St. John's College Title IX Sex-Based Harassment and Discrimination Policy

As an institution of higher education, St. John's College (the College) is committed to providing programs, activities, and an educational environment that is free from sex-based harassment and discrimination. As a leader in liberal arts education, the College highly values the environment that results when students, faculty, and staff from different backgrounds come together to discuss the ideas and books that are the cornerstone of a St. John's education.

The Title IX Sex-Based Harassment and Discrimination Policy is designed to further the College's goal of equity and inclusion and identifies resources that are available; defines the conduct that is prohibited under this Policy; and outlines the process by which the College will respond to reports of Title IX Sex-Based Harassment and Discrimination as defined herein. St. John's College strives to be a community in

means an oral or written request to the College that objectively can be understood as a request for the College to investigate and made a determination about alleged discrimination under Title IX. Complaints can generally only be initiated by a complainant; reporting parties do not have standing to initiate a complaint. In cer2.025 7A2dmplaint.

IV. Prohibited Conduct

This policy addresses Title IX Sex-based Harassment and Discrimination, which encompasses all of the prohibited conduct described below that occurs on the basis of sex and meets all of the following requirements:

- Conduct that occurs within an education program or activity including College sponsored or supported events, buildings owned or controlled by student groups recognized by the College or conduct that is subject to the disciplinary authority of the College. This includes conduct alleged to be contributing to the hostile environment that occurred outside the College's education program or activity.
- At the time the conduct occurred, a student or employee, including members of the Board of Visitors and Governors, of St. John's College or a person other than a student or employee at St. John's College who was participating or attempting to participate in St. John's College education program or activity.
- A student or employee, including members of the Board of Visitors and Governors, who is alleged to have engaged in conduct that could constitute sex discrimination under Title IX at the time the complaint is being made. Disciplinary action can generally only be taken against a Respondent as long as that person is enrolled, employed, or otherwise affiliated with the College. This does not preclude the College from taking administrative action against Respondents who are unaffiliated with the College. Administrative actions may include, but are not limited to, barring an individual from College property or attending College-affiliated events.

This policy applies to all forms of sex-based harassment, as defined below. Allegations of sexual misconduct that do not fall under this policy because they do not constitute prohibited conduct as defined herein, may constitute violations of other College policies.

In cases where there are allegations of violations of other College policies stemming from the same set of facts alleging a violation of this policy, those allegations may be adjudicated as part of a Title IX Sex-Based Harassment case.

In determining whether alleged conduct violates this policy, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

The prohibited behaviors listed below are serious offenses and will result in College discipline. Prohibited conduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another individual's state of incapacitation, will be deemed especially egregious and may result in expulsion or term F Ï C ion ovhu

frequency of interaction between the persons involved in the relationship. For the purposes of this definition:

a. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
b. Dating Violence does not include acts covered under the definition of Domestic Violence.

refers to felony or misdemeanor crimes of violence committed by a current or former spouse of the victim (or a person similarly situated to a spouse of the victim), by a person who shares a child with the victim, or by a person who is or formerly has cohabitated with the victim as a spouse. Domestic Violence also includes:

a. An offense that meets the definition of abuse as defined by the laws of the State of Maryland (Md. Code Ann., Fam. Law § 4-501, *et seq.*), as applicable.
b. An offense that meets the definition of assault or battery as defined by the laws of the State of New Mexico (N.M. Stat. Ann. § 30-3-12, *et seq*.), as applicable.

means 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. Such conduct may include, but is not limited to, acts in which one directly or indirectly follows, monitors, observes, surveils, threatens, or communicates to or about a person in a way prohibited or interferes with a person's property. A course of conduct consists of two or more acts. Stalking may be conducted through any method, device or means.

a. Stalking includes activity otherwise defined by the laws of the State of Maryland (Md. Code Ann., Crim. Law § 3-801, *et seq*.) and the State of New Mexico (N.M. Stat. Ann. § 30-3A- 3, *et seq*.), as applicable.

means intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including in an informal resolution process, grievance procedure, or in any other actions taken by the College.

For the purpose of this policy, affirmative consent and incapacitation are defined as:

must be informed, voluntary, and active, meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity. Affirmative Consent can be withdrawn at any time, and cannot be obtained by force, expressed or implied, or when physical violence, threats, intimidation and/or coercion is used. Affirmative consent to one form of sexual activity does not, by itself, constitute Affirmative Consent to another form of sexual activity. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to the same sexual activity with another person.

