

Nondiscrimination and Anti-Harassment Policy

I. Policy Statement and Scope

St. John's College is committed to providing a safe and non-discriminatory educational and working environment for all members of the College community. To that end, the College seeks to provide community members with an environment that is free from discrimination and harassment based on the basis of age, color, disability, ethnic characteristics, shared ancestry or national origin, gender identity, genetic information, marital status, military/veteran status, race, religion, sex, sexual orientation, or other legally protected characteristic in the administration of any of its educational programs and activities or with respect to admission or employment. Allegations of sex-based harassment or discrimination, including harassment or discrimination based on sex, gender identity, and sexual orientation are handled under the Title IX Sex-based Harassment and Discrimination Policy.

This Policy applies to all members of the College community, including, but not limited to, students, faculty, staff, and others acting on behalf of the College, including in some instances members of the Board of Visitors and Governors. It covers prohibited conduct that:

- occurs on campus or other College property;
- occurs in connection with College programs or activities, whether on or off-campus, including academic, educational, extracurricular, athletic and other programs and activities;
- impedes equal access to any College education program or activity or adversely impacts the education or employment of a member of the College community, regardless of where the conduct occurred; or
- otherwise threatens the health or safety of a member of the College community.

In certain instances, this Policy applies to third parties (e.g., visitors; volunteers; vendors and contractors while on College property, participating in a College sponsored activity, or providing services to the College; applicants for admission to or employment with the College; and former affiliates of the College). This Policy applies regardless of an individual's age, color, disability, ethnic characteristics, shared ancestry or national origin, gender identity, genetic information, marital status, military/veteran status, race, religion, sex, sexual orientation, or other legally protected characteristic.

Conduct that is considered inappropriate or unacceptable within the College community may nevertheless not amount to harassment or discrimination under this Policy. However, when appropriate the Policy Coordinator will report such conduct to the relevant internal department or authority such as Human Resources, the Office of the Dean, or to the Community Standards Process to determine and implement appropriate responsive action.

Fundamental to the College's purpose is the free and open exchange of ideas. It is not, therefore, the College's purpose in promulgating this Policy to inhibit academic freedom or the free communication of ideas by members of the academic community. As a community dedicated to exploring the persisting human questions and committed to submitting individual opinions to the questioning of others, it is vital that all members of the community engaging in such activities do so in ways that are intelligently and critically appreciative of their common heritage and conscious of their obligation to not engage in discriminatory or harassing conduct.

Members of the community are encouraged to raise questions regarding this Policy; any questions concerning this Policy, discrimination, harassment, or retaliation should be referred to Policy Coordinator identified herein.

II. Policy Coordinator

The Policy Coordinator is responsible for coordinating the College's compliance with various civil rights laws designed to protect all community members from discrimination and harassment, including any applicable federal and state laws. The Policy Coordinators are:

- In Santa Fe: Christine Guevara, Vice President of Student Engagement. Weigle Hall Room 117, christine.guevara@sjc.edu, 505-984-6128.
- In Annapolis: Danielle Lico, Vice President of Student Affairs. Mellon Hall 119, danielle.lico@sjc.edu, 410-626-2530.

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

- Communicating with the College community information about how individuals may access their rights;
- Reviewing applicable College policies to ensure compliance with applicable federal and state laws;
- Monitoring the administration of this policy, any associated policies, and all related record keeping and other procedural requirements;
- Responding to any notifications of conduct that reasonably may constitute a violation of this Policy.

In responding to notifications, the Policy Coordinator will make a fact-specific initial assessment based on reasonably available information to include the following:

1. Is the Respondent, if known, a covered person under the Policy? and
2. Would the allegations, if substantiated, constitute a violation of the Policy?

If the answer to the first question is no, the Policy Coordinator may take reasonable action to address the allegations, eliminate harassing/discriminatory conduct in the College's programs and activities, prevent harassing/discriminatory conduct from recurring, and support impacted members of the community, but a formal investigation pursuant to Section VIII will not be initiated. If the answer to the second question is no, the Policy Coordinator will refer the matter to the appropriate College office for follow-up. If the answer to both questions is yes, then the Policy Coordinator has the authority to proceed with the informal resolution or formal investigation processes in accordance with this Policy.

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

III. Policy Definitions

Anonymous Complaints: Complaints of discrimination, harassment and/or retaliation filed with the College may be submitted anonymously, meaning that the Complainant may file the complaint or report

without identifying themselves. Anonymous reporters are encouraged to speak with the Policy Coordinator so as to understand the potential limitations for an investigation being conducted based on an anonymous report.

Complainant: The term “Complainant” refers to the alleged victim of discrimination, harassment and/or retaliation/intimidation, whether reported by the alleged victim or a third party.

Confidential Resources: “Confidential Resources” are those who are not required to convey a report under this Policy.

Day: When referenced within this Policy, “day” refers to a day on which classes are held. Timelines for the Resolution Process, when extending into the summer or other break periods, will be communicated to the parties as the process proceeds.

Discrimination: The term “discrimination” means treating a community member or group less favorably than a similarly situated community member or group because they are a member of a “protected class” as defined herein. These same protections also apply to persons who are treated less favorably because of their affiliation or association with a “protected class” as defined herein.

Harassment: For purposes of this Policy, “harassment” is defined as any type of behavior which is based on an individual’s membership in a “protected class(es)” that is: a) unwelcome and b) creates a “hostile environment.”

Harassment when directed at an individual, or group of individuals, because of their membership in a “protected class(es)” or affiliation or association with a “protected class(es)” may include, but is not limited to:

- Conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
- Epithets, slurs, and/or negative stereotyping, jokes, or nicknames;
- Written, printed, or graphic material that contains offensive, denigrating, and/or demeaning comments, and/or pictures; and
- The display of offensive, denigrating, