the amount of carbon monoxide in the bloodstream. Continued use of nicotine can lead to death through increased incidence of heart disease; emphysema; and cancers of the lung, throat, mouth and esophagus. Crack or freebase rock is extremely addictive, and its effects are felt within ten (10) seconds. The physical effects include dilated pupils, increased pulse rate, elevated blood pressure, insomnia, loss of appetite, tactile hallucinations, paranoia, and seizures. The use of cocaine can cause death by cardiac arrest or respiratory failure.

## **Narcotics**

Types: Heroin, Methadone, Codeine, Morphine, Meperidine, Opium, Percocet, Percodan, Tussionex, Fentanyl, Darvon, Talwin, and Lomotil. Narcotics initially produce a feeling of euphoria that often is followed by drowsiness, Nausea, and vomiting. Users also may experience constricted pupils, watery eyes, and itching. An overdose may produce slow and shallow breathing, clammy skin, convulsions, coma, and possible death. Tolerance to narcotics develops rapidly and dependence is likely. The use of contaminated syringes may result in diseases such as AIDS, endocarditic, and hepatitis. Addiction in pregnant women can lead to premature, stillborn, or addicted infants who experience withdrawal symptoms.

## **Depressants**

Types: Barbiturates, Methaqualone, Valium, Equanil, Miltown, Serax, and Tranxene. The effects of depressants are in many ways similar to the effects of alcohol. Small amounts can produce calmness and relax muscles, but somewhat larger doses can cause slurred speech, staggering gait, and altered perception. Very large doses can cause respiratory depression, coma, and death. The combination of depressants and alcohol can multiply the effects of the drugs, thereby multiplying the risks. The use of depressants can cause both physical and psychological dependence. Regular use over time may result in a tolerance to the drug, leading the user to increase the quantity consumed. When regular users suddenly stop taking large doses, they may develop withdrawal symptoms ranging from restlessness, insomnia, and anxiety to convulsions and death. Babies born to mothers who abuse depressants during pregnancy may be physically dependent on the drugs and show withdrawal symptoms shortly after they are born. Birth defects and behavioral problems may also result.

## **Inhalants**

Types: Nitrous Oxide, Amyl, Nitrite, Butyl Nitrite, Chlorohydrocarbons (aerosol sprays), Hydrocarbons (solvents). The immediate negative effects of inhalants include nausea, sneezing, coughing, nosebleeds, fatigue, lack of coordination, and loss of appetite. Solvents and aerosol sprays also decrease the heart and respiratory rates and impair judgment. Amyl and butyl nitrites cause rapid pulse, headache, and involuntary passing of urine and feces. Long term use may result in hepatitis or brain damage. Deeply inhaling the vapors, or using large amounts over a short time, may result in disorientation, violent behavior, unconsciousness, or death. High concentrations of inhalants can cause suffocation by displacing the oxygen in the lungs or by depressing the central nervous system to the point that breathing stops. Long-Term use can cause weight loss, fatigue, electrolyte imbalance, and muscle fatigue. Repeated sniffing of concentrated vapors over time can permanently damage the nervous system.

## **Cannabis**

Types: Marijuana, Tetrahydro-cannabinol, Hashish, and Hashish Oil. All forms of cannabis have negative physical and mental effects. Several regularly observed physical effects of cannabis are a substantial increase in the heart rate, bloodshot eyes, a dry mouth and throat, and increased appetite. Use of cannabis may impair or reduce short-term memory and comprehension, alter sense of time, and reduce ability to perform tasks requiring concentration and coordination, such as

driving a car. Research also shows that students do not retain knowledge when they are “high.” Motivation and cognition may be altered, making the acquisition of new information difficult. Marijuana can also produce paranoia and psychosis. Because users often inhale the unfiltered smoke deeply and then hold it in their lungs as long as possible, marijuana is damaging to the lungs and pulmonary system. Marijuana smoke contains more cancer-causing agents than tobacco smoke. Long-term users of cannabis may develop psychological dependence and require more of the drug to get the same effect. The drug can become the center of their lives.

## **Alcohol**

Alcohol consumption causes a number of marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident. Low to moderate doses of alcohol also increase the incidence of a variety of aggressive acts, including spouse and child abuse. Moderate to high doses of alcohol cause marked impairment in higher mental functions, severely altering a person’s ability to learn and remember information. Very high doses cause respiratory depression and death. The combination of depressants and alcohol will produce the described effects, but with much lower doses. Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations, and convulsions. Alcohol withdrawal can be life-threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, can also lead to permanent damage of vital organs such as the brain and the liver.

## **New York State Penal Law**

### **ARTICLE 220 – CONTROLLED SUBSTANCES**

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#### **220.00 Controlled Substances; definitions:**

- 1) **“Sell”** means to sell, exchange, give or dispose of to another, or to offer or agree to do the same.
- 2) **“Unlawfully”** means in violation of article thirty-three of the public health law.
- 3) **“Ounce”** means an avoirdupois ounce as applied to solids or semisolids, and a fluid ounce as applied to liquids.
- 4) **“Pound”** means an avoirdupois pound.
- 5) **“Controlled substance”** means any substance listed in schedule I, II, III, IV or V of
- 6) **“Marihuana”** means **“marihuana”** or **“concentrated cannabis”** as those terms are defined in section thirty three hundred two of the public health law.
- 7) **“Narcotic drug”** means any controlled substance listed in schedule I (b), I (c) or II (c) other than methadone
- 8) **“Narcotic preparation”** means any controlled substance listed in schedule III (d) r III (e)
- 9) **“Hallucinogen”** means any controlled substance listed in schedule I (d) (5), (18), (19), (20), (2) and (22).
- 10) **“Hallucinogenic substance”** means any controlled substance listed in schedule I (d) other than concentrated cannabis, lysergic acid diethylamide, r an hallucinogen
- 11) **“Stimulant”** means any controlled substance listed in schedule I (f), II (d).
- 12) **“Dangerous depressant”** means any controlled substance listed in schedule I (e) (2), (3), II (e), III(c) (3) or IV (c) (2), (31), (32), (40).
- 13) **“Depressant”** means any controlled substance listed in schedule IV (c) except (c) (2), (31), (32), (40).
- 14) **“College grounds”** means
  - (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high college, or
  - (b) Any area accessible to the public located within one thousand feet of the real property boundary line comprising, any such college or any parked automobile or boundary line comprising any such college. For the purposes of this section an “area accessible to the public” shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.
- 15) **“Prescriptions for a controlled substance”** means a direction or authorization, by means of an official New York state prescription form, a written prescription form or an oral prescription, which will permit a person to lawfully obtain a controlled substance from any person authorized to dispense controlled substances.

