



Gender-Based Misconduct Policy and Procedures

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ST. JOSEPH'S COLLEGE

Gender-Based Misconduct Policy and Procedures

I. Introduction

Title IX of the Education Amendments of 1972 prohibits sex discrimination in programs or activities that receive federal financial assistance. Consistent with this mandate, the College is committed to fostering a climate free from sexual and gender-based discrimination, harassment and violence, intimate partner violence and stalking. Such conduct, in any form, are serious violations of College and community standards and values, and will not be tolerated. The College will take all appropriate steps to eliminate prohibited conduct, prevent its recurrence and address its effects. Any individual found responsible for sexual misconduct or retaliation against an individual who makes a report or participates in any proceedings under this policy may face disciplinary action up to and including dismissal from the College or termination of employment, vendor, or guest status. The purpose of this document is to describe what is prohibited, how to report violations, how reports and violations will be handled, and the resources the College makes available to individuals who have experienced conduct prohibited by this Policy or are involved in proceedings under this Policy.

Title IX is enforced by the Department of Education's Office of Civil Rights (OCR). For additional information, you can reach the OCR at:

Office of Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800.421.3481
TDD# 877.521.2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

II. Statement of Non-Discrimination

St. Joseph's College prohibits any form of discrimination against any person on the basis of race, color, sex, gender, pregnancy, religion, creed, marital status, partnership status, age, sexual orientation, gender identity or expression, national origin, disability, military or veteran status, genetic characteristics, domestic violence victim status, criminal conviction, or any other legally-protected status in the administration of its programs and activities, including education, employment, admissions, athletics and this Policy.

III. Scope and Reach of Policy

This Policy applies to all students, faculty, staff, administrators, trustees, consultants, vendors, others engaged in business with the College, guests and visitors. This Policy applies to all forms of prohibited conduct that occurs on campus; off campus but in the context of any College program or activity, including education, employment, and study abroad activities and programs; and misconduct that occurs off campus or outside of College programs or activities but has continuing adverse effects on campus or in College programs or activities.

IV. Speech Rights and Academic Freedom

This Policy is not intended to infringe on speech rights or the academic freedom recognized by the College. It is not intended to mandate or prohibit the use of particular textbooks, classroom instruction or curricula. The offensiveness of a particular expression as perceived by a particular person, standing alone, does not necessarily establish a violation of this Policy. Speech rights and academic freedom will be carefully considered in applying this Policy.

V. Role and Identification of the Title IX Coordinator

A. The Role of Title IX Coordinators

All educational institutions receiving Federal financial assistance, such as federal student aid, must comply with Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education programs and activities, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX. Each covered institution must designate at least one employee to coordinate its efforts to comply with and carry out their responsibilities under Title IX. These designated employees are generally referred to as Title IX coordinators. The Title IX coordinator oversees the College's response to reports and complaints that involve possible sex discrimination to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the College can address issues that affect the wider school community. To assist a Title IX Coordinator, an institution may designate one or more Deputy Title IX Coordinator(s).

Members of the College community are encouraged to contact the Title IX Coordinator or Deputy Title IX Coordinator(s) in order to:

- seek information or training about rights and courses of action available to resolve reports or complaints that involve potential sexual and gender-based discrimination, including sexual assault, relationship violence and stalking;
- file a complaint or make a report of conduct prohibited by this Policy;¹
- notify the College of an incident or a policy, procedure or practice that may raise potential Title IX concerns;
- get information about available resources (including confidential resources) and support services relating to conduct prohibited by this Policy; and
- ask questions about the College's policies and procedures related to conduct prohibited by this Policy.

¹ Please note that a Title IX Coordinator or Deputy Coordinator may not be able to honor requests for confidentiality. For reporting options, including confidential reporting options, please see pages 10-14 of this Policy.

B. Our Title IX Coordinators

Our Title IX Coordinator is:

D'adra Crump

Executive Director of Human Resources
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Suite 109
dcrump@sjcny.edu
718.940.5869

Our Deputy Title IX Coordinators are:

Sherrie VanArnam

Vice President for Student Life
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Student Life Suite, Room 101A
svanarnam@sjcny.edu
718.940.5754

Christian Branch

Assistant for Campus Events
245 Clinton Avenue, Brooklyn, NY 11205
Touhy Hall, Student Life Suite
cbranch@sjcny.edu
718.940.5352

Anthony Costagliola

Assistant to Director of Benefits Administration
155 W. Roe Boulevard, Patchogue, NY 11772
O'Connor Hall, Room E217
acostagliola@sjcny.edu
631.687.4513

Bryan Gill

Executive Director, Center for Student Involvement
155 W. Roe Boulevard, Patchogue, NY 11772
O'Connor Hall, Student Hospitality
bgill@sjcny.edu
631.687.4590

VI. Prohibited Conduct

A. Sexual Harassment

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted verbal or physical conduct of a sexual nature when one or more of the following conditions are present:

- Submission to or rejection of such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or any aspect of a College program or activity;
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, *i.e.*, it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective and subjective standard.