Silence, absence of protest, or absence of resistance does not imply Affirmative Consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in violation of this policy. Participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue the activity.

Affirmative consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether to engage in sexual activity.

Affirmative consent is not:

- When it comes to sex, silence is not consent.
- Flirting is not consent.
- Being in a relationship is not consent.
- Consent for one thing is not consent for everything.
- Dressing in sexy clothing is not consent.
- Having had sex before is not consent now.
- Being too drunk or too high to say no is not consent.
- Being passed out is not consent.
- Being afraid to say no is not consent.
- Making out is not consent.
- Going into a bedroom is not consent.
- “Maybe” is not consent.
- “No” is not consent.

is the inability, temporarily or permanently, to give consent because the individual is asleep, unconscious, losing or regaining consciousness, or is otherwise unable to make informed rational judgments and decisions.

Incapacitation may result from the use of alcohol and/or drugs (both legal and illegal) and is a state

ability, awareness of consequences, ability to make informed judgments, or capacity to appreciate the nature and the quality of the act.

When an investigator or hearing officer is assessing incapacitation, they will look at the issue from the perspective of a Respondent and determine whether a Respondent should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

V. Confidentiality, Privacy, and Required Disclosures

It is important that reporting parties, complainants and respondents understand the roles that confidentiality and privacy play in this policy and are encouraged to familiarize themselves with their options before deciding their preferred course of action. In some instances, the College's responsibility to investigate may conflict with the preferences of the complainant and/or the respondent. Requests for confidentiality or use of anonymous reporting may limit the College's ability to conduct an investigation.

The term "confidentiality" refers to the circumstances under which information will or will not be disclosed to others.

Employees on each campus, as outlined in Section VI, have been designated as Confidential Employees. Additionally, Confidential Resources external to the College are also available.

There may be exceptions in cases involving child abuse, imminent risk of serious harm, emergent hospitalization, or a court order. In addition, non-identifying information about violations of the College's Title IX Sex-based Harassment Policy may be submitted to the Department of Public Safety for purposes of the anonymous statistical reporting under the Clery Act.

The term "privacy" refers to the discretion that will be exercised by the College in the course of any investigation or grievance processes under this policy. In all proceedings under this policy, the privacy of the parties involved will be maintained to the extent possible.

In cases involving students, the Title IX/Sexual Misconduct Coordinator may notify residential life and/or other College employees, including tutors, of the existence of the report and/or complaint for the purpose of overseeing compliance with this policy and addressing any concerns related to educational and residential life. While not bound by confidentiality, these individuals will be discreet and will respect the privacy of those involved in the process.

In accordance with federal regulations, the College will keep confidential the identity of any individual who has made a report or complaint under this policy, including any complainant, any individual who has been reported to be the perpetrator, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of conducting any investigation or hearing under this policy.

For any individual subject to or witness to Title IX Sex-based Harassment of any type, the first step is

The following resources are considered confidential for employees:

Annapolis Campus

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Santa Fe

- Christine Guevara, VP of Student Engagement/christine.guevara@sjc.edu/505-984-6128
- Mary Anne Burke, Fitness and Athletic Director/maryanne.burke@sjc.edu/505-984-6150
- Malcolm Morgan-Petty, Associate Director of Student Engagement/malcolm.morgan-petty@sjc.edu/505-984-6053
- Sarah Reeve, Associate Director of Residential Life/sarah.reeve@sjc.edu/505-984-6925
- Aaron Young, Director of Human Resources/aaron.young@sjc.edu/505-984-6140

Reports can also be made to the Public Safety Office on the appropriate campus at any time:

- In Santa Fe: Dial "0" from a campus phone or call 505-984-6000
- In Annapolis: Dial "x2000" from a campus phone or call 443-336-2348

Given the size and intimate nature of the College environment, all employees of the College, including those serving as contractors in a student facing position (i.e. athletic coaches) are required to promptly report allegations of violations of this policy that they observe or learn about to a campus Title IX Coordinator. Student Employees who observe or learn about allegations of violations of this policy while performing their student employee responsibilities are also required to notify the Title IX Coordinator. Employees who knew about but did not report allegations of violations of this policy will be subject to disciplinary action up to and including termination.

