



## St. John's College Sexual Misconduct 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 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 ideals that are the cornerstone of a St. John's education.

The SJC Sexual Misconduct Policy identifies resources that are available to students, faculty, and staff; defines the conduct that is prohibited under this Policy; and outlines the process by which the College will respond to reports of sexual misconduct as defined herein. St. John's College strives to be a community in which all members readily and safely report acts of sexual misconduct; it is our goal to remove all barriers to reporting.

### I. Sexual Misconduct Policy Statement

This Policy prohibits sexual misconduct, including Sexual Assault, College Sexual Harassment, Quid Pro Quo Sexual Harassment, Domestic Violence, Dating Violence, Sexual Coercion, Sexual Exploitation, and Stalking. It further prohibits Retaliation and Intimidation, as defined in Section V, below.

### II. The College Sexual Misconduct Coordinator

The Sexual Misconduct Coordinator is responsible for coordinating the College's compliance with this policy, the Violence Against Women Reauthorization Act of 2013 (VAWA), and any applicable state laws. The College's Sexual Misconduct Coordinators are:

- In Santa Fe: Christine Guevara, Vice President of Student Engagement. Weigle Hall Room 117, [christine.guevara@sjc.edu](mailto:christine.guevara@sjc.edu), 505-984-6128.
- In Annapolis: Danielle Lico, Vice President of Student Affairs. Mellon Hall Assistant Dean's Office, [danielle.lico@sjc.edu](mailto:danielle.lico@sjc.edu), 410-626-2530.

The College Sexual Misconduct Coordinator will be informed of all reports or allegations of violations of this policy. The College Sexual Misconduct Coordinator responsibilities include (but are not limited to):

- Reviewing applicable College policies to ensure compliance with state law and VAWA;
- Monitoring the administration of this policy, any associated policies, and the Consensual Romantic or Sexual Relationships Policy, and all related record keeping, timeframes, and other procedural requirements;
- Conducting training regarding VAWA and prohibited conduct defined in this policy and related policies; and
- Responding to any formal complaint filed in accordance with this policy. The Sexual Misconduct Coordinator shall oversee and implement the explanation and provision of any supportive

measures. For any formal complaint, the Sexual Misconduct Coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any additional supportive measures, and monitors the administration of any related appeal.

The Sexual Misconduct Coordinator may delegate certain responsibilities under this policy to designated administrators, who will be appropriately trained.

Questions about this policy should be directed to the Sexual Misconduct Coordinator on the appropriate campus.

### III. Definitions

**Complainant** is an individual who is alleged to be the victim of conduct that could constitute a policy violation as defined herein.

**Formal Complaint** refers to a written complaint (electronic submission via email meets this definition) alleging sexual misconduct against a Respondent that is submitted by the Complainant to the Sexual Misconduct Coordinator or Deputy Sexual Misconduct Coordinator, that articulates the following details:

1. A stated desire to move forward with an investigation into the incident as outlined in this policy;
2. Date(s) or approximate date(s) of the alleged incident(s);
3. Time(s) or approximate time(s) of the alleged incident(s);
4. Name(s) of the Respondent(s) involved in the alleged incident(s); and
5. Details of the alleged incident(s) sufficient to permit the Respondent(s) to prepare for an initial interview.

Formal complaint may also refer to a document signed by the Sexual Misconduct Coordinator alleging sexual misconduct. Where the Sexual Misconduct Coordinator signs a formal complaint, the Sexual Misconduct Coordinator is not a complainant or otherwise a party.

**Hearing Officer** is the person responsible for conducting a hearing in an orderly manner, controlling the conduct of all participants and attendees of the hearing, and rendering a written determination regarding responsibility of the Respondent's alleged conduct charges in an impartial, neutral, and objective manner. The Hearing Officer need not be an employee of the College.

**Investigator(s)** are neutral and impartial fact-finders who gather evidence during the investigation. The investigators are responsible for completing an investigation report at the conclusion of the investigation. The Sexual Misconduct Deputy Coordinators may supervise and advise the investigators when conducting investigations and update the Sexual Misconduct Coordinator as necessary to ensure compliance with this policy. Investigators need not be employees of the College.

**Party or parties** refer to the complainant(s) and the respondent(s).

**Recognized Organization** is any student organization, club, intramural sports team, or other group of students organized in a formal and/or identifiable way.

**Relevant** means related to the allegations of sexual misconduct under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged conduct occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sexual misconduct occurred.

**Reporting Party** is an individual(s) making a report that this Policy has been violated. The Reporting Party and the Complainant may or may not be the same individual(s). The report of an engaged bystander can provide critical direction for the investigation of misconduct, even when the misconduct was not directed at the Reporting Party. Please note, Reporting Parties cannot initiate any action by the College under this policy and are otherwise not entitled to any rights afforded to Complainants or Respondents as defined herein.

**Respondent** means a person who is alleged to have violated the College's prohibition on sexual misconduct as defined herein.

#### IV. Prohibited Conduct

This policy addresses sexual misconduct, 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 in the local vicinity but outside of a College program or activity;
- Conduct that occurs outside of the United States when the conduct is associated with a college-sponsored program or activity;
- Conduct that involves the use of the College's computing and network resources from a remote location, including but not limited to accessing email accounts;
- Conduct that occurs outside the local vicinity and outside of a College program or activity, but the College determines that it implicates a substantial-College interest, for instance, where the conduct may create a hostile environment for community members on an on-going basis;
- 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 sexual 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, including the Title IX Sexual Harassment Policy.

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 process under the Sexual Misconduct Policy.

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 termination of employment. The respondent's consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation under this policy.

Specific prohibited behaviors are:

- A. Quid Pro Quo Sexual Harassment** – An employee of the institution conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. In certain circumstances, quid pro quo sexual harassment can occur between non-employee individuals of the College.
  
- B. College Sexual Harassment** – Sexual Harassment is unwelcome and offensive conduct, which need not be severe or pervasive, when the conduct is based on the basis of a person's sex (including on the basis of their gender, gender identity and expression, or sexual orientation) that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when:
  - 1. submission to the conduct is made either explicitly or implicitly a term or condition of employment or other educational decisions about an individual;
  - 2. submission to or rejection of the conduct is used as a basis for employment or other educational decisions affecting the individual; or
  - 3. based on the totality of the circumstances, the conduct unreasonably creates a working or learning environment that a reasonable person would perceive to be abusive or hostile.
  