Sexual Harassment also includes harassment based on sex or gender, sexual orientation, gender identity, or gender expression, that may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on gender or gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

A single incident of Sexual Harassment alone, such as a sexual assault, may create a hostile environment requiring a mandatory response by the College if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a pattern of incidents to create a hostile environment. The determination of whether an environment is "hostile" will be based on the totality of the circumstances, including, but not limited to:

- The frequency of the speech or conduct;
- The nature and severity of the speech or conduct;
- Whether the speech or conduct was physically threatening;
- Whether the speech or conduct was demeaning;
- The effect of the speech or conduct;
- Whether the speech or conduct was directed at more than one person;
- Whether the speech or conduct arose in the context of other discriminatory conduct;
- Whether the speech or conduct unreasonably interfered with the complainant's educational opportunities or academic performance, College-controlled living environment, work opportunities or performance;
- Whether a statement is a mere utterance of an epithet that engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or

- Whether the speech or conduct is legally-protected and/or deserves the protections of academic freedom.

B. Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is defined as having or attempting to have sexual intercourse with another individual:

- By force or threat of force;
- Without clear, knowing and voluntary affirmative consent; or
- Where that individual is underage or incapacitated.

Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact or mouth to anus contact.

C. Non-Consensual Sexual Contact

Non-Consensual Sexual Contact is defined as having sexual contact with another individual:

- By force or threat of force;
- Without clear, knowing, and voluntary affirmative consent; or
- Where that individual is underage or incapacitated.

Sexual contact includes any intentional touching of the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner. Sexual contact may be over the clothes or skin-to-skin.

D. Sexual Exploitation

Sexual Exploitation is knowingly, intentionally or purposefully taking advantage of the sexuality of another person without consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of Sexual Exploitation include:

- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Voyeurism;
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Non-consensual recording of individuals in locations in which they have a reasonable expectation of privacy, such as restrooms or locker rooms, regardless of whether the images captured reveal sexual activity or nudity;

- Prostituting another individual;
- Exposing one’s genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted infection or virus without that individual’s knowledge; and
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity, e.g., by using alcohol or other drugs (such as Rohypnol or GHB).

E. Stalking

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, under circumstances that demonstrate either of the following:

- Placing the person in reasonable fear of bodily injury to oneself or others, or of damage to their property; or
- Reasonably causing substantial emotional distress to the person.

Stalking includes cyber or electronic stalking, in which electronic media or devices such as the internet, social networks, blogs, cell phones, texts, or other similar platforms or devices are used to make contact or create a presence.

F. Intimate Partner Violence

Intimate Partner Violence (including dating violence and domestic violence) includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate Partner Violence may include any form of Prohibited Conduct under this Policy. The College will evaluate the existence of an intimate relationship based upon the complainant’s statements and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

G. Retaliation

Retaliation is any real or perceived act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of a report under this policy. Retaliation can take many forms, including abuse, violence, threats, grades and intimidation. Any individual or group of individuals, including but not limited to a complainant or respondent, can be held accountable for retaliation under this Policy.

VII. Affirmative Consent to Sexual Activity Required

College policy and state law require that there be clear, knowing and voluntary affirmative consent to sexual activity of any kind. “Affirmative consent” in New York State is defined by New York State Education Law article 129-b (“Enough is Enough”) as set forth below.

A. Affirmative Consent Defined

“Affirmative Consent” is defined as 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.

1. Principles of Consensual Sexual Activity

The following principles, along with above definition, will be used to evaluate whether sexual activity was consensual or violates our sexual misconduct policy.

1. 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.
2. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
3. Consent may be initially given but withdrawn at any time.
4. 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.
5. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending upon the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
6. Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm.
7. When consent is withdrawn or can no longer be given, sexual activity must stop.
8. Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one’s responsibility to obtain consent.