#### **220.03 Criminal possession of a controlled substance in the seventh degree:**

A person is guilty of criminal possession of a controlled substance in the seventh degree when he knowingly and unlawfully possesses a controlled substance.

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE IS A CLASS A MISDEMEANOR.**

**220.06 Criminal possession of a controlled substance in the fifth degree:**

A person is guilty of criminal possession of a controlled substance in the fifth degree when he knowingly and unlawfully possesses:

1. A controlled substance with intent to sell it; or
2. one or more preparations, compounds, mixtures or substances containing a narcotic preparation and said preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or
3. Phencyclidine and said phencyclidine weighs fifty milligrams or more; or
4. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in paragraph (a) of subdivision five of section thirty-three hundred two of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of one-fourth ounce or more; or
5. Cocaine and said cocaine weighs five hundred milligrams or more. Criminal possession of a controlled substance in the fifth degree is a class D felony.

**220.09 Criminal possession of a controlled substance in the fourth degree:**

A person is guilty of criminal possession of a controlled substance in the fourth degree when he knowingly and unlawfully possesses:

1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of one-eighth ounce or more; or
2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and said preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or
3. one or more preparations, compounds, mixtures or substances containing a narcotic preparation and said preparations, compounds, mixtures or substances are of an aggregate weight of two ounces or more; or
4. A stimulant and said stimulant weighs one gram or more; or
5. Lysergic acid diethylamide and said lysergic acid diethylamide weighs one milligram or more; or
6. A hallucinogen and said hallucinogen weighs twenty-five milligrams or more; or
7. A hallucinogenic substance and said hallucinogenic substance weighs one gram or more; or
8. A dangerous depressant and such dangerous depressant weighs ten ounces or more; or
9. A depressant and such depressant weighs two pounds or more; or
10. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in paragraph (a) of subdivision five of section thirty-three hundred two of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more; or
11. Phencyclidine and said phencyclidine weighs two hundred fifty milligrams or more; or
12. Methadone and said methadone weighs three hundred sixty milligrams or more; or
13. Phencyclidine and said phencyclidine weighs fifty milligrams or more with intent to sell to it and has previously been convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense.

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE FOURTH DEGREE IS A CLASS C FELONY.**

**220.16 Criminal possession of a controlled substance in the third degree:**

A person is guilty of criminal possession of a controlled substance in the third degree when he knowingly and unlawfully possesses:

1. a narcotic drug with intent to sell it; or

2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide, with intent to sell it and has previously been convicted of an offense defined in article two hundred twenty or the attempt or conspiracy to commit any such offense; or
3. a stimulant with intent to sell it and said stimulant weighs one gram or more; or
4. lysergic acid diethylamide with intent to sell it and said lysergic acid diethylamide weighs one milligram or more; or
5. a hallucinogen with intent to sell it and said hallucinogen weighs twenty-five milligrams or more; or
6. a hallucinogenic substance with intent to sell it and said hallucinogenic substance weighs one gram or more; or
7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts or isomers with intent to sell it and said preparations, compounds, mixtures or substances are of an aggregate weight of one-eighth ounce or more; or
8. a stimulant and said stimulant weighs five grams or more; or
9. lysergic acid diethylamide and said lysergic acid diethylamide weighs five milligrams or more; or
10. a hallucinogen and said hallucinogen weighs one hundred twenty-five milligrams or more; or
11. a hallucinogenic substance and said hallucinogenic substance weighs five grams or more; or
12. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substance are of an aggregate weight of one-half ounce or more; or
13. Phencyclidine and said phencyclidine weighs one thousand two hundred fifty milligrams or more.

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE THIRD DEGREE IS A CLASS B FELONY.**

**220.18 Criminal possession of a controlled substance in the second degree:**

A person is guilty of criminal possession of a controlled substance in the second degree when he knowingly and unlawfully possesses:

1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of two ounces or more; or
2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and said preparations, compounds, mixtures or substance are of an aggregate weight of two ounces or more; or
3. A stimulant and said weighs ten grams or more; or
4. lysergic acid diethylamide and said lysergic acid diethylamide weighs twenty-five milligrams or more; or
5. a hallucinogen and said hallucinogen weighs six hundred twenty-five milligrams or more; or
6. a hallucinogenic substance and said hallucinogenic substance weighs twenty-five grams or more; or
7. Methadone and said methadone weighs two thousand eight hundred eighty milligrams or more.

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE SECOND DEGREE IS A CLASS A-II FELONY.**

**220.21 Criminal possession of a controlled substance in the first degree:**

A person is guilty of criminal possession of a controlled substance in the first degree when he knowingly and unlawfully possesses:

1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of four ounces or more; or
2. Methadone and said methadone weighs five thousand seven hundred sixty milligrams or more.

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE FIRST DEGREE IS A CLASS A-I FELONY.**

**220.25 Criminal possession of a controlled substance; presumption:**

1. The presence of a controlled substance in an automobile, other than a public omnibus, is presumptive evidence of knowing possession thereof by each and every person in the automobile at the time such controlled substance was found; except that such presumption does not apply
  - (a) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of his trade, or
  - (b) to any person in the automobile if one of them, having obtained the controlled substance and not being under duress, is authorized to possess it and such controlled substance is in the same container as when he received possession thereof, or
  - (c) When the controlled substance is concealed upon the person of one of the occupants.
2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such controlled substance is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance at the time such persons if
  - (a) one of them, having obtained such controlled substance and not being under duress, is authorized to possess it and such controlled substance is in the same container as when he received possession thereof, or
  - (b) One of them has such controlled substance upon his person.

**220.31 Criminal sale of a controlled substance in the fifth degree:**

A person is guilty of criminal sale of a controlled substance in the fifth degree when he knowingly and unlawfully sells a controlled substance.

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE IS A CLASS D FELONY.**

**220.34 Criminal sale of a controlled substance in the fourth degree:**

A person is guilty of criminal sale of a controlled substance in the fourth degree when he knowingly and unlawfully sells:

1. a narcotic preparation; or
2. a dangerous depressant or a depressant and the dangerous depressant weighs ten ounces or more, or the depressant weighs two pounds or more; or
3. concentrated cannabis as defined in paragraph (a) of subdivision five of section thirty-three hundred two of the public health law; or
4. phencyclidine and the phencyclidine weighs fifty milligrams or more; or methadone; or
5. any amount of phencyclidine and has previously been convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or
6. A controlled substance in violation of section 220.31 of this chapter, when such sale takes place upon college grounds.