Note, however, that employees are not required to report information about violations of this policy learned through public awareness events such as "Take Back the Night" or other forums at which individuals disclose experiences with sexual violence or other violations of this policy.

Anonymous reports of violation of the Policy may be made by calling the College's Compliance Hotline administered by Lighthouse Services at 844-490-0002 (or for services in Spanish, 800-216-1288).
Reports will be forwarded to a Title IX Coordinator or Deputy Title IX Coordin3}JETQ3Q3Q32 rBT0 g/6a9A>5 816F012ppTf

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- Whether the recipient could end the alleged sex discrimination and prevent its reoccurrence without initiating its grievance procedures.

If, after considering these and other relevant factors, the Title IX/Sexual Misconduct Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education program or activity, the Title IX/Sexual Misconduct Coordinator may initiate a complaint.

If none of these factors indicates the need to initiate an immediate investigation, the College will likely respect the request for confidentiality. It is important to note that requests for confidentiality, if honored, may limit the College's ability to respond to a report in a meaningful way; the College cannot implement any sanctions against an alleged respondent in these cases.

If the Title IX/Sexual Misconduct Coordinator decides to initiate a complaint despite the wishes of the complainant, the Title IX/Sexual Misconduct Coordinator will notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including through the provision supportive measures. In cases where the Title IX/Sexual Misconduct Coordinator initiates the complaint, the complainant retains all of their rights as if they initiated the complaint.

In the event that the College receives a complaint involving more than two parties (one complainant and multiple respondents, multiple complainants and one respondent, or multiple complainants and multiple respondents) or in cases where there are multiple complaints involving the same two parties the College may consolidate the complaints provided the complaints arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

The College will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a supportive measure. The College

A party who has concerns that one or more of the individuals performing one of the previously mentioned roles has conflicting interest or is biased must report those concerns to the Title IX/Sexual Misconduct Coordinator within 48 hours of being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The Title IX/Sexual Misconduct Coordinator will assess the allegations of conflict or bias to determine whether or not the identified individual(s) can fulfill their duties in an impartial way. If the Title IX/Sexual Misconduct Coordinator concludes that the facts and circumstances support the claim of conflict or bias, the pertinent individual(s) will not participate in the case.

In order to address issues of potential conflicts of interests, the College utilizes external, third-party entities as investigators and Hearing Officers. Depending on the specific allegations, the College may also use an external third-party entity as a facilitator for Informal Resolution or to replace an appeal officer otherwise identified within this policy.

In order to protect the safety of the campus community, the Title IX/Sexual Misconduct Coordinator may review reports of violations of this policy even absent the filing of a complaint or even if a complaint has been withdrawn. The Title IX/Sexual Misconduct Coordinator may need to themselves file a complaint and proceed with an investigation even if a complainant specifically requests that the matter not be pursued. For additional information about the factors the Title IX/Sexual Misconduct Coordinator will consider when determining whether or not to file a complaint, refer to Section IV.

This policy differs from Maryland and New Mexico criminal law. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

The College presumes that reports of prohibited conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

The respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.

It is expected that all members of the community to be honest and cooperative in their official dealings with the College under this policy. While the College will not compel the participation of any individual, it is expected that members of the community will respond to outreach in a timely fashion.

When a complainant or respondent is both a student and an employee of the College, including as a student employee, the College will make a fact-specific inquiry to determine whether the respondent will be treated as a student or an employee. In making this determination the College will consider whether the party's primary relationship with the College is to receive an education and whether the alleged prohibited conduct occurred while the party was performing employment-related

The complainant or respondent will have five (5) business days to respond to the informal resolution request indicating whether they have an interest in participating in the informal resolution process. In the instance when a party does not reply to the notice or a party does not voluntarily agree to participate in the informal resolution process, the College will begin an investigation into the complaint by proceeding with the grievance process.

The College will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of complaints of Title IX Sex-based Harassment. Similarly, the College will not require, encourage, or discourage the parties from participating in the informal resolution process.

The existence of an informal resolution and/or the agreed-upon terms is considered private information.
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terms. In certain instances, the Title IX/Sexual Misconduct Coordinator may compile the responses of both parties into one document.