2. Key Consent Concepts Explained

a. Force

“Force” is the use or threat of physical action to overcome an individual’s free choice as to whether or not to participate in sexual activity or provide consent. Consent obtained by force is not valid.

b. Intimidation

“Intimidation” is the use of implied threats to overcome an individual’s free choice as to whether or not to participate in sexual activity or provide consent. Consent obtained by intimidation is not valid.

c. Coercion

“Coercion” is the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual’s will. Consent obtained through coercion is not valid. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail.

d. Incapacitation

“Incapacitation” is a state where an individual cannot make an informed and rational decision to engage in sexual activity. For example, an individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation, since such consumption does not always render a person incapacitated. Sexual activity is not consensual if the Respondent knows or reasonably should know that the Complainant is incapacitated.

3. Minors Cannot Consent

According to New York state law, a minor, defined as anyone less than 17 years of age, is incapable of consenting to sexual activity with a person 18 years of age or older. The College adopts this prohibition of sexual activity by adults with minors for the purposes of determining consent under this policy.

VIII. Student Bill of Rights

In accordance with Enough is Enough, all students are advised that they have the following rights to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosures 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 institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution.
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.

IX. Making a Report

A. Generally

Victims of sexual assault or violence are encouraged to get to a safe place and obtain immediate medical treatment. Calling 911 or campus security at 917-209-3625 (Long Island Campus) or dial “3” from any campus phone and 646-208-4597 (Brooklyn Campus) or dial “6” from any campus phone is an important first step to obtaining immediate medical assistance and medical support, and to preserve evidence. The College urges any person who observes or believes that they have been the victim of conduct prohibited by policy to make a report as provided for in this policy and seek support and assistance. Making a report ensures that the College can provide a victim with appropriate support and resources and enables it to maintain a safe and welcoming educational environment.

B. Your Rights under New York State Law

Under New York State Education Law article 129-b (“Enough is Enough”), you have the following rights, which will be shared with you at the time of first disclosure of an incident:

- The right to report prohibited conduct to Campus Security, Local Law Enforcement, or State Police.
- You have the right not to make a report.
- You have the right to report prohibited conduct to the College.
- You have a right to be protected by the College from retaliation for making or participating in a report of prohibited conduct.
- You have a right to receive assistance and resources from the College.
- You have a right to emergency access to the Title IX Coordinator or Deputy Coordinator or other individual trained to respond to reports of prohibited conduct.
- If applicable, you will be informed of the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible.
- You will be informed that the criminal justice system uses different standards of proof and evidence and questions about whether certain conduct amounts to a crime should be addressed to law enforcement or the district attorney.

- You will be informed of whether the person receiving your report may accept a confidential report and your reporting options.
- You will be provided a copy of this Policy.
- Employees making a report under this Policy have a right to contact the College’s Executive Director of Human Resources, who is also the Title IX Coordinator.

C. College Policy on Reporting

The College has deemed as “mandatory reporters” for the purposes of this policy all of its employees (faculty and staff) who are not specifically designated as a Confidential Reporting Resource. Mandatory reporters must inform the College’s Title IX Coordinator or Deputy Title IX Coordinator if they have reason to believe that a violation of this policy has occurred, including any details disclosed to them. To the extent practicable, prior to receiving a report under this Policy, a mandatory reporter should inform the reporting party that he or she is a non-confidential reporting resource and inform the reporting party of the right to make a confidential report.

Stories or experiences shared at awareness events, such as “Take Back the Night” or as part of academic work will not, without more, be deemed reports of prohibited conduct under this Policy. However, the College may take such perspectives and experiences into consideration when evaluating its education and prevention efforts.

D. Privacy and Confidentiality Explained

For the purposes of this Policy, privacy and confidentiality are defined as follows. Privacy means that information will be shared on a “need to know” basis. All College employees are expected to maintain the privacy of individuals involved in proceedings under this Policy. Confidentiality means that information shared by an individual will not be shared with any other individual without the express permission of the individual or as otherwise required or permitted by law. As noted above, even mandatory reporters, who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for Title IX personnel to investigate and/or seek a resolution of the matter reported.

E. Confidential Reporting Resources

Only a limited group of persons may receive truly confidential reports of Prohibited Conduct under this Policy. These individuals will not forward any personally identifiable information to Title IX or law enforcement personnel, unless required by law to do so. Thus, these reports will typically not trigger a law enforcement or College investigation. Please note that there may be rare circumstances in which a Confidential Reporting Resource is required by law to report a particular offense—for example, in the case where the perpetrator presents an imminent threat of harm to the community or the report involves the abuse of a minor.