- C. Sexual Assault** is actual or attempted physical sexual contact with another person without that person's consent. Sexual Assault specifically includes:
  - a. An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
    - i. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
    - ii. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age and/or because of temporary or permanent mental incapacity.
    - iii. Incest: Non forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - iv. Statutory Rape: Non forcible sexual intercourse with a person who is under the statutory age of consent.

- b. An offense that meets the definition of rape or sexual offenses, as defined by the laws of the State of Maryland (Md. Code Ann., Crim. Law § 3-303, *et seq.*), as applicable.
  - c. An offense that meets the definition of rape, aggravated rape, or criminal sexual contact as defined by the laws of the State of New Mexico (N.M. Stat. Ann. § 30-9-11, *et seq.*), as applicable.
- D. Dating Violence** means an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person who is subject to such behavior. The existence of such a relationship shall be determined based on all of the following: the Complainant’s statement, the length of the relationship, the type of relationship, and the 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.
- E. 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.
- F. Stalking** 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.
- G. Retaliation** 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 this policy, 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.

The College retains the right to charge an individual for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing under this policy. Anyone who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action under the Community Standards Policy. Similarly, a person who is

later proven to have intentionally given false information during the course of an investigative or grievance process under this policy may be subject to disciplinary action under the Community Standards Policy. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation. No complaint will be considered “false” solely because it cannot be corroborated.

Complaints alleging retaliation under this policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with the College and not otherwise subject to its policies, the College will process the complaint and take appropriate measures.

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

**Affirmative Consent** 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.

**Incapacitation** 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 beyond drunkenness or intoxication. The impact of alcohol and drugs varies from person to person; however, warning signs that a person is incapacitated or approaching incapacitation may include acting confused or incoherent, slurred speech, vomiting, inability to perform personal tasks such as undressing, inexplicable sudden changes in emotion, and/or difficulty walking. Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's decision-making 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 assesses 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.

### Confidentiality

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 Sexual Misconduct Policy may be submitted to the Department of Public Safety for purposes of the anonymous statistical reporting under the Clery Act.

### Privacy

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 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.

Any additional disclosure by the College of information related to the report or formal complaint may be made if consistent with FERPA. In addition, state or federal governmental agencies may mandate certain reporting related to prohibited conduct under this policy involving College employees or students.

### **Confidentiality Expectations of Complainants and Respondents**

While complainants, respondents, and witnesses involved in the grievance process under this policy are strongly encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation, the parties are not restricted from discussing the allegations under investigation in so far as these discussions are necessary to obtain and present evidence, identify witnesses, consult with family members, confidential resources, or advisors, or otherwise prepare for or participate in the procedures outlined within this policy.

The parties are reminded that, in addition to this Policy's prohibition on Retaliation, the College's Community Standards Policy remains in effect with respect to the parties' dealings with one another, witnesses, and third parties related to the proceedings under this Policy. Any documentary evidence, witness summaries, or other documents reviewed by the parties must be kept confidential and may be used only for the purposes of the proceedings under this Policy. Should either party, third-parties on their behalf, whether or not the party is aware of the action of the third-party, share, post, or otherwise disclose any of the documentary evidence, witness summaries, or other documents reviewed as part of the Complaint, other than as permitted under this Policy, additional disciplinary action may be taken by the College.

Persons serving as advisors or support persons, as defined within the policy, are expected to maintain strict confidentiality. Failure to do so will result in the immediate removal of the advisor and/or support person and a prohibition of that person serving as an advisor and/or support person in the future.

### **Required Disclosures**

As is required under the Clery Act and the 2013 Amendments to the Violence Against Women Act, the College is required to collect non-identifying statistical information about certain crimes, including any alleged sexual misconduct, Dating Violence, Domestic Violence, or Stalking, as required by state and federal law. These statistics are shared with Public Safety for inclusion in the Daily Crime Log and in the Annual Security Report.



The College is also required to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the College community. These notifications will not contain any identifying information about the Reporting Party and/or Complainant.

Certain members of the College community are considered mandatory reporters under state law and, as such, are required to notify local authorities about suspected abuse of minors, including sexual abuse.

## VI. Reporting Options for Complainants, Respondents, and other Reporting Parties

Persons covered under this policy who have witnessed, experienced, or are aware of conduct that constitutes a violation of this policy is encouraged to talk to somebody about what happened.

For any individual subject to or witness to sexual misconduct of any type, the first step is always the same: get to a safe place as soon as possible. If emergency assistance is required, call Public Safety or Local Emergency Services by dialing 911.

- 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

If you have been affected by a violation of this Policy, and wish to seek emergency medical treatment, the following medical centers are equipped with evidence collection kits and staff specially trained to conduct forensic examinations:

- In Santa Fe: Christus St. Vincent Regional Medical Ctr, 455 St. Michaels Drive, Santa Fe, NM, 505-913-3361
- In Annapolis: Anne Arundel Medical Center, 2001 Medical Parkway, Annapolis, MD 443-481-1000

If any individual has been subject to or witnessed any type of sexual misconduct, the following options are available. Individuals may pursue some or all of these options simultaneously:

- Seek confidential support and counseling from staff in the Student Health and Wellness Center (Annapolis) or Therapy Services (Santa Fe). An after-hours confidential resource can be accessed by calling Public Safety.
- Report the incident to or file a complaint with the College through a Sexual Misconduct Coordinator or Deputy Sexual Misconduct Coordinator listed in this policy. Reports can also be made to Public Safety.
- Notify law enforcement authorities and file a criminal complaint. Public Safety and/or a Sexual Misconduct Coordinator or Deputy Sexual Misconduct Coordinator are available to assist in this process.

### Confidential Employees/Resources

A report to a confidential resource listed below is not considered a report to the College and will not result in an investigation or any remedial or disciplinary action.