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FOURTH DEGREE IS A CLASS C FELONY.**

**220.39 Criminal sale of a controlled substance in the third degree:**

A person is guilty of a criminal sale of a controlled substance in the third degree when he knowingly and unlawfully sells:

1. a narcotic drug; or
2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide and has previously been convicted of an offense defined in article two hundred twenty or the attempt or conspiracy to commit any such offense; or
3. a stimulant and the stimulant weighs one gram or more; or
4. lysergic acid diethylamide and the lysergic acid diethylamide weighs one milligram or more; or
5. a hallucinogen and the hallucinogen weighs twenty-five milligrams or more; or
6. a hallucinogenic substance and the hallucinogenic substance weighs one gram or more; or
7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and the preparations, compounds, mixtures or substances are of an aggregate weight of one-eighth ounce or more; or
8. phencyclidine and the phencyclidine weighs two hundred fifty milligrams or more; or

9. A narcotic preparation to a person less than twenty-one years old.

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE THIRD DEGREE IS A CLASS B FELONY.**

**220.41 Criminal sale of a controlled substance in the second degree:**

A person is guilty of criminal sale of a controlled substance in the second degree when he knowingly and unlawfully sells:

1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and the preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or
2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and the preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or
3. a stimulant and the stimulant weighs five grams or more; or
4. lysergic acid diethylamide and the lysergic acid diethylamide weighs five milligrams or more; or
5. a hallucinogen and the hallucinogen weighs one hundred twenty-five milligrams or more; or
6. a hallucinogenic substance and the hallucinogenic substance weighs five grams or more; or
7. Methadone and the methadone weigh three hundred sixty milligrams or more.

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE SECOND DEGREE IS A CLASS A-II FELONY.**

**220.43 Criminal sale of a controlled substance in the first degree:**

A person is guilty of criminal sale of a controlled substance in the first degree when he knowingly and unlawfully sells:

1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and the preparations, compounds, mixtures or substances are of an aggregate weight of two ounces or more; or
2. Methadone and the methadone weighs two thousand eight hundred eighty milligrams or more.

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FIRST DEGREE IS A CLASS A-I FELONY.**

**220.44 Criminal sale of a controlled substance in or near college grounds:**

A person is guilty of criminal sale of a controlled substance in or near college grounds when he knowingly and unlawfully sells:

1. a controlled substance in violation of any one of subdivisions one through six of section 220.34 of this chapter, when such sale takes place upon college grounds; or
2. A controlled substance in violation of any one of subdivisions one through eight of section 220.39 of this chapter, when such sale takes place upon college grounds.

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN OR NEAR COLLEGE GROUNDS IS A CLASS B FELONY.**

**220.45 Criminally possessing a hypodermic instrument:**

A person is guilty of criminally possessing a hypodermic instrument when he knowingly and unlawfully possesses or sells a hypodermic syringe or hypodermic needle.

**CRIMINALLY POSSESSING A HYPODERMIC INSTRUMENT IS A CLASS A MISDEMEANOR.**

**220.46 Criminal injection of a narcotic drug:**

A person is guilty of criminal injection of a narcotic drug when he knowingly and

unlawfully possesses a narcotic drug and he intentionally injects means of a hypodermic syringe or hypodermic needle all or any portion of that drug into the body of another person with the latter's consent.

**CRIMINAL INJECTION OF A NARCOTIC DRUG IS A CLASS E FELONY.**

**220.50 Criminally using drug paraphernalia in the second degree:**

A person is guilty of criminally using drug paraphernalia in the second degree when he knowingly possesses or sells:

1. Diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, manifold, manatee, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding or otherwise preparing any narcotic drug or stimulant; or
2. Gelatin capsules, glassine envelopes, vials, capsules or any other material suitable for the evincing or intent to use, or under circumstances evincing knowledge that some person manufacturing, packaging or dispensing of any narcotic drug or stimulant; or scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant.

**CRIMINALLY USING DRUG PARAPHERNALIA IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.**

**220.55 Criminally using drug paraphernalia in the first degree:**

A person is guilty of criminally using drug paraphernalia in the first degree when he commits the crime of criminally using drug paraphernalia in the second degree and he has previously been convicted of criminally using drug paraphernalia in the second degree.

**CRIMINALLY USING DRUG PARAPHERNALIA IN THE FIRST DEGREE IS A CLASS D FELONY.**

**220.60 Criminal possession of precursors of controlled substances:**

A person is guilty of criminal possession of precursors of controlled substances when, with intent to manufacture a controlled substance unlawfully, he possesses at the same time:

1. car amide (urea) and propanedioc and malonic acid or its derivatives, or
2. ergot or an ergot derivative and diethylamine or dimethylformamide or diethylamide, or
3. Phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitrothane or methylamine.
4. pentazocine and methyl iodide; or
5. phenylacetone nitrile and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; or
6. diethylacetone nitrile and dimethylaminoisopropyl chloride; or
7. (g) piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or
8. (h) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.

**CRIMINAL POSSESSION OF PRECURSORS OF CONTROLLED SUBSTANCES IS A CLASS E FELONY.**

**220.65 Criminal sale of a prescription for a controlled substance:**

A person is guilty of criminal sale of a prescription for a controlled substance when, being a practitioner, as that term is defined in section thirty-three hundred two of the public health law; he knowingly and unlawfully sells a prescription for a controlled substance. For the purposes of this section, a person sells a prescription for a controlled substance unlawfully when he does so other than in good faith in the course of his professional practice.

**CRIMINAL SALE OF A PRESCRIPTION IS A CLASS C FELONY.**

**ARTICLE 221- MARIHUANA**

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**221.00 Marihuana; definitions:**

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter.

**221.05 Unlawful possession of marihuana:**

A person is guilty of unlawful possession of marihuana when he knowingly and unlawfully possesses marihuana.

Unlawful possession of marihuana is a violation punishable only by a fine of not more than one hundred dollars. However, where the defendant has previously been convicted of an offense defined in this article or article 220 of this chapter, committed within the three years immediately preceding such violation, it shall be punishable:

1. only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and
2. By a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period.

**221.10 Criminal possession of marihuana in the fifth degree:**

A person is guilty of criminal possession of marihuana in the fifth degree when he knowingly and unlawfully possesses:

1. marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning or open to public view, or
2. One or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams.

**CRIMINAL POSSESSION OF MARIHUANA IN THE FIFTH DEGREE IS A CLASS B MISDEMEANOR.**

**221.15 Criminal possession of marihuana in the fourth degree:**

A person is guilty of criminal possession of marihuana in the fourth degree when he knowingly and unlawfully possesses one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than to ounces.

**CRIMINAL POSSESSION OF MARIHUANA IN THE FOURTH DEGREE IS A CLASS A MISDEMEANOR.**

**221.20 Criminal possession of marihuana in the third degree:**

A person is guilty of criminal possession of marihuana in the third degree when he knowingly and unlawfully possesses one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than eight ounces.