Below is a list of Confidential Reporting Resources for the Long Island Campus:

Dr. Mary Schultz

Director of Counseling Services – Center for Wellness
319 W. Roe Boulevard, Patchogue, NY 11772
mschultz@sjcny.edu
631.687.4588

Jacqueline Hermida

Director of Wellness Services – Center for Wellness
319 W. Roe Boulevard, Patchogue, NY 11772
jhermida@sjcny.edu
631.687.1246

Kerry Vall, RN

Registered Nurse – Center for Wellness
319 W. Roe Boulevard, Patchogue, NY 11772
kvall@sjcny.edu
631.687.1259

Cristian Murphy

Director of Campus Ministry
155 W. Roe Boulevard, Patchogue, NY 11772
Student Hospitality Lounge, Room 4
cmurphy3@sjcny.edu
631.687.1467

Fr. Francis Pizzarelli

Chaplain
155 W. Roe Boulevard, Patchogue, NY 11772
fpizzarelli@sjcny.edu
631.687.2688

Below is a list of Confidential Reporting Resources for the Brooklyn Campus:

Dr. Anissa Moody

Director, Counseling Services
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Room 215
amoody@sjcny.edu
718.940.5853

Joan Carrig, RN

Registered Nurse
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Room 202
jcarrig@sjcny.edu
718.940.5805

Erica Lipper

Mental Health Counselor, Counseling Services
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Room 215
elipper@sjcny.edu
718.940.5357

S. Marie Mackey

Director, Campus Ministry
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Room 201A
smackey@sjcny.edu
718.940.5353

Off-Campus -- 24/7 Confidential Hotlines:

- RAPE Crisis Hotline 914-345-9111
- Safe Horizon's Rape/Sexual Assault & Incest Hotline 212-227-3000
- NYC Domestic Violence Hotline 800-621-HOPE (4673)
- Gay & Lesbian Anti-Violence Project 212-714-1141
- Crime Victim's Hotline 212-577-7777
- New York State Domestic Violence Hotline (800) 942-6906
- New York State Office of Victim Services (800) 247-8035 or www.ovs.ny.gov
- For confidential support resources, call the New York State Domestic and Sexual Violence Hotline at 1-800-942-6906. In New York City, call 1-800-621-HOPE (4673) or dial 311.
- Assistance can also be obtained through:
 - SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints>
 - Legal Momentum: <https://www.legalmomentum.org>
 - NYSCASA: <http://nyscasa.org/responding>
 - NYSCADV: <http://www.nyscadv.org>
 - Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>
 - GLBTQ Domestic Violence Project: <http://www.glbtqdv.org>
 - RAINN: <https://www.rainn.org/get-help>
 - Safe Horizons: <http://www.safehorizon.org>

Note that these hotlines are for crisis intervention, resources and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the College. You are encouraged to additionally contact a College Confidential or Non-Confidential Reporting Resource so that the College can take appropriate action.

Please note that a reporting party may always choose to make a non-confidential report at any time.

F. Non-Confidential Reporting Resources

As noted above, College employees, unless they are a Confidential Reporting Resource identified above, must inform the College's Title IX Coordinator or one of its Deputy Title IX Coordinators if they observe or learn of any conduct prohibited by this policy. However, all College employees are expected to maintain the privacy of all affected individuals to the extent practicable.

Generally, victims of or witnesses to prohibited conduct are encouraged to contact the College's Title IX Coordinator or Deputy Title IX Coordinator to make a report. These individuals are trained and have the ability to marshal support services. Irrespective of where or on what campus the prohibited conduct occurred, you may contact either the College's Title IX Coordinator or any of the Deputy Title IX Coordinators.

Our Title IX Coordinator is:

D'adra Crump

Executive Director of Human Resources
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Suite 109
dcrump@sjcny.edu
718.940.5869

Our Deputy Title IX Coordinators are:

Sherrie VanArnam

Vice President for Student Life
245 Clinton Avenue, Brooklyn, NY 11205
Tuohy Hall, Student Life Suite, Room 101A
svanarnam@sjcny.edu
718.940.5754

Christian Branch

Assistant for Campus Events
245 Clinton Avenue, Brooklyn, NY 11205
Touhy Hall, Student Life Suite
cbranch@sjcny.edu
718.940.5352

Anthony Costagliola

Assistant to Director of Benefits Administration
155 W. Roe Boulevard, Patchogue, NY 11772
O'Connor Hall, Room E217
acostagliola@sjcny.edu
631.687.4513

Bryan Gill

Executive Director, Center for Student Involvement
155 W. Roe Boulevard, Patchogue, NY 11772
O'Connor Hall, Student Hospitality
bgill@sjcny.edu
631.687.4590

From time to time, the College may also designate faculty ombudspersons who may serve as a resource to faculty with various questions or concerns. For Title IX purposes, these ombudspersons are deemed **non-confidential** reporting resources.