The following resources are considered confidential for students:

### Annapolis Campus

- Student Health and Wellness Center at x2553 from a campus phone or 410-626-2553
- Anne Arundel County sexual assault hot line at 410-222-7273
- Anne Arundel Medical Center at 443-481-1000

### Santa Fe Campus

- Student Health Office at x6418 from a campus phone or 505-984-6418
- Therapy Services at x6419 from a campus phone or 505-984-6419
- Solace Sexual Assault Services at 505-986-1951
- Christus St. Vincent Regional Medical Center at 505-913-3361

The following resources are considered confidential for employees:

### Annapolis Campus

- Employee Assistance Program offered by Business Health Services at 800-327-2251
- Anne Arundel County sexual assault hot line at 410-222-7273
- Anne Arundel Medical Center at 443-481-1000

### Santa Fe Campus

- Employee Assistance Program offered by The Solutions Group at 505-254-3555
- Solace Sexual Assault Services at 505-986-1951
- Christus St. Vincent Regional Medical Center at 505-913-3361

Confidential employees are encouraged to provide the following information to any person who informs the confidential employee of conduct that reasonably constitutes sex discrimination the following:

- Their status as confidential employees within a clinical setting;
- How to contact the Sexual Misconduct Coordinator; and
- That the Sexual Misconduct Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

*NOTE:* While the above confidential resources may maintain an individual's confidentiality vis -à-vis the College, they may have reporting or other obligations under state law, such as mandatory reporting to the state in the case of abuse of minors; threat of imminent harm to self or others; or the requirement to testify if subpoenaed in a criminal case. At the beginning of any conversation, individuals may want to consider asking resources to describe their level of confidentiality.

### **Reporting to the College**

People wishing to make a report to the College are reminded that such reports are not confidential and may require the Sexual Misconduct Coordinator to initiate a complaint. Reporting parties who are

unsure of how they would like to proceed are encouraged to consult with a confidential employee or resource.

Members of the Sexual Misconduct Team, as outlined below, have been trained to receive and respond to alleged violations of this policy and are encouraged to seek out these resources when making reports. *The Sexual Misconduct Coordinator and, through delegation of authority the Deputy Sexual Misconduct Coordinators, are the only people with the authority to implement corrective measures on behalf of the College. These are the only people to whom formal complaints can be made.*

#### Annapolis Campus

- Danielle Lico, VP of Student Affairs/[danielle.lico@sjc.edu](mailto:danielle.lico@sjc.edu)/410-626-2530
- Lauren Dillon, Assistant Director Human Resources/[lauren.dillon@sjc.edu](mailto:lauren.dillon@sjc.edu)/410-626-2896
- Jennifer Cline, Coordinator, Residential Life/[jennifer.cline@sjc.edu](mailto:jennifer.cline@sjc.edu)/410-626-2512
- Sue Gelenter, Director Human Resources/[sue.gelenter@sjc.edu](mailto:sue.gelenter@sjc.edu)/410-626-2504
- Taylor Waters, Director of Student Services/[taylor.waters@sjc.edu](mailto:taylor.waters@sjc.edu)/410-626-2512

#### Santa Fe

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

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 Sexual Misconduct Coordinator or Deputy Sexual Misconduct Coordinator on the appropriate campus.

It should be noted that the College's ability to investigate or act upon anonymous reports may be limited. Additionally, complainants cannot file a report anonymously.

### Alumni Reports

Alumni are encouraged to report past sexual misconduct to the college, especially in cases involving current or former employees. While the college cannot take disciplinary action against former employees or students, administrative actions may be available in certain circumstances. In cases where the complain involves a current employee, in addition to the remedies provided within this policy, alumni complaints involving sexual assault may be resolved through an informal resolution process.

### Reporting to Law Enforcement

The College encourages (but does not require) Complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under applicable law. The Sexual Misconduct Coordinator or Deputy Sexual Misconduct Coordinator will inform the Complainant of the possibility of bringing criminal charges. If the Complainant decides to proceed with a criminal charge, officials of the College will cooperate with the police investigation. At the request of the Complainant, College officials will also assist the Complainant in bringing the allegation to the proper law enforcement authorities.

It is important to emphasize that law enforcement's decision to prosecute or not to prosecute a Respondent is not determinative of whether a violation of this Policy has occurred; similarly, the outcome of any criminal prosecution is not determinative of whether a violation of College policy has occurred.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

Regardless of whether a criminal complaint is filed, the College will pursue its own internal processes to address the alleged conduct, and it expects that all those involved will participate in the process. The fact that an individual (Complainant, Reporting Party, Respondent, and/or witnesses) refuses to participate in the College process does not mean that the disciplinary process will not take place if the College deems it appropriate to move forward with that process. Similarly, a party's withdraw/departure from the College does not necessarily mean that the process will end.

In criminal cases, the preservation of evidence is critical and should be done properly and promptly (as soon as possible, but typically within 5 days). In cases of rape or other forms of sexual assault, it is important not to shower, change clothes, or even brush one's hair, as physical evidence may be lost. In cases of violence or physical abuse, it is important to document injuries, including by taking photographs.

### Filing a Formal Complaint

In order for the College to move a complaint forward the Complainant is required to file a Formal Complaint with the Sexual Misconduct Coordinator or a Deputy Sexual Misconduct Coordinator. The Formal Complaint is required to include, at minimum, the following information:

- A stated desire to move forward with an investigation into the incident as outlined in this policy;

- Date(s) or approximate date(s) of the alleged incident(s);
- Time(s) or approximate time(s) of the alleged incident(s);
- Name(s) of the Respondent(s) involved in the alleged incident(s); and
- Details of the alleged incident(s) sufficient to permit the Respondent(s) to prepare for an initial interview.

Formal Complaints may be initiated by the Sexual Misconduct Coordinator in instances where there is information presented to the College that identify the same Respondent has engaged in serial offenses or if the information presented constitutes an ongoing risk to the College community, such as where the incident involved violence or the use of a weapon. The Sexual Misconduct Coordinator may initiate a Formal Complaint in these instances without regard to the wishes of the complaining party(ies).

### Dismissal of a Formal Complaint

The College is required to make a fact-specific determination about the appropriate policy governing a complaint. For Formal Complaints that meet the obligations as outlined under the federal Title IX regulations, the Title IX Sexual Harassment Policy will be used to adjudicate the complaint.

For complaints under this policy, the Sexual Misconduct Coordinator may dismiss a Formal Complaint or the part of the allegations in a Formal Complaint, if applicable, where:

- The respondent is not participating in the College's education program or activity or is not employed by the College.
- The College receives the complainant's voluntary withdrawal in writing of any or all of the allegations, and Sexual Misconduct Coordinator declines to initiate a complaint.
- The College determines that the conduct alleged in the complaint, even if proven, would not constitute a policy violation, as defined herein. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the complainant.
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein.