The informal agreement is reached when both parties independently and voluntarily come to an agreement on terms. The above process may be repeated as reasonably necessary to come to a final agreement. Upon agreement and signature (in hard copy or electronically) by both the Complainant and Respondent, the complaint is considered resolved and closed.

The Complainant and Respondent must identify and agree upon the consequences for violating the terms of the informal resolution. The Title IX/Sexual Misconduct Coordinator will ensure the proposed consequences are permissible under College policy and otherwise aligned with the sanctions for similar infractions, as appropriate. Agreeing to consequences is a requirement of the Informal Resolution process; if the consequences for violating the informal resolution are not determined, the Informal Resolution p(ed, t)-6.67 Td6 if

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that further new information is needed the investigator will pursue any additional investigative steps as needed.

- In all proceedings under this policy, including at the hearing, the complainant, the respondent, and the witnesses are expected to provide truthful information.
- The Hearing Officer will rule on all procedural matters and maintain the general order for the hearing.
- Where credibility is both in dispute and relevant to the evaluation of one or more allegations in the complaint, each party may propose to the Hearing Officer such questions and follow-up questions that the party wants asked of any party or witness. The Hearing Officer will serve as the only person questioning the parties and witnesses during a hearing. The Hearing Officer will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Officer will give a party an opportunity to clarify or revise a question that the Hearing Officer determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked. Questions will be submitted for review as outlined in this policy.
- The hearing will be recorded in audio or audiovisual format and may be transcribed at the discretion of the College. The recording or transcript, if applicable, will be available for the parties to inspect and review, upon request.

Following the hearing, the Hearing Officer will consider all the relevant evidence that is not otherwise impermissible – including all inculpatory and exculpatory evidence – and make a determination, by a preponderance of the evidence, whether the respondent has violated the pohe respondent has violaeva1 bndent has vio

If the Hearing Officer determines that a violation has occurred, they will then determine the appropriate sanction(s). Members of the College community who are determined to have violated this Policy may be subject to sanctions depending on the nature and severity of the offense, regardless of whether the prohibited conduct is the subject of a criminal investigation or results in a criminal conviction.

10. Whether the Respondent engaged in retaliation against the Reporting Party, Complainant, or others.

Both the Complainant and the Respondent shall be provided with the final written determination, including sanctions, in writing. The written determination is ordinarily provided within ten (10) business days of the date of the hearing. In complex cases, this time frame may be extended.

Interim support measures put in place during the investigation may be continued or implemented as part of sanctions. Even if a Respondent is found *not responsible*, in the discretion of the Title IX/Sexual Misconduct Coordinator, support measures may remain in place depending on the circumstances.

XIII. Appeals

The Complainant and the Respondent have equal rights to an impartial appeal. Appeals shall be limited to the following grounds:

- Procedural irregularity that would change the outcome;
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changes to the original outcome when at least one of the specified grounds for appeal is met. The changes made should directly pertain to the appeal grounds that were met.

The Appeal Officer may a) determine that no grounds for appeal have been met; thus, the original decision stands; b) determine that grounds for appeal have been met, and choose to remand the matter back to the Hearing Officer to address the appealed aspects of the case; or c) may make a new finding of fact, finding of responsibility, and/or (as appropriate) sanction(s). The Appeal Officer's decision will be made based on the preponderance of the evidence standard. The Officer's decision is final, and no further appeal is permitted.

Absent unusual circumstances, the Title IX/Sexual Misconduct Coordinator will provide the outcome of the appeal in writing to the Complainant and Respondent within ten (10) business days from the Appeal Officer's receipt of the appeal.

XIV. Respondent Change in Status

If a student Respondent withdraws or is academically separated from St. John's College after a complaint has been filed but before the informal resolution or grievance process has been completed, the college reserves the right to proceed to the conclusion of the Title IX Sex-based Harassment Process and, if found responsible, the student Respondent will not be permitted to return unless and until all sanctions have been satisfied. In the event the college determines to complete the Title IX Sex-based Harassment Process, the Respondent may participate fully in the process despite their enrollment status. Alternatively, the college may dismiss the complaint, in which case the Respondent's academic file will include a letter from the Title IX/Sexual Misconduct Coordinator reflecting the charges pending and the status of the process at the time of withdrawal or academic separation. Should the Respondent wish to re-enroll at some point in the future, the process will be reinstated at the point it was suspended. If a student Respondent withdraws or is academically separated after a