G. Requests for Confidentiality, Anonymity or that No Action be Taken to Persons who are not Confidential Reporting Resources

Persons desiring to make a truly confidential report that will not trigger specific action should make their reports to the Confidential Reporting Sources identified above. Request for confidentiality, anonymity or that no action be taken made to persons who are not Confidential Reporting Resources will be forwarded to the Title IX Coordinator or one of the Deputy Title IX Coordinators for evaluation as to whether the request can be honored. Upon making such a request, the reporting party will be advised that the College's ability to respond to the event or occurrence will be limited if the request is honored. If the reporting party, having been so advised, continues to desire confidentiality, anonymity, or that no action be taken, the Title IX Coordinator or the respective Deputy Title IX Coordinator will evaluate the request in light of all the relevant circumstances, including whether

- there is a risk of additional attacks, including whether the accused has a history of prohibited conduct or is a repeat offender;
- the reporting party is a minor;
- weapons, drugs or force was used;
- there were multiple attackers;
- the report reveals a pattern at a particular location or by a particular group;
- whether the College possesses other means to obtain the evidence, such as security footage; and
- the attack was accompanied by other crimes or threats.

If the College cannot honor a request for confidentiality or that no action be taken, the reporting party will be notified of the College's decision before any action is taken, unless exigent circumstances exist. If the College does honor such a request, the College nonetheless reserves the right to take generalized remedial actions consistent with the request, such as campus-wide education efforts, monitoring, climate assessments, and the like.

A reporting party may request at any time that a confidential report be converted into a non-confidential report for the purposes of further proceedings under this Policy.

Summary of Reporting Options

Reporting Resource	Action
Confidential Reporting Resource	The College will not be privy to the report details and thus will have no basis to take action. The Confidential Reporting Resource may forward anonymous data to the Campus Security Authority for Clery Act purposes and to the Title IX Coordinator or Deputy Coordinator for tracking purposes and evaluation of the campus environment.
Mandatory Reporter	Report will be forwarded to the Title IX Coordinator or Deputy Coordinator who will attempt to contact the reporting party to discuss rights and options as set forth in this policy. Necessary information will also be shared with the Campus Security Authority for Clery Act purposes.
Title IX Coordinator or Deputy Coordinator with a request for confidentiality, anonymity or that no action will be taken.	The Title IX Coordinator or Deputy Coordinator will advise the reporting party that honoring the request will limit the College's ability to respond to the report. The request for confidentiality will be evaluated as set forth in this policy. Appropriate action will be taken consistent with any such request that is honored. If the request is not honored, the reported party will be so informed and the investigation process will begin, which may or may not result in disciplinary action. Necessary information may be shared with the Campus Security Authority for Clery Act purposes.
Title IX Coordinator or Deputy Coordinator with no request for confidentiality, anonymity or that no action be taken.	The Title IX Coordinator or Deputy Coordinator will attempt to contact the reporting party to discuss rights and options as set forth in this policy. The investigation process will begin, which may or may not result in disciplinary action. Necessary information will also be shared with the Campus Security Authority for Clery Act purposes.

H. 24/7 Reporting Sources

- Call 911 and/or LI Campus Security 917-209-3625
- Call 911 or BK Campus Security 646-208-4597
- For Brooklyn: NYPD Special Victims Division - 24 hour hotline 646-610-7272
- For Long Island: NYSP College Sexual Assault Victims Unit - 24 hour hotline 1-844-845-7269

I. Amnesty for Alcohol and Drug Use

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College officials or law enforcement will not be subject to College policy for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

J. Knowingly False or Frivolous Reporting

Any member of the College community who knowingly makes a false or frivolous report may be subject to disciplinary action.

K. Reports and the Clery Act

All reports will be handled in accordance with state and federal law, including the Clery Act. However, confidential reporting resources should only provide “aggregate data”—that is, reports without personally identifying information associated with them.

X. What Happens after You Make a Report

Upon the College’s receipt of a report, you will be accorded the rights set forth above, including being advised of your reporting options and support resources. You will also be provided a copy of this Policy, which contains the Bill of Rights described above. Finally, you will be advised of the interim measures and support resources described in this Policy. Reports will be handled as follows:

A. Interim Protective Measures

In the event of a report of conduct prohibited by this Policy, the College will determine whether interim protective measures are warranted. Interim protective measures are available regardless of whether the reporting party chooses to pursue any action under this Policy. Potential interim measures include:

- Interim suspension of alleged perpetrator
- Imposition of a “no-contact order”
- Assistance in obtaining a protection order
- Access to support services, including counseling services
- Reasonable academic accommodations, including academic support services
- Change in work schedule or job assignment
- Change in student’s College-owned, sponsored or controlled housing

- Assistance from College support staff in completing housing relocation
- Limiting an individual's or organization's access to certain College facilities or activities pending resolution of the matter
- Leave of absence
- Providing medical services
- College-imposed administrative leave or separation
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy

Please note that the presumption of non-responsibility to which the accused is entitled does not prohibit the College from affording a reporting party appropriate interim measures.

B. No Contact Orders

A no contact order means an institutional command that the subject of the order to have no contact with the identified person, either directly or indirectly. This includes, text, email, social media and using others to send messages. A no contact order may also provide that if the person subject to the order encounters the person identified in a public place, the person subject to the order must leave that area. A party may challenge the issuance or the refusal to issue a “no contact order” by providing a written statement to the Title IX Coordinator for or against the “no contact order” at any time. Parties may similarly request modifications of “no contact orders” that have been issued, including modification of the duration and scope of the order.

C. Interim Suspensions

When the Respondent is determined to present a continuing threat to the health and safety of the community, the College may suspend the Respondent pending the outcome of the resolution process under this policy. Either the Reporting Party/Complainant or Respondent may obtain prompt review of the need for and terms of an interim suspension, and may submit evidence in support of their positions.

XI. Resolution of Complaints

When a reporting party makes a complaint of prohibited conduct to be investigated and resolved under this Policy, the reporting party will be referred to as the “Complainant.” The alleged perpetrator of the prohibited conduct will be referred to as the “Respondent.”

A. Timeline for Resolution of Title IX Complaints/Reports

The College will make every effort to resolve complaints involving prohibited conduct within 60 days. The 60-day period does not include time spent in informal resolution (described below) or in connection with appeals. The timelines outlined below are anticipated timeframes in cases that do not present extraordinary circumstances, such as the temporary unavailability of evidence or witnesses. The academic calendar may also impact the timeframe for resolving complaints. The College will inform parties of more specific dates to the extent it can and of any deviations from previously established timelines. Key timeframes are set forth below:

- **Interim Measures:** Interim measures will be discussed at the time of the first report and evaluated and revisited as appropriate.
- **Commencement of Investigation or Informal Resolution:** Ordinarily, within 7 working days of receipt of the complaint.
- **Notice of Outcome:** Ordinarily, within 60 working days of receipt of the complaint involving the Formal Resolution Process.
- **Deadline for Filing an Appeal:** The appealing party must submit his/her appeal within 5 working days from the date the final decision is e-mailed.
- **Decision on Appeal:** Ordinarily, within 14 working days from the date any response to an appeal was due.

B. Impact of Criminal Investigation on Title IX Timeline

At the request of law enforcement, the College may agree to briefly defer its Title IX fact gathering until after the evidence gathering stage of a criminal investigation. The College will nevertheless communicate with the complainant regarding Title IX rights, procedural options and the implementation of interim measures to assure safety and well-being. The College will promptly resume its Title IX fact gathering as soon as it is informed that law enforcement has completed its initial gathering of evidence.

C. Right to Advisor of Choice

Both the Reporting Party/Complainant and Respondent have a right to an advisor of his or her choice to provide support and assistance during any proceedings under this Policy, including during all meetings and hearings relating to the process. A party may also choose to proceed without an advisor. Parties are expected to ask and respond to questions on their own behalf, without interference by their advisor during an investigative meeting. The advisor may consult with the advisee quietly or in writing or outside during breaks in the meeting, but may not provide testimony on behalf of the advisee. Any written submission must also be composed by the party. Any advisor who steps outside of this defined role will be given one warning and then be asked to leave the investigative meeting. (A substitute advisor will not be permitted at this meeting.)

D. Conflicts of Interest

Both parties have a right to an investigator and appeals board that are free from conflicts of interest. Either party may seek disqualification of an investigator and appeals board member by providing a written statement to the supervisor of the investigator or board member who may have a conflict. If a conflict of interest is found, the investigator or board member will be replaced.

E. Informal Resolution

In cases other than sexual assault or forcible touching, a reporting person may request or the Title IX Coordinator or Deputy Coordinator may propose that the parties explore an informal resolution. The informal resolution process is intended to provide a prompt, effective, and mutually agreeable resolution without a formal investigation. Typically, an informal resolution involves a meeting with the Title IX Coordinator or Deputy Coordinator to explore mutually

agreeable solutions. Participation is voluntary, and a Complainant or Respondent may terminate the informal resolution process at any time and request a formal resolution. Further, if the informal resolution does not prove effective in stopping the prohibited conduct, addressing its effects, and preventing its recurrence, the Complainant or the College may pursue formal resolution. Records of informal resolutions will be maintained by the Title IX Coordinator for tracking and enforcement purposes. The results of an informal resolution may be taken into account when fashioning a sanction in a subsequent proceeding.