If the College dismisses a Formal Complaint, the College will provide both parties a written notice of the dismissal and the reason(s) for the dismissal. The Complainant will have ten (10) business days from notification that the complaint will not move forward to an investigation to submit a written appeal to the Sexual Misconduct Coordinator. If the Sexual Misconduct Coordinator does not receive an appeal, the matter will be closed. If the Sexual Misconduct Coordinator receives a timely appeal, the appeal will be shared with the Appeal Officer.

Parties will not meet with the Appeal Officer and should not communicate with them directly. The appeals process is conducted in writing through the Sexual Misconduct Coordinator. The Appeal Officer may uphold or overturn the decision of the Sexual Misconduct Coordinator. Should the decision be overturned, the complaint will move forward as outlined within this policy.

Appeals for cases on the Annapolis Campus will be reviewed by Christine Guevara, VP for Student Engagement and Sexual Misconduct Coordinator in Santa Fe. Appeals for cases on the Santa Fe Campus will be reviewed by Danielle Lico, VP for Student Affairs and Sexual Misconduct Coordinator in Annapolis.

## Reports Without a Formal Complaint or Withdrawal of a Complaint

The College understands that a Complainant may report an incident but request confidentially. The College also understands that some Complainants may not wish to pursue an investigation or change their mind and withdraw a formal complaint after a process has been initiated. In the absence of a formal complaint the Sexual Misconduct Coordinator will consider a number of different factors, including, but not limited to:

- The details of the reported incident;
- The age and relationship of the parties, including whether the respondent is an employee of the College;
- Whether the incident involved physical violence or the use of a weapon; and
- If the report reveals a pattern of behavior at a specific location or by a Respondent.

If, after considering these and other relevant factors, the 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 the 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 Sexual Misconduct Coordinator decides to initiate a complaint despite the wishes of the complainant, the 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 Sexual Misconduct Coordinator initiates the complaint, the complainant retains all of their rights as if they initiated the complaint.

## Formal Complaints with Multiple Complainants or Respondents

In the event that the College receives a formal 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 formal 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.

## Complainants, Respondents, or Witnesses with Disabilities

Persons who are participating in a grievance process as outlined in this policy who are registered as a person with a disability are encouraged to notify the Sexual Misconduct Coordinator so appropriate steps can be taken to comply with Section 504 of the Rehabilitation Act of 1973. While notification is not required, failure to notify the Sexual Misconduct Coordinator will not be considered as grounds in any appeal process afforded to the parties within this policy.

## Timeliness

Complainants and other reporting individuals are encouraged to report any alleged violation of this policy as soon as possible in order to maximize the College's ability to respond promptly and effectively. If the respondent is no longer affiliated with the College at the time of the report or complaint, the College may not be able to take disciplinary action against the respondent. However, the College will still seek to provide support for the complainant and seek to take steps to end the prohibited behavior.

## Timeframes

The College has established timeframes for each major stage of the grievance procedure (set forth below). In certain instances, these timeframes may need to be extended on a case-by-case basis for good cause. Any request for extension of timeframes should be made to the Sexual Misconduct Coordinator.

## Amnesty

The College encourages reporting and recognizes that a reporting party, complainant, or witness who has been drinking or using drugs, or who otherwise engaged in conduct in violation of the Community Standards Policy, at or near the time of the incident may be hesitant to make a report or participate in an investigation because of potential consequences for their own conduct. To address this concern, the College has implemented an amnesty policy for reporting parties, complainants and witnesses who participate in an investigation of sexual misconduct.

Students who report an alleged violation of this policy, either as a reporting party, complainant, or a third-party witness, will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs, or for a violation of the Community Standards Policy, at or near the time of the incident. The College may initiate an educational discussion or pursue other educational remedies.

Amnesty does not apply to violations that the College determines to be egregious, including actions that place the health or safety of any other person at risk or involve plagiarism, cheating, or academic dishonesty.

Furthermore, the College encourages students to offer help and assistance to others in need. Sometimes, students may be hesitant to offer assistance to others for fear that they may get in trouble themselves. For example, an underage student who has been drinking or using cannabis might hesitate to help an individual who has experienced sexual misconduct contact Public Safety.

To encourage students to offer help and assistance to others, the College provides amnesty for minor violations when students offer help to others in need. When policy violations cannot be overlooked, educational options, rather than punishment, will be provided to those who offer their assistance to others in need.

In all circumstances, amnesty will not apply if someone is found to have possessed, used, provided, or administered alcohol or other drugs for the purpose of facilitating sexual assault or harm to others.

## VII. Supportive Measures

Upon receipt of a report or formal complaint of an alleged violation of this policy, the College, through the Sexual Misconduct Coordinator, will promptly contact the complainant to discuss the availability of supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for initiating a formal complaint. The College will also consider supportive measures, as appropriate and reasonably available, for the respondent.

The range of supportive measures include, but are not limited to:

- The imposition of a mutual no-contact order instructing the parties to not contact one another;
- A change in work schedule, teaching schedule, or job assignment;
- Change in housing and/or class schedule;
- Restrictions in access to the College facilities, including but not limited to the Dining Hall, Residence Halls, the Gym, or campus as a whole;
- Restrictions on activities, including co-curricular activities;
- Campus escort services;
- Emergency Removal or Administrative Leave;
- Leaves of absence;
- Any other measure which can be tailored to the involved individuals and used to achieve the goals of this policy.

Supportive measures may be modified or terminated at the conclusion of the grievance procedures outlined within this policy or at the conclusion of the informal resolution process. Supportive measures may also remain in place until such time as they are no longer needed. Parties may also seek modifications to or termination of a supportive measure applicable to them if circumstances change materially.

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.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a supportive measure. The College will take immediate action to enforce a previously implemented supportive measure and disciplinary sanctions can be imposed for failing to abide by a College-imposed measure through the Community Standards Process.

## VIII. Emergency Removal and Administrative Leave

In connection with this policy, whether or not a grievance process is underway, the College may summarily remove an individual (students and employees) from the education program or activity on an emergency basis, after undertaking an individualized safety and risk analysis, and upon the determination that the individual poses an imminent and serious threat to the physical health or safety of any student or other individual (including themselves, the respondent, the complainant, or any other individual). This includes placing an employee respondent on administrative leave from employment



responsibilities during the pendency of the grievance procedures. Violation of an emergency removal under this policy is grounds for expulsion or termination.