**CRIMINAL POSSESSION OF MARIHUANA IN THE SECOND DEGREE IS A CLASS D FELONY.**

**221.25 Criminal possession of marihuana in the second degree:**

A person is guilty of criminal possession of marihuana in the second degree when he knowingly and unlawfully possesses one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than sixteen ounces.

**CRIMINAL POSSESSION OF MARIHUANA IN THE SECOND DEGREE IS A CLASS D FELONY.**

**221.30 Criminal possession of marihuana in the first degree:**

A person is guilty of criminal possession of marihuana in the first degree when he knowingly and unlawfully possesses one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than ten pounds.

**CRIMINAL POSSESSION OF MARIHUANA IN THE FIRST DEGREE IS A CLASS C FELONY.**

**221.35 Criminal sale of marihuana in the fifth degree:**

A person is guilty of criminal sale of marihuana in the fifth degree when he knowingly and unlawfully sells, without consideration, one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compound, mixtures or substances are of an aggregate weight of two grams, or less; or one cigarette containing marihuana.

**CRIMINAL SALE OF MARIHUANA IN THE FIFTH DEGREE IS A CLASS B MISDEMEANOR.**

**221.40 Criminal sale of marihuana in the fourth degree:**

A person is guilty of criminal sale of marihuana in the fourth degree when he knowingly and unlawfully sells marihuana except as provided in section 221.35 of this article

**CRIMINAL SALE OF MARIHUANA IN THE FOURTH DEGREE IS A CLASS A MISDEMEANOR.**

**221.45 Criminal sale of marihuana in the third degree:**

A person is guilty of criminal sale of marihuana in the third degree when he knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams.

**CRIMINAL SALE OF MARIHUANA IN THE THIRD DEGREE IS A CLASS E FELONY.**

**221.50 Criminal sale of marihuana in the second degree:**

A person is guilty of criminal sale of marihuana in the second degree when he knowingly and unlawfully sells one or more preparations, compound, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than four ounces, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than eighteen years of age.

**CRIMINAL SALE OF MARIHUANA IN THE SECOND DEGREE IS A CLASS D FELONY.**

**221.55 Criminal sale of marihuana in the first degree:**

A person is guilty of criminal sale of marihuana in the first degree when he knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than sixteen ounces.

**CRIMINAL SALE OF MARIHUANA IN THE FIRST DEGREE IS A CLASS C FELONY.**

### **Drug and Alcohol Use Amnesty Policy**

Elyon College encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. However, administration recognizes that students who have been drinking and/or using drugs (whether such use is

voluntary or involuntary) at stressful times, i.e. when being victims of domestic violence, dating violence, stalking, sexual assault, etc. may be hesitant to report such incidents in the circumstances mentioned above for fear of repercussions. For that end, and because the health and safety of each and every student is of main concern for Elyon College, the *Drug and Alcohol Use Amnesty Policy* was adopted.

In order to encourage students to summon medical attention for intoxicated individuals, whether themselves or others, students who call for medical attention may be eligible for amnesty. In these cases, the students will not be disciplined for violations of the *Drug and Alcohol Policy* of Elyon College. Similarly, the intoxicated individual for whom medical attention was summoned may be eligible for amnesty and, if it is granted, he/she will not be disciplined for violations of the *Drug and Alcohol Policy* of Elyon College. Amnesty may be granted by the President of Elyon College. Such amnesty will be granted to a student only once.

### **Definition of Affirmative Consent in Sexual Activity**

“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.”

### **Specific Provisions on Affirmative Consent to Sexual Activity:**

- 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.

### **Sexual Assault Prevention and Awareness Policy**

Elyon College is committed to the safety and security of its students and personnel. Every effort is made to maintain a safe educational and workplace environment. The College provides support and referrals for victims of sexual assault: pamphlets and reference materials are available, and workshops, seminars, and conferences on sexual assault and prevention are periodically provided.

The following is an excerpt from the *Elyon College Student's Handbook*, p 21:

#### **Unlawful Harassment or Discrimination**

Elyon College is committed to providing an environment that is free of discrimination and unlawful harassment. Actions, jokes, words or comments based on an individual's sex, race, ethnicity, age, religion, sexual orientation, or any other legally protected characteristic will not be tolerated. Sexual harassment is a form of conduct that is demeaning to another person and is strictly prohibited. Specifically, the College prohibits:

- Unwelcome sexual advances
- Requests for sexual favors
- All other verbal and physical conduct of a sexual or otherwise offensive nature.

Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action up to and including dismissal for students and termination of employment for faculty and staff.

#### **Bias Related/Hate Crimes**

According to New York Police Department Guidelines a "Bias Related Crime" or "Hate Crime" is any offense or unlawful act that is motivated in whole or in part by a person's, a group's or a place's identification with a certain race, religion, ethnicity, sexual orientation, disability, gender or age. In order to effectively handle incidents of Bias Related Crimes and prevent future occurrences of such crimes, victims or witnesses of a Hate Crime are encouraged to immediately report the incident to the Administration. Criminal penalties for the commission of a Hate Crime can range from fines to extended prison sentences based on the specifics of the crime. In addition, students guilty of committing a Hate Crime may be subject to a student disciplinary process with sanctions up to, or including, suspension or expulsion from the College.

#### **Race or Gender-Based Misconduct Policy Prevention, Response and Reporting Procedures**

It is the policy of Elyon College to provide a safe environment, one that is free from violence, for every member of its community. Accordingly, the College prohibits and does not tolerate acts of race or gender bias misconduct. Bias-related crimes comprise a broad range of behaviors focused on race, sex and/or gender discrimination that may or may not be sexual in nature. Sexual harassment, sexual assault, gender-based harassment, stalking, and intimate partner violence are forms of gender-based misconduct under this policy. Race and gender-based misconduct can be committed by men or by women, and it can occur between people of the same or different race and sex.

This policy applies to all students, faculty, and staff, as well as to visitors' guests, vendors, contractors and other third parties. Violators of this policy are subject to criminal prosecution as well as discipline by Elyon College, including, but not limited to, termination of employment, expulsion from the College, and/or other appropriate sanctions that may be imposed by the College.

Elyon College has adopted a prevention and response policy to bias related-based misconduct, and provides for investigation and resolution for those who report instances of such misconduct.

## **Sexual Assault**

The College treats allegations of sexual assault extremely seriously and has a system in place to assist survivors in obtaining medical treatment, counseling and advocacy services, and legal assistance. Public Safety is committed to treating survivors with care, compassion, and respect. Additional information on the nature of sexual assault, domestic violence and stalking prevention can be found in the *Student's Handbook*, in *Appendix 1* of the current document, and in outside resources by following the links on Elyon College web-page.