F. Formal Resolution

Formal Resolution to Complaints will involve a thorough, reliable, and impartial investigation process. A Respondent found to have violated this Policy will be subject to appropriate discipline and/or remedial action.

Complaints handled under the Formal Resolution process will proceed as follows:

1. **Informational Meeting:** The Coordinator/Investigator will initially hold separate informational meetings with the parties. The parties will be notified of the date, time, location and factual allegations concerning the prohibited conduct, as well as the specific policy provision(s) alleged to have been violated and the potential sanction(s) for the violation. The parties will further be notified of the investigator's appointment and identity. Each party will be notified the he or she will have the opportunity to offer evidence during the investigation and review the opposing evidence.
 - a. Each party will be offered support services and the opportunity to obtain an advisor of their choice, such as a friend, family member, or an attorney.
 - b. Policies and procedures will be explained to each party.
 - c. Each party will be encouraged to identify all relevant evidence, including witnesses, documents, and electronic information, such as email, text messages, and social media.
 - d. The timelines of the investigation will be reviewed with the parties, including the deadline for submitting evidence.
2. **Evidence Gathering:** The Coordinator/Investigator will then interview the parties and witnesses and review the available evidence. Evidence of mental health history or treatment, or prior sexual history with persons other than the other party, will not be considered in determining responsibility under this Policy. However, past findings of domestic violence, dating violence, stalking, or sexual assault may be considered in determining an appropriate sanction.
3. **Evidence Evaluation:** In conducting the investigation and evaluating the evidence, the Coordinator/Investigator will presume that the Respondent is "not responsible" until responsibility is proven by a "preponderance of the evidence." A "preponderance of the evidence means the "greater weight of the evidence" or alternatively, "more likely than not."

4. **Preliminary Report:** Upon the completion of the investigation and evaluation of the evidence, the Coordinator/Investigator will compose a preliminary report summarizing the evidence and preliminarily determining whether the preponderance of the evidence demonstrates that Respondent is “responsible” for a violation of this Policy.
5. **Meeting with Parties:** Upon completion of the preliminary report, the Coordinator/Investigator will schedule separate meetings with the parties to discuss the preliminary report. The parties will have 3 working days from the date of the meeting in which to inform the investigator of any errors, omissions or additional evidence.
6. **Final Report:** Upon the close of the feedback period set forth in section 5 above, the Coordinator/Investigator will consider any feedback, conduct any follow up deemed appropriate, and then finalize the report.
7. **Sanctions:** In the event of a finding of responsibility, the Coordinator/Investigator will, in consultation with the College employee below, formulate a sanction:

Respondent	Recommendation to
Student	Vice President Student Life
Staff	Director of HR
Faculty	Vice President Academic Affairs
Vendors	CFO
Athletics	Title IX Coordinator or Deputy Title IX Coordinator

G. Potential Sanctions

All sanctions shall be proportional to the violation found and designed to eliminate prohibited conduct, including any hostile environment, prevent its recurrence and address its effects. The range of potential sanctions include:

- Training, counseling or similar remedial action
- Written sanctions, such as a letter of counseling or reprimand
- No Contact or No Trespass Orders
- Probation
- Suspension, including Interim Suspension
- Last Chance Agreement
- Expulsion
- Termination of employment or contracting relationship

Prior to imposing a sanction, the victim will be provided the opportunity to provide an impact statement.

H. Notice of Outcome

The College will simultaneously inform each party in writing of the outcome of the

investigation. In the case of students, FERPA, the Clery Act and Enough is Enough grant students certain rights to information, as well as certain privacy rights. The College will attempt to comply with these laws in providing the parties notice of the outcome of the investigation.

Where there is a finding of responsibility for sexual assault, domestic violence, dating violence, stalking, or other sexual misconduct, the College will provide the following information:

- The material facts found
- The determination of responsibility
- The sanction, if any
- The rationale for any sanction imposed
- When the results become final

In other cases involving students, the parties will be simultaneously notified of the information above except that FERPA requires the College to limit the information on any sanctions imposed on the Respondent to those sanctions that directly relate to the Complainant. For example, suspensions, no-contact orders, and expulsions all directly relate to the Complaint while a requirement that the Respondent perform community service may not.

Sanctions of College employees will be handled according to College policy.

I. Appeals

If the Complainant or Respondent disagrees with the outcome, he or she may submit an appeal, within 5 business days from the date the written decision is emailed. The appeal must be submitted in writing to the Title IX Coordinator or Deputy Title Coordinator.