In all cases in which emergency removal is imposed, the individual will be given the opportunity to appeal prior to the emergency removal being imposed, or as soon thereafter as reasonably possible, to show cause why the emergency removal should not be implemented. Appeals should be submitted in writing to the Sexual Misconduct Coordinator within three (3) business days of the notice of emergency removal. Appeals for cases on the Annapolis Campus will be reviewed by Christine Guevara, VP for Student Engagement and Sexual Misconduct Coordinator in Santa Fe. Appeals for cases on the Santa Fe Campus will be reviewed by Danielle Lico, VP for Student Affairs and Sexual Misconduct Coordinator in Annapolis. Appeal decisions will be communicated within three (3) business days.

## **IX. Grievance Procedures, In General**

The College is committed to providing a prompt and impartial investigation and adjudication of all complaints alleging violations of this policy. During the informal resolution and grievance processes, both parties have equal rights to participate.

### **Conflict of Interest**

All individuals who have responsibilities in administering the informal resolution and grievance processes under this policy must be free of any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Parties will be notified at the appropriate juncture of the identities of the individuals serving as a facilitator for an Informal Resolution, an investigator, or a Hearing Officer. The names of people hearing appeals are included in the policy.

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 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 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 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.

### **Responsibility to Review Reports and Formal Complaints**

In order to protect the safety of the campus community, the Sexual Misconduct Coordinator may review reports of violations of this policy even absent the filing of a formal complaint or even if a formal complaint has been withdrawn. The 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 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.

#### **Presumption of Good Faith Reporting**

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.

#### **Presumption of Non-Responsibility**

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.

#### **Honesty and Cooperation during 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.

#### **Advisors and Support Persons**

Throughout the grievance process, each party may have an adviser of their choice and/or a support person of their choice, provided that person(s) agrees to serve in this capacity; parties may change their adviser or support person at any time during the informal resolution or grievance process. An adviser is an individual chosen by a complainant or a respondent to provide guidance during the grievance process and will ask questions during a hearing on behalf of a party. A support person is an individual chosen by a complainant or a respondent to provide emotional support. An adviser and/or a support person may be a member or non-member of the College community; advisors may be an attorney.

The role of advisers and support persons is narrow in scope: they may attend any interview or meeting connected with the informal resolution or grievance process that the party whom they are advising/supporting is invited to attend, but they may not actively participate in interviews and may not serve as a proxy for the party. Should the grievance process result in a hearing, the parties are required to have an advisor for the purposes of conducting cross examination during the hearing. Should a party not have an advisor at the time of the hearing, the College will appoint an advisor to them; advisors appointed by the College may or may not be an attorney at the sole discretion of the College. Advisors will not be appointed by the College until the conclusion of the investigation and once the formal complaint is referred for a hearing.

Any individual who serves as an adviser or support person is expected to make themselves available for meetings, interviews, and the hearing, as scheduled by the College. The College (including any external third-party entity acting on behalf of the College) has the right at all times to determine what constitutes appropriate behavior on the part of an adviser and support person and to take appropriate steps to ensure compliance with this policy.

Anybody serving as an adviser or support person must sign and agree to the terms as outlined in the Support Person-Advisor Agreement.

Parties initiating this Policy on the Annapolis Campus are encouraged to review Section XIV which outlines specific information about attorneys and advocates available within the State of Maryland.

### **Inadmissible Evidence/Information**

The parties sexual interests or prior sexual behavior are not relevant and should not be raised during an Informal Resolution and will not be accepted as evidence during grievance process, unless offered to prove the source of the injury, prove prior sexual misconduct, support a claim that a student has an ulterior motive, or to impeach a party's credibility after that student has put their own prior sexual conduct at issue. Any questions posed during a hearing are expected to adhere to these same standards.

Any records that are otherwise protected by federal or state law or evidence provided to a confidential employee, including records that are maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or the witness, unless the party or witness to whom the privilege or confidentiality is owed voluntarily provides written consent for its use.

Parties are encouraged to think very carefully about submitting any evidence that is defined as inadmissible above.

### **Allegations Against Student Employees**

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 work.

## **X. Informal Resolution Process**

In lieu of resolving a complaint through an investigation and hearing, the parties may instead elect to participate in an informal resolution process. The informal resolution process is a voluntary, remedies-based process designed to provide parties with an option to resolve disputes with another party in a forum that is separate and distinct from the formal grievance processes under this policy. The informal resolution process is intended to create a facilitated resolution that is acceptable to both the Complainant, Respondent, and the College.

An informal resolution can be requested by a Complainant at any time after a formal complaint has been submitted up to the start of a hearing. The Complainant and Respondent may withdraw from an informal resolution process at any time before agreeing to a resolution. If a Complainant or Respondent chooses to end an informal resolution process prior to agreeing to a resolution, the investigation and hearing process will resume.

Engaging in the informal resolution process is not an admission of responsibility for the allegation or an admission of the falsehood of the allegations. The existence of an informal resolution is not viewed as a finding of responsibility against the Respondent. Once a complaint has been resolved through an informal resolution process, the matter will be closed.

In all cases, the Sexual Misconduct Coordinator will have the discretion to determine whether an informal resolution is appropriate to the circumstances. An informal resolution may include mediation for some limited types of Prohibited Conduct. Informal resolution is not permitted for any allegations of Sexual Assault.

The College will generally allow only one informal resolution per Respondent. Informal resolutions are not permitted between student complainants and employee respondents.

#### **Notice of Request for Informal Resolution**

The Sexual Misconduct Coordinator will provide the Respondent written notice of the Complainant's interest in resolving a complaint through the informal resolution process. The 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 proceed with the grievance process.

#### **Privacy of Informal Resolution**

The existence of an informal resolution and/or the agreed-upon terms is considered private information. The existence of an informal resolution and/or the agreed-upon terms may be shared with a limited circle of individuals in the College who "need to know" in order to: (i.) assist in implementing the agreed-upon terms; (ii.) monitor the agreed upon terms; (iii.) engage in a risk assessment involving the Complainant or Respondent; (iv.) implement support or protective measures; or (v.) perform College operations. Should the informal resolution process fail, any information learned will not be considered in the subsequent grievance process.

#### **Developing Terms of the Informal Resolution**

The Complainant and Respondent may propose terms for the informal resolution agreement. The terms should be designed to remedy the adverse effects the alleged Prohibited Conduct has on the Complainant and/or to restore the Complainant's equal access to the programs and activities of the College.

The Sexual Misconduct Coordinator will review the proposed and final terms and will remove those terms that are not permissible under College policy or practice and/or federal or state law. After the

Sexual Misconduct Coordinator's review, the parties will have five (5) business days from the date of delivery of the informal agreement to review the terms. They should indicate their willingness to accept all, some, or none of the proposed terms. They may also propose alternative strategies to meet a specific term they reject.

The Sexual Misconduct Coordinator will send the Complainant and/or Respondent a copy of the other party's response to the proposed terms. The Complainant or Respondent will have a subsequent five (5) business days from the date of delivery of the new terms to consider and respond to the revised terms. In certain instances, the 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.

### Violations of the Informal Resolution

The Complainant and Respondent must identify and agree upon the consequences for violating the terms of the informal resolution. The 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 process will end and the matter will continue in the grievance process.

### No Right of Appeal

The informal resolution is grounded in the voluntary participation of the Complainant and Respondent. For this reason, there is no right of appeal associated with the informal resolution process.

### Time Frame for the Informal Resolution Process

Informal Resolutions of a Formal Complaint will be concluded within 60 days of notice to the College that both parties wish to proceed with the Informal Resolution process. Such notice that the parties wish to proceed with an Informal Resolution process will "pause" the counting of the timeframe to conclude the Procedures of this Policy, should the Informal Resolution process fail and the parties continue with the Investigation. Either party may end the Informal Resolution process at any time and request an investigation, and the Sexual Misconduct Coordinator retains discretion to terminate the Informal Resolution process. A general timeframe could be as follows:

- Written notice of a request for informal resolution process – Three (3) business days from receipt of the request from either the Complainant or Respondent
- Drafting of terms - Five (5) business days (this step may be repeated as necessary)
- Review of proposed terms – Five (5) business days (this step may be repeated as necessary)
- Review and sign off on the final terms – Five (5) business days.

## Recordkeeping

Any records created in reaching an informal resolution agreement will be maintained for a period of seven (7) years in accordance with the federal regulations.

## XI. Investigation and Hearing Process

The purpose of this policy and the activities of the Sexual Misconduct Coordinator and Deputy Sexual Misconduct Coordinator is to stop, remediate the effects of, and prevent the recurrence of sexual misconduct, as defined within this policy. All complaints and investigations will be handled in a prompt, thorough and impartial manner. Additionally, Complainants and Respondents are entitled to treatment with dignity, respect, and sensitivity by the College during all phases of the Grievance Process.

If the Sexual Misconduct Coordinator has determined, following an initial assessment and provided that an Informal Resolution between the parties is not appropriate or is not reached, that an investigation is appropriate, the Sexual Misconduct Coordinator will refer the matter for investigation.

### Notice of Allegations and Investigation

Following the initiation of a complaint and a determination by the Sexual Misconduct Coordinator that the matter properly falls under this policy the parties will be provided with a written Notice of Allegations and Investigation which shall include:

- The identities of the parties, if known;
- A summary of the alleged conduct, including the date(s) and location(s) with sufficient detail to allow the Respondent to prepare for an investigation;
- Notice of the allegations potentially constituting prohibited conduct under this policy;
- A copy of the Formal Complaint;
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement informing the parties that they may have an adviser of their choice, who may be, but is not required to be, an attorney;
- A statement informing the parties that they may submit, and request to inspect and review not otherwise inadmissible evidence;
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of College policy;
- A statement that retaliation is prohibited;
- Information regarding the applicable grievance procedures, including the informal resolution process.

If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy or another policy of the College, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

## Assignment of Investigators

Concurrent with or immediately following issuing the Notice of Allegations and Investigation, the Sexual Misconduct Coordinator will notify the parties the name of the trained, impartial individual(s) who will serve as the investigator. The College utilizes external, third-party investigators. In the event that more than one investigator is assigned, both investigators will not necessarily attend every interview. Either party may submit a written objection to the assigned investigator(s) as outlined in Section IX.

The investigator is a neutral fact-finder, who, during the course of the investigation, may gather information in multiple ways.

The investigator may collect documents and other information and may also interview witnesses or other people with relevant information beyond those identified by the parties. The interviews are not required to be in-person. The College will strive to complete all investigations within sixty (60) business days; should an extension be required the parties will be notified. This does not include the time afforded to the parties to review and respond to investigative documents and/or the time afforded to the parties to engage in an informal resolution process.

## Collection of Evidence

The investigator will interview the parties, as well as all relevant witnesses, gather any relevant evidence (such as texts/emails, social media postings, surveillance video, photos), and consider all relevant evidence. The investigator retains discretion to determine how to conduct the investigation and what information is necessary and relevant. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. The burden is on the investigator – not the parties – to conduct an investigation that gathers sufficient evidence to determine whether a violation of College policy(ies) occurred. Although formal rules of evidence will not apply, the investigator will not consider character evidence or other inadmissible evidence as defined within this policy.

During the investigation, the parties will have an equal opportunity to share information, submit evidence, and request that witnesses be interviewed. The parties will **not** be interviewed together or be required to meet. Parties and witnesses are expected to provide all available relevant evidence to the investigator during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of Hearing Officer, be excluded from consideration at the hearing. Expert reports and witnesses are not permitted.

The investigator may decline to gather information if:

- the request seeks information that is unreasonably duplicative;
- the request is unlikely to yield relevant evidence;
- the request seeks information that the requesting party could obtain from another source with greater convenience or less burden;
- the request unreasonably invades the privacy interests of a party or witness or seeks information protected by federal or state law; or
- the burden of complying with the request is likely to substantially outweigh the benefit of the information as relevant evidence in the hearing.

The investigator will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than three (3) business days, absent exigent circumstances) for the party to prepare to participate. Parties are permitted to have the advisor and/or support person of their choice present at any meeting, as outlined in Section IX of this policy. Notes of the interviews will be taken by the investigator. Any other recording of interviews is prohibited and violations may result in discipline.

### Summary of Evidence and Final Investigative Report

The investigator will prepare a draft Summary of Evidence that includes all collected evidence that is relevant to the allegations raised in the complaint and not otherwise inadmissible, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. In all cases, any information relied on in adjudicating the matter will be provided to the parties. As appropriate, the parties will also be provided with an updated Notice of the Allegations.