In a campus setting, sexual assault often occurs when one or both parties are intoxicated from alcohol or other drugs or in connection with group activities where unanticipated social pressures may develop. Therefore, it is important to understand that intercourse or other sexual activity with a person unable to give free and full consent (e.g., because of intoxication, substance abuse, or intimidation) constitutes sexual assault or rape. Furthermore, the offender's use of mind altering substance does not in any way diminish his or her responsibility for abusive behavior.

### **Actions for Survivors of Sexual Assault**

It is important that a person who has been recently assaulted receives prompt medical attention to ensure that he/she is medically well. Because physical injury is not always noticeable at first, it is important to receive a medical examination and treatment as soon as possible. This may include screening and/or treatment for sexually transmitted infection and emergency contraception if appropriate.

A medical examination may include the collection of physical evidence for use in prosecution, if the survivor so chooses. Such evidence may increase the chances of successful prosecution, and its collection is therefore strongly encouraged. For this reason, survivors should not bathe, douche, or change clothes before seeking medical treatment.

Forensic evidence is collected by a medical provider, usually in an emergency room, up to 96 hours following a sexual assault. Though a survivor may be unsure about reporting to the police, many times, survivors want to report after they have had time to recover. Collecting forensic evidence makes it much easier to pursue a prosecution later. Toxicology testing for "date rape drugs" is most effective within 72 hours of an assault. It is important to note that the results will not be analyzed unless a police report is filed. The evidence collection kit is kept for one year. It is turned over to the police when a survivor chooses to report. It is discarded after one year.

The following is an excerpt from the *Student's Handbook*, p.34:

## Sex Crimes Prevention Appendix

### SEXUAL HARRASSMENT

Sexual Harassment is a violation of a federal (Section 703 of the Civil Rights Act) Law. It is the policy of Elyon College to prohibit the harassment of any member of the College community by another on the basis of sex. Anyone who feels that he or she has been subjected to sexual harassment should immediately report the incident to President's Office without fear of reprisal.

All members of the College community are responsible for helping to make the College a safe, non-threatening environment. All complaints of sexual harassment or sexual assault will be promptly handled with the identity of the complainant and the accused kept confidential. The College will maintain confidential documentation of all allegations and investigations, and will take appropriate action to remedy any violation of policy.

### SEXUAL ASSAULT AND RAPE INFORMATION

Sexual assault involves intercourse, unwelcome physical contact, or any other sexual activity with a person who does not give free and full consent. Anyone can be raped, regardless of age, sex, appearance or way of dressing. No matter what the circumstances, if you have raped, a vicious crime has been committed against you. You are not to blame!!

### WHAT TO DO IF YOU HAVE BEEN SEXUALLY ASSAULTED OR RAPED

Immediately report the assault to the College administration and/or the police. Do not change your clothes, wash, and shower or urinate. Doing so may eliminate important evidence, which could lead to the arrest of your attacker. Make sure to seek counseling. Rape is a traumatic experience and a trained person can help you deal with your feelings.

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## ARTICLE 130 - SEX OFFENSES

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### 130.00 Sex offenses; definitions of terms:

The following definitions are applicable to this article:

1. Sexual intercourse has its ordinary meaning and occurs upon any penetration, however slight.
2. "**Deviate sexual intercourse**" means sexual contact between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.
3. "**Sexual contact**" means any touching of the sexual or other intimate parts of a person not married to the actor for the purposes of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.
4. "**Female**" means any female person who is not married to the actor. For the purposes of this article "not married" means:
  - a. the lack of an existing relationship of husband and wife between the female and the actor which is recognized by law, or
  - b. the existence of the relationship of husband and wife between the actor and the female which is recognized by, at the time the actor commits an offense proscribed by this article by means of forcible compulsion against the female, and the female and the actor are living apart at such time pursuant to a valid and effective:
    - i. order issued by a court of competent jurisdiction which by its terms or in its effect requires such living apart, or
    - ii. decree or judgment of separation, or
    - iii. written agreement of separation subscribed by them, and acknowledged in the form required to entitle a deed to be recorded which contains provisions specifically indicating that the actor may be guilty of the commission of a crime for engaging in conduct which constitutes an offense proscribed by this article against and without the consent of the female
5. "**Mentally defective**" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct

6. **“Mentally incapacitated”** means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent or to any other act committed upon him without his consent.
7. **“Physically helpless”** means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
8. **“Forcible compulsion”** means compel by either:
  - a. **Use physical force**; or
  - b. **A threat**, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she, or another person will immediately be kidnapped.
9. **“Foreign object”** means any instrument or article, which, when inserted in the vagina, urethra, penis, or rectum, is capable of causing physical injury.

**130.05 Sex offenses; lack of consent:**

1. Whether or not specifically stated, it is an element of every offense defined in this article, except the offense of consensual sodomy, that the sexual act was committed without the consent of the victim.
2. Lack of consent results from:
  - (a) forcible compulsion
  - (b) incapacity to consent
  - (c) Where the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
3. A person is deemed incapable of consent when he is:
  - (a) less than 17 years old; or
  - (b) mentally defective; or
  - (c) mentally incapacitated; or
  - (d) physically helpless

**130.10 Sex offenses; defense:**

In any prosecution under this article in which the victim's lack of consent is based solely upon his incapacity to consent because he was mentally defective, mentally incapacitated, or physically helpless, it is an affirmative defense that the defendant, at the time he engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

**130.16 Sex offenses; corroboration:**

A person shall not be convicted of consensual sodomy, or an attempt to commit the same, or of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

- (a) establish that an attempt was made to engage the victim in sexual intercourse, deviate sexual intercourse, or sexual contact, as the case may be, at the time of the occurrence; and
- (b) Connect the defendant with the commission of the offense or attempted offense.

**130.26 Sexual misconduct:**

A person is guilty of sexual misconduct when:

1. Being a male, he engages in sexual intercourse with a female without her consent; or
2. He engages in deviate sexual intercourse with another person without the latter's consent; or
3. He engages in sexual conduct with an animal or a dead human body.

**SEXUAL MISCONDUCT IS A CLASS A MISDEMEANOR (MEANING A DEFINITE SENTENCE, WHICH SHALL NOT EXCEED ONE YEAR).**

**130.28 Rape in the third degree:**

A person is guilty of rape in the third degree when:

- 1 he or she engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than 17 years old; or

- 2 being 21 year old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than 17 years old.

**RAPE IN THE THIRD DEGREE IS A CLASS E FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED FOUR YEARS)**

**130.30 Rape in the second degree:**

A person is guilty of rape in the second degree when, being eighteen years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than 14 years old. Rape in the second degree is a class D felony (meaning a sentence fixed by court, which shall not exceed seven years)

**130.35 Rape in the first degree:**

A male is guilty of rape in the first degree when he engages in sexual intercourse with a female:

- 1 by forcible compulsion; or
- 2 who is incapable of consent by reason of being physically helpless; or
- 3 who is less than 11 years old.

**RAPE IN THE FIRST DEGREE IS A CLASS B FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED 25 YEARS).**

**130.38 Consensual sodomy:**

A person is guilty of consensual sodomy when he engages in deviate sexual intercourse with another person.

**CONSENSUAL SODOMY IS A CLASS B MISDEMEANOR (MEANING A DEFINITE SENTENCE, WHICH SHALL NOT EXCEED THREE MONTHS).**

**130.40 Sodomy in the third degree:**

A person is guilty of sodomy in the third degree when:

1. he engages in deviate sexual intercourse with a person who is incapable of consent by reason of some factor other than being less than 17 years old; or
2. Being 21 years old or more, he engages in deviate sexual intercourse with a person less than 17 years old.

**SODOMY IN THE THIRD DEGREE IS A CLASS E FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED FOUR YEARS)**

**130.45 Sodomy in the second degree.**

A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person to whom the actor is not married less than 14 years old.

**SODOMY IN THE SECOND DEGREE IS A CLASS D FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED SEVEN YEARS).**

**130.50 Sodomy in the first degree:**

A person is guilty of sodomy in the first degree when he engages in deviate sexual intercourse with another person:

1. by forcible compulsion; or
2. who is in incapable of consent by reason of being physically helpless; or
3. Who is les than 11 yeas old?

**SODOMY IN THE FIRST DEGREE IS A CLASS B FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED 25 YEARS).**

**130.55 Sexual abuse in the third degree:**

A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that

- (a) Such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old, and
- (b) Such other person was more than 14 years old, and
- (c) The defendant was less than five years older than such other person.

**SEXUAL ABUSE IN THE THIRD DEGREE IS A CLASS B MISDEMEANOR (MEANING A DEFINITE SENTENCE WHICH SHALL NOT EXCEED THREE MONTHS).**

**130.60 Sexual abuse in the second degree:**

A person is guilty of sexual abuse in the second degree when he subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than 17 years old; or
2. Less than 14 years old.

**SEXUAL ABUSE IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR (MEANING A DEFINITE SENTENCE, WHICH SHALL NOT EXCEED ONE YEAR).**

**130.65 Sexual abuse in the first degree:**

A person is guilty of sexual abuse in the first degree when he subjects another person to sexual contact:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than 11 years old?

**SEXUAL ABUSE IN THE FIRST DEGREE IS A CLASS D FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED SEVEN YEARS).**

**130.70 Aggravated sexual abuse:**

1. A person is guilty of aggravated sexual abuse when he inserts a foreign object in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:
  - (a) By forcible compulsion; or
  - (b) When the other person is incapable of consent by reason of being physically helpless; or
  - (c) When the other person is less than 11 years old.
2. Conduct performed for a valid medical purpose does not violate the provisions off this section.

**AGGRAVATED SEXUAL ABUSE IS A CLASS B FELONY (MEANING A SENTENCE FIXED BY COURT, WHICH SHALL NOT EXCEED 25 YEARS).**

## **Support Services**

The safety and well-being of survivors are of paramount importance. The College strongly encourages survivors to contact trained professionals for emotional support, medical services, and advocacy, or any trusted friend, advisor, or faculty member as soon as possible.

Contact options include the **New York State Hotline for Sexual Assault and Domestic Violence -1-800-942-6906**

The following is an excerpt from the *Elyon College Student's Handbook*, p. 43:

### **Where To Get Help Outside The College**

Any student seeking help may consult with any of the following: (If necessary, someone at the College will help the student contact them.)

### **SELF HELP**

Alcoholics Anonymous  
(212) 870-3400

Al-Anon  
(212) 647-1680

Narcotics Anonymous  
(212) 929-6262

Cocaine Hotline  
(212) 262-2463

Alcoholic Council of Greater New York  
(212) 252-7022

### **WEB SITE RESOURCES**

Department of Justice Violence against Women Office:

[www.usdoj.gov/vawo](http://www.usdoj.gov/vawo)

Department of Education Web site on campus safety:

[www.suny.edu/sunypp/documents.cfm?doc\\_id=444](http://www.suny.edu/sunypp/documents.cfm?doc_id=444)

Higher Education Center for Alcohol and Other Prevention Web site:

[www.eric.ed.gov/ERICWebPortal/recordDetail?accno=ED400733](http://www.eric.ed.gov/ERICWebPortal/recordDetail?accno=ED400733)

### **Local Law Enforcement**

Survivors have the option to report the assault to the New York City Police Department or the local law enforcement agency where the assault occurred. Public Safety personnel at Elyon College can assist and accompany the survivor. Although the College strongly encourages pressing criminal charges, it respects the survivor's choice in deciding to report or not to report to law enforcement. Survivors can contact the NYPD by calling the NYPD Sex Crimes Hotline, 212-267-RAPE (7273).

### **Elyon College Disciplinary Procedures**

Students may also choose to file a report with the College. Elyon College disciplinary system and police/legal system work independently from one another. Students can file reports with the College, with law enforcement, or with both systems. Reports of alleged

sexual assault by a student, faculty member, staff member, or administrator of Elyon College should be filed with Mrs. Margie Nussbaum, Associate Dean for Academic and Student Affairs.

### **Important information about the Disciplinary Processes**

Elyon College is committed to providing a prompt, fair, and impartial investigation and resolution for all students involved. Throughout the procedure, both the student who filed the report and the responding individual receive written notifications of the outcome of the disciplinary process. A student, faculty member or staff member who is found responsible for violating the policy is subject to sanctions including, but not limit to reprimand/warning, disciplinary probation, suspension and dismissal.

### **Public Safety and Security on Campus**

Elyon College campus in Brooklyn, New York is under 24-hour video surveillance. The building is equipped with electronic intrusion alarms, and a fire alarm response system. The campus is located in the middle of the vibrant and populated area of Bensonhurst, Brooklyn, and benefits from the highly visible police and security patrols in the area. For these reasons the campus does not need the presence of uniformed security guards. The entrance door is constantly locked from inside, and only the authorized personnel is allowed to let the visitor inside the building. This system provides additional safeguards against the unwelcome visitors. If, however, and in spite of all the measures an incident takes place, it is documented and reported to the nearest police precinct. Elyon College has maintained an excellent relationship with the New York City Police Department, particularly with the 62<sup>nd</sup> Precinct. Elyon College appreciates the assistance and guidance of the precinct in reference to safety and security on campus. The building and facilities are regularly inspected by maintenance personnel to detect and remedy any safety or health hazards and issues. Furthermore, maintenance personnel oversee the intrusion alarm system and the fire alarm response system.

The following is an excerpt from the *Elyon College Student's Handbook*, p. 19-20:

#### **Campus Security Policy**

Due to its limited size, Elyon College does not employ campus security personnel. Faculty and staff are to take whatever measures legally permissible to protect themselves and students in the event of a safety or security emergency.

Many parents are concerned about the safety of their sons and daughters when they are attending College. Elyon College understands the concerns of all persons attending our College. We accept the responsibility to employ and continually update security measures to ensure that our students enjoy their time at Elyon College and are as free as possible from any threats to their safety and well being.

We are fortunate to be able to report that we have never had an incident of a serious crime on the proposed Elyon College premises. We attribute this to our competent staff, our dedicated safety force and to our students themselves.

The cooperation and involvement of students, staff and faculty is essential for any college to be safe. All persons must assume responsibility for their personal belongings by taking simple, common sense precautions. The college is not assuming responsibility for any student's personal belongings.

Elyon College vigorously enforces college rules and ordinances regulating underage drinking, the use of controlled substances and weapons. (See sections regarding alcohol and substance abuse.)

Firearms and dangerous weapons of any kind are not permitted anywhere in the College. Use, possession, or sale of firearms or other dangerous weapons is strictly forbidden. Usage, sale or possession of such instruments are violations which will be treated in the same manner and handling of those found in possession of, or selling a controlled substance.

There is an electronic/camers monitoring system in the building. This enhances the security of our staff and students. As of now, we are fortunate to be able to report that we have never had an incident of a serious crime on the Elyon College premises.

Elyon College is always maintained with safety as our primary concern. It is impossible for anyone to wander along the halls of the College without being observed. This enhances the security of our staff and students.

As required by the U.S. Department of Education, Elyon publishes all known occurrences of crimes committed on campus. These statistics are available in the Director's office and are also part of the orientation materials.

If a crime is committed, a police report must be completed and filed. Students are required to report any and all occurrences of a crime to Elyon College's personnel. If a sexual assault occurs on campus, the victim and witnesses to the crime must report the incident to Elyon College administration. The police will be contacted.

### ***Criminal Reporting Policy***

It is the policy of Elyon College that any incident which constitutes a crime under local, State or Federal statute is reported to the police at the discretion of the President. Any activity which would constitute a felony crime must be reported to the appropriate authorities.

The following is an excerpt from the *Elyon College Student's Handbook*, p.33:

### **Campus Safety Information**

Many parents are concerned about the safety of their sons and daughters when they are attending College. Elyon College understands the concerns of all persons attending our College. We accept the responsibility to employ and continually update security measures to ensure that our students enjoy their time at Elyon College and are as free as possible from any threats to their safety and well being.

We are fortunate to be able to report that we have never had an incident of a serious crime on the proposed Elyon College premises. We attribute this to our competent staff, our dedicated safety force and to our students themselves.

The cooperation and involvement of students, staff and faculty is essential for any college to be safe. All persons must assume responsibility for their personal belongings by taking simple, common sense precautions.

Elyon College vigorously enforces college rules and ordinances regulating underage drinking, the use of controlled substances and weapons. (See previous sections regarding alcohol and substance abuse.)

Firearms and dangerous weapons of any kind are not permitted anywhere in the College. International use, possession of sale of firearms or other dangerous weapons is strictly forbidden. Usage, sale or possession of such instruments are violations which will be treated in a manner unlike the treatment and handling of those found in possession of, or selling a controlled substance.

Elyon College is always maintained with safety as our primary concern. It is impossible for anyone to wander along the halls of the College without being observed. This enhances the security of our staff and students.

## **Fire Safety**

The building is equipped with fire extinguishers, emergency lighting, smoke and fire detectors, as well as fire doors and clearly marked exit signs. Additionally, video surveillance is used as a source to monitor and detect any hazard including fire. The recordings are stored to DVR and can be retrieved at any time should it become necessary. Rabbi Chaim Waldman, the President of Elyon College, is in charge of Fire Safety Policies, Procedures, and Drills.

Elyon College conducts evacuation and fire drills every year. During the drills the community of the college is educated on and familiarized with campus evacuation procedures. Additional fire safety information could be obtained from New York Fire Department <http://www.nyc.gov/html/fdny/html/safety/index.shtml>.

## **Access to Elyon College Facilities**

Access to campus facilities takes place in accordance with the college's hours of operation. The building is locked in the evenings after the ending of classes. Only students, faculty, and staff have access to Elyon College facilities. During non-business hours the college's facilities remain closed and are off limits.

## **Crime prevention, Education and Awareness Programs**

The building is under the around the clock video surveillance, the entrance door is locked at all times and is operated by the personnel inside ensuring safety remotely and providing access to the building. Only faculty, staff and students are allowed inside upon pressing the entrance button. All the facilities on campus are closely monitored and are under constant video surveillance is monitored.

The following is an excerpt from the *Elyon College Student's Handbook*, p. 20:

Safety is our primary concern. It is impossible for anyone to wander along the halls of the College without being observed. This enhances the security of our staff and students

In light of Education and Awareness programs, all members of Elyon College community are encouraged to attend crime prevention seminars that are conducted by The New York State Crime Prevention Coalition <http://nyscpc.org/drupal/?q=node/10>.

In addition, some valuable information can be obtained from the Office of Public Safety at New York State Division of Criminal Justice Services - <http://www.criminaljustice.ny.gov/ops/>.

## **Reporting a Crime or Threat to Campus Safety**

All Elyon College students, faculty members and staff, as well as guests of the college are encouraged to report accidents, emergencies and other criminal incidents and activity to local law enforcement agencies either by phone at 911 or in person. All reports of crimes, accidents and emergencies are thoroughly investigated by Elyon college personnel. In case of the violent felony offenses (as indicated in §6434 of Article 129-A of the Education Law), the local 62<sup>nd</sup> Police Precinct will be immediately informed and all the investigation of such offenses will go along the detectives of the said Precinct. The primary person responsible for reports, early warnings, and other information related to the annual statistical disclosure is: Rabbi Chaim Waldman, the President of the College. He can be reached at 718-259-8024.