The grounds for an appeal are as follows:

1. A procedural error occurred that materially impacted the outcome of the investigation, such as bias or a material deviation from established procedures.
2. New evidence unavailable during the investigation, despite reasonable diligence to identify and obtain evidence, which would substantially impact the finding or sanction. As part of the appeal, the appealing party must submit a summary of the new evidence, its asserted impact on the finding of responsibility or sanction, and a statement as to why the evidence could not have been identified and obtained during the investigation, despite reasonable diligence.
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

Upon receipt of an appeal, the Title IX Coordinator or Deputy Title Coordinator shall review the appeal to determine if it states a ground upon which an appeal can be taken. A copy of the appeal shall also be shared with the non-appealing party. If the appeal does not state one or more of the grounds for appeal stated above, the appeal will be dismissed, the decision will become final, and the parties will be informed of that fact. Any such dismissal is final.

If the appeal states a ground upon which an appeal can be taken, the Title IX Coordinator or Deputy Title Coordinator shall convene an Appeals Board, which shall consist of three trained

College employees. The Appeals Board will notify the parties that the appeal has been accepted. The non-appealing party shall have 5 work days in which to respond to the appeal. The Appeals Board will generally issue its decision to both parties within 14 work days of the date on which any response to the appeal was due. The decision of the Appeals Board is final.

If the Appeals Board determines that new evidence should be considered, the Appeals Board will remand the case to the investigator to reconsider the decision in light of the new evidence. The investigator will review the new evidence submit an addendum to the report, which may include any revised findings or recommended sanctions. The amended report will be provided to the parties, who may appeal the amended report as set forth above.

XII. Transcript Notations

New York State Education Law article 129-b (“Enough is Enough”) requires that certain notations be made on the transcripts of students who have been found responsible for crimes of violence, including sexual assault, as set forth in 20 U.S.C.1092(F)(1)(F)(i)(I)-(VIII) of the Clery Act. Accordingly, in such cases, the following notations will be made in a Respondent’s transcript, as appropriate, once the disposition becomes final:

Event	Transcript Notation
Respondent found Responsible	“Suspended after a finding of responsibility for a conduct violation.” or “Dismissed after a finding of responsibility for a conduct violation”
Respondent withdraws from the College while a sexual misconduct investigation or conduct proceeding is pending	“Withdrew with conduct charges pending.”

Students who have been suspended may, after a year from when the suspension became final, petition the Vice President for Student Life to have the suspension notation removed. The Vice President for Student Life, in consultation with the Vice President for Academic Affairs, will generally render a decision within 60 days. In cases where a decision will take longer than 60 days, the student will be notified of the expected response date.

Notations of dismissal or withdrawal may not be removed.

If a finding of responsibility is vacated for any reason, the College will remove any such transcript notation.

XIII. Handling of Records and Evidence

The College will endeavor to maintain the privacy/confidentiality of all records and evidence related to proceedings under this Policy. Parties to a proceeding under this Policy have the right to inspect the evidence gathered during the course of the investigation and any appeal. However, investigator notes remain the property of the investigator and are not subject to

inspection. No evidence or records will be released to third parties unless there is a valid subpoena or lawful court order compelling the release. A party's inspection rights end 5 years after the close of the proceedings.

XIV. Annual Training

All investigators and appeal board members will receive annual training in the following: conducting investigations of sexual violence and conducting a process that protects the safety of victims and promotes accountability, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made under this Policy, and other issues relating to discriminatory harassment, domestic violence, dating violence, sexual assault and stalking.

XV. Campus Climate Assessments

At least every two years, the College will conduct a Campus Climate Assessment to ascertain student knowledge, attitudes, and experiences on topics, such as:

- The Title IX Coordinator's role;
- Campus policies and procedures addressing sexual assault;
- How and where to report sexual violence as a victim/survivor or witness;
- The availability of resources on and off campus, such as counseling, health, academic assistance;
- The prevalence of victimization and perpetration of sexual assault, domestic violence, dating violence, and stalking on and off campus during a set time period (for example, the last two years);
- Bystander attitudes and behavior;
- Whether survivors reported to the College or law enforcement, and reasons why they did or did not report.
- The general awareness of the difference, if any, between the College's policies and the penal law; and
- The general awareness of the definition of affirmative consent.

The College will take steps to ensure that answers remain anonymous and that no individual is identified. The anonymous results will be published on the College's website.

XVI. Amendments/Policy Supremacy

The Policy shall prevail over any other conflicting College policy, and it may be amended at any time in the College's sole discretion.