Within ten (10) business days of receiving the Summary of Evidence, each party may submit a written response, not to exceed 3000 words (including exhibits, screenshots, etc.). If the investigator believes that further new information is needed the investigator will pursue any additional investigative steps as needed. Responses to the Summary of Evidence will be included in the Final Investigative Report.

Following their review of the parties' responses (if any) to the Summary of Evidence, the investigator will create a Final Investigative Report that summarizes all relevant evidence and includes the rationale for any changes made as a result of the parties' submissions; the report will not contain irrelevant information. At least ten (10) business days prior to the hearing, the investigative report will be provided to the parties.

Following an investigation, the Sexual Misconduct Coordinator will adopt one of the following options:

1. Post Investigation Dismissal: If the Sexual Misconduct Coordinator concludes that a reasonable Hearing Panel ("Hearing Panel") could not find by a preponderance of the evidence that the alleged Prohibited Conduct occurred, the complaint would be dismissed pursuant to this policy and the dismissal can be appealed as outlined in Section IX.D.
2. Referral to a Title IX Sexual Harassment Hearing Panel: If the Sexual Misconduct Coordinator concludes that a Hearing Panel could find by a preponderance of the evidence that the alleged Prohibited Conduct occurred the matter will be referred to a Hearing Panel for adjudication.

## XII. Hearing

The Hearing Officer is responsible for evaluating the information gathered by the investigator and the testimony offered by those who participate at the hearing and determining whether a violation of this Policy occurred and the appropriate sanction(s).

Either party may submit a written objection to the assigned Hearing Officer if there is an actual conflict of interest or bias for or against complainants or respondents generally or that individual complainant or



respondent. Written objections must be submitted within three (3) business days of notification of the name of the Hearing Officer to the Sexual Misconduct Coordinator.

The Hearing Officer will have absolute discretion with respect to administering the hearing. The Hearing Officer will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, adviser or support person. Prior to the hearing, the Hearing Officer will be provided with the Final Investigative Report.

At least fifteen (15) business days prior to the hearing, the parties will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely). Ten (10) days prior, parties will be required to identify witnesses sought to be called at the hearing. The parties are required to specifically state if they will be participating in the hearing. Should a party elect not to participate, any statement they made during the investigation will be considered inadmissible and cannot be relied upon in reaching a finding. Specific timelines for the submission of questions will be determined based on the number of participants in the hearing.

At the Hearing Officer's discretion, pre-hearing meetings may be scheduled with each of the parties and their advisers to explain the hearing protocol.

### Standard of Proof

The standard of proof under this policy is preponderance of the evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy.

### Hearing Process and Participant Expectations

- 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.
- Each party may propose to the Hearing Officer questions and follow-up questions that the party wants to ask of any party or witness. 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.

## Written Determinations

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 policy. A written determination will be issued, which will contain:

- The allegations potentially constituting sexual misconduct as defined herein;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, and the hearing). The Hearing Officer may rely on the information included in the final investigation report as documentation of the procedural steps taken from the receipt of the formal complaint through the start of the Hearing;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred), any disciplinary sanctions imposed if there has been a finding of responsibility, and whether any remedies designed to restore or preserve equal access to the College's education program or activity or working environment will be implemented; and
- Relevant appeal information for the parties.

The parties and their advisers will simultaneously be provided with the written determination via electronic format.

The College will not discipline a party, witness, or others participating in these grievance procedures for making a false statement based solely on the determination of whether a policy violation occurred or for engaging in consensual sexual conduct.

## Sanctions

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.

The goal of sanctions is to (1) end the misconduct; (2) remedy its effects on the reporting party and/or the College community; and (3) take reasonable steps calculated to prevent its recurrence.

Sanctions for Title IX Sexual Harassment may range from mandated education, a formal warning, probation, suspension, expulsion (for students), or corrective action up to and including termination (for employees).

Sanctions may also require that existing support measures stay in place for a prescribed period of time. Likewise, sanctions may involve the imposition of new remedies, such as no contact orders, disciplinary probation, housing placement, academic adjustments, adjustments or limitations to work environments,

or restrictions on campus-access based upon the facts developed during the investigation and the conclusions reached in the case. Transfer of campuses may not be imposed as a sanction in any circumstances.

Specific sanctions include, but are not limited to: formal reprimand (to be included in the permanent record of the student or employee); expulsion from the residence halls (if the person is a student residing on campus); suspension or expulsion from the College, with or without the refund of fees, in the case of students; suspension with or without pay or termination of employment, in the case of employees; commencement of procedures to terminate appointment as provided in the Polity in the case of tutors; disciplinary probation; no-contact orders or prohibitions from entering certain parts of campus or attending certain campus events; and mandatory education on issues related to sexual misconduct, including, but not limited to, prevention and awareness, victims' rights, and appropriate behaviors.

The following aggravating circumstances will be factored into the sanction decision:

1. Proven history of prior misconduct by the Respondent;
2. Whether the Respondent has a proven history of violating no contact orders or restraining orders;
3. Whether the prohibited conduct involved the use of physical force, including but not limited to restraining, strangling, hitting, punching, slapping, or kicking;
4. Whether the prohibited conduct involved the use of a weapon;
5. Whether the Respondent facilitated the prohibited conduct through the use of drugs, alcohol, or other intoxicants;
6. Whether the prohibited conduct occurred by knowingly taking advantage of the incapacitation of the Complainant;
7. Whether the prohibited conduct involved multiple victims;
8. Whether the prohibited conduct was committed by multiple individuals acting together;
9. Whether the prohibited conduct included the recording, photographing, transmitting, viewing, or distributing of intimate or sexual images without consent;
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 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:

- There was a material deviation from the procedures that affected the outcome of the process;

- There is new and relevant information that was unavailable, with reasonable diligence and effort that could materially affect the outcome.
- The Sexual Misconduct Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against the parties (generally, or specifically in this matter) that affected the outcome of the matter.

Generally, the original decision, including sanctions, remains in effect throughout the appeal period.

Both the Complainant and the Respondent will have five (5) business days from written notification of an outcome to submit a written appeal to the Sexual Misconduct Coordinator. If the Sexual Misconduct Coordinator receives no timely appeals, both parties will be notified that the original decision stands.

If and when the Sexual Misconduct Coordinator receives a timely appeal, the appeal will be shared with the non-appealing party who may, but need not, provide a written response within five (5) business days of receiving a copy of the appeal. This response is a right, but not a requirement. The decision by a party not to respond to the other party's appeal does not indicate agreement with that appeal.