## **Emergency Response and Notification**

In case of an emergency at Elyon College, Rabbi Chaim Waldman, the President of the College, is the designated Incident Commander/Emergency Coordinator, and is responsible for keeping the plan current and for making any necessary revisions to the plans. The Emergency Coordinator has the responsibility of implementing any and all emergency procedures (including the development of ongoing emergency training and conducting evacuation drills) and emergency station operations, and for ensuring that outside assistance is obtained as needed. The Emergency Coordinator or designee will

notify and request assistance from outside emergency response personnel if and when necessary.

### **Missing Student Policy**

The term “missing student” is defined as any college student residing in a student housing facility who is reported missing from his or her residence. Elyon college does not have any housing for the students and therefore this part of provision is not applicable.

### **Weapons Policy**

No one, except the police, is permitted to carry a weapon on campus. Violators of this policy are subject to criminal prosecution as well as discipline by the College, including, but not limited to, termination of employment, expulsion from the College, and/or other appropriate sanctions that may be imposed by the College. To the extent that it deems appropriate, Elyon College may also refer such incidents to appropriated law enforcement authorities for further action.

### **Student Grievance Procedure**

Elyon College has internal grievance and complaint procedures to investigate allegations of civil rights discrimination in a prompt and fair manner. The internal procedure for filing and resolving complaints of discrimination may be found in the *Student Handbook*. Elyon College reserves the right to make changes in this Catalog. The policies, procedures, regulations, and any other information contained herein are all subject to change. The content in this book are subject to change without notice and are to be used for informational purposes only.

The following is an excerpt from the *Elyon College Student’s Handbook*, p. 17

#### ***Student Grievance and Complaint Procedures***

Students should review the Student Handbook, School Catalog, and Enrollment Agreement to ensure that indeed a justified complaint exists. The aggrieved student should first bring the matter to the attention of his/her instructor if it involves a classroom issue, or if not resolved, student should contact the Associate Dean for Academic and Student Affairs.

If the student is not satisfied at this level or if the student for some reason feels unable to bring the matter first to the attention of the teacher and/or Associate Dean, the matter should then be brought to the attention of the President. The President may be contacted in person or in writing.

It is hoped that anyone with a complaint about the school, faculty or staff would seek to resolve this complaint with the administration. If complaint cannot be resolved with administration, student may appeal to Elyon College Board of Trustees, 1400 West 6th Street, Brooklyn, NY 11204

However, if complaint still goes unresolved, it may be filed with the New York State Education Department, Office of Higher Education, Room 977, Education Building Annex, Albany, New York 12234. Student

### **Students’ Bill of Rights**

According to New York Education Law Article 129-B, a *Students’ Bill of Rights* have been adopted by Elyon College. All students have the right to:

1. make a report to local law enforcement and/or state police;

2. have disclosure of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations
7. describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. be protected from retaliation by the College, any student, the accused and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of the College;
9. access to at least one level of appeal of a determination;
10. be accompanied by an advisor of choice who may assist and advise a reporting individual, accused or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the institution.

### **Transcript Notations**

Students suspended or expelled from Elyon College lose the rights for an academic grievance. Suspended or expelled students are responsible for any financial obligation which may have been incurred as a result of the disciplinary sanction.

As required by *New York State Education Law, Article 129-B*, crimes of violence, including, but not limited to sexual violence, will be notated on the transcripts of students found responsible. The resulting sanction of such conduct includes either suspension or expulsion. The notation on the transcript will read “*Violation of Code of Conduct- NY 129-B.*”

For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “*Withdrew with Code of Conduct Charges Pending- NY 129-B.*”

Crimes that meet the reporting requirements pursuant to this law include:

- Criminal Homicide—Manslaughter by Negligence;
- Criminal Homicide—Murder and Nonnegligent Manslaughter;
- Rape;
- Fondling;

- Incest;
- Statutory Rape;
- Robbery;
- Aggravated Assault;
- Burglary;
- Motor Vehicle Theft;
- Arson;

Should any student with such a notation on their transcript like to appeal the notation, they may do so in writing to the President of Elyon College.

Upon an appeal being received, the President of Elyon College will bring the request forward to the appropriate institutional personnel.

A notation for expulsion will not be removed unless the student is found not guilty of committing the crimes listed above.

*Appendix 1*

**DEFINITIONS OF REPORTABLE CRIMES**

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by a means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used that could and probably would result in serious personal injury if the crime were successfully completed.)

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property or another, etc.

**Burglary:** The unlawful entry of a structure to commit a felony or theft. For reporting purposes this definition includes unlawful entry with intent to commit a larceny or felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned acts.

**Dating Violence:** Violence committed by a person- - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and - Where the existence of such a relationship shall be determined based on a consideration of the following factors; the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** A felony or misdemeanor crime of violence committed by-

- A current or former spouse or intimate partner of the victim,
- A person with whom the victim shares a child in common,
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of New York State
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York State.

**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin,

codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**Liquor Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities.

**Motor Vehicle Theft:** the theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)

**Murder and Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.

**Negligent Manslaughter:** The killing of another person through gross negligence.

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to-

- Fear for his or her safety or the safety of others; or
- Suffer substantial emotional distress.

**Hate Crimes:** A hate crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offenders' bias. "Bias" is a preformed negative opinion or attitude toward a group of person based on their race, gender, religion, disability, sexual orientation, or ethnicity/nation origin.

These include all the crimes listed above and the following:

**Larceny-Theft:** The unlawful, carrying, leading, or riding away of property from the possession or constructive possession of another.

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, sever laceration, or loss of consciousness.

**Intimidation:** to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

*Appendix 2*

**DEFINITIONS OF SEXUAL ASSAULTS (NEW YORK STATE LAW)**

**Forcible Sex Offenses:**

**Forcible Rape:** The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity or because of his or her youth. This offense includes the forcible rape of both males and females.

**Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity or because of his or her youth.

**Sexual Assault with an Object:** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity or because of his or her youth.

**Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity or because of his or her youth.

**Non-Forcible Sex Offenses:**

**Incest:** Non-forcible sexual intercourse between people who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Appendix 3

**ELYON COLLEGE CRIME STATISTICS**  
**Elyon College 2017 Annual Security and Fire Safety Report**  
**Table 1: 3-Year Crime Statistics: 2015 2016 2017**

<b>CRIMINAL OFFENSE</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Murder/Non-negligent manslaughter	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Negligent manslaughter	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Sex-Offences – Forcible	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Sex Offences – Non-forcible (incest & statutory rape)	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Robbery	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Aggravated Assault	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Burglary	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Motor vehicle theft	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Arson	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0

of them – Hate Crimes	0	0	0
Any other Hate crime involving bodily injury	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
of them – Hate Crimes	0	0	0
Number of Arrests	0	0	0
Total On Campus	0	0	0
Total On Public Property	0	0	0
Summary of Fires	0	0	0