For cases adjudicated on the Santa Fe Campus, the person reading the appeal (Appeal Officer) will be the Director of Human Resources on the Annapolis Campus. For cases adjudicated on the Annapolis Campus, the Appeal Officer will be the Director of Human Resources on the Santa Fe Campus. Parties will not meet with the Appeal Officer and should not communicate with them directly. The appeals process is conducted in writing through the Title IX/Sexual Misconduct Coordinator. Therefore, when submitting documents in the appeal process, parties should include any and all information they would like to have considered.

The Appeal Officer will evaluate the appeal based on the record considered by the Hearing Officer. The Appeal Officer is not expected to conduct a full review of the case. This is not an opportunity for the Appeal Officer to substitute their judgment for that of the Hearing Officer. Rather, they may only make 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 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 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 hearing found that person responsible for violating the Policy, the college will move forward and implement the sanction(s) even though the student is not enrolled at the time the sanction(s) are implemented (subject to Respondent's right to participate in the appeal process before the sanctions are implemented).

Should an employee Respondent decide to resign or otherwise leave the College and not participate in an investigation, the College may opt to proceed with the investigation without the employee. Alternatively, the College may dismiss the complaint and bar the former employee from campus.

## XV. Reinstatement of Students After Disciplinary Suspension for Any Sexual Misconduct

Any reinstatement following a period of suspension for any violation is conditional. Students who wish to return to St. John's College following a term of disciplinary suspension for sexual misconduct must demonstrate that they are prepared to return to the College and meet behavioral expectations.

### ***Reinstatement is not automatic.***

Students who request to be reinstated following disciplinary suspension for sexual misconduct must obtain clearance from the Sexual Misconduct Coordinator and the Assistant Dean on the campus where they were last enrolled. Such requests must be submitted in writing at least eight (8) weeks prior to the beginning of the semester.

Any student who has outstanding sanctions must complete them prior to reinstatement. Students who are being reinstated after suspension for sexual misconduct will have the following requirements:

- **Disciplinary probation:** Students who are reinstated after suspension will be placed on disciplinary probation for the remainder of their time at St. John College. Students on disciplinary probation are restricted from certain leadership positions/opportunities within the College. Students who violate any policies of the College or exhibit behavior prohibited by the College may face more serious disciplinary sanctions, including immediate dismissal from the College with no reimbursement of fees or tuition.
- **Academic work:** Any academic work completed elsewhere during the term of suspension will not be transferred into St. John's College.
- **Proof of good standing:** If a student has attended another institution of higher learning during the period of suspension, they will be required to provide (1) proof of good disciplinary standing from each institution attended; (2) a copy of their student conduct record from each institution attended.
- **Financial aid/scholarships:** Students who are seeking reinstatement from suspension must work with the Financial Aid Office to determine, what, if any, impact their suspension may have on any scholarship or financial aid.

- Complaints of misconduct: Prior to reinstatement, a student must notify the College if they have been the subject of any complaints of misconduct during the period of suspension, whether at an educational institution, through law enforcement, employment, or otherwise. Failure to notify the College of any complaints of misconduct will result in immediate expulsion should such complaints later come to light.
- Re-entry meeting: Students applying for reinstatement must schedule a meeting with the Sexual Misconduct Coordinator and the Assistant Dean prior to the desired term of re-enrollment to review the student's progress, assess readiness to return, and discuss expectations for re-entry.
- Check In: Depending on the circumstances, the Sexual Misconduct Coordinator and/or Assistant Dean may require the returning student to check in periodically to assess the student's transition and compliance.

If at the time of reinstatement the Complainant is still an enrolled student, the Sexual Misconduct Coordinator will promptly notify the Complainant (1) if the Respondent requests reinstatement following a period of suspension for Sexual Misconduct; (2) of the reinstatement decision; and (3) when the Respondent is expected to return to campus.

The Sexual Misconduct Coordinator will be available to meet with the Complainant prior to the student's reinstatement to discuss whether support measures are required.

The processes and potential for support measures outlined in this section may differ depending on the wishes of the Complainant concerning receipt of such notifications and the then-current status of the Complainant (i.e., whether or not they remain affiliated with St. John's College) which may affect the ability to implement certain support measures.

## XVI. Documentation

The College (through the appropriate office) will retain all of the documentation generated as the result of a complaint for seven years, in accordance with state and federal records laws and College policy. All documentation of records are private and confidential to the extent possible under law. Student records are disciplinary records under FERPA. Employee records of the Grievance Process are subject to the Freedom of Information Act (FOIA).

## XVII. Campus-Specific Considerations: Annapolis

Within the state of Maryland, student parties in sexual misconduct cases are provided with specific rights and access to a licensed attorney, an advocate supervised by an attorney, or a trained advocate to be paid for, at least in part, by the Maryland Higher Education Commission.

Student parties are entitled to have assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate:

- At all meetings, hearings, and interviews associated with the complaint;
- To provide private consultations with the student during hearings, meetings, and interviews, except during question of the student at a hearing; and
- To assist with the student's exercise of any right during the proceedings.

In addition to assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate, the student is entitled to have a personal supporter of the student's choice at any hearing, meeting, or interview during the proceedings. Students are not entitled to have more than two people at any hearing, meeting, or interview.

This resource is available to all current and former students who make or respond to a complaint on which a formal sexual assault investigation is initiated and who was enrolled as a student at the institution at the time of the incident that is the basis of the complaint. This resource is not a requirement and students can knowingly and voluntarily choose not to have counsel.

Before the start of any formal proceedings under the policy, student Complainants and Respondents will be notified in writing as to the student's right to the assistance of an attorney or advocate, legal service organizations and referral services available to the student, and the student's right to have a personal supporter at any hearing, meeting, or interview.

The assistance by a licensed attorney, an advocate supervised by an attorney, or a trained advocate is a benefit offered to Complainants and Respondents by the State of Maryland. Should a Complainant or Respondent be unable to retain the services of such a person, the College will not provide a similar resource.

For information on how to retain a licensed attorney, an advocate supervised by an attorney, or a trained advocate, students are encouraged to visit the Maryland Higher Education Commission website [mhec.maryland.gov](http://mhec.maryland.gov).

## **XVIII. Modifications and Policy Review**

St. John's college reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances.

This Policy will govern any complaints received on or after January 9, 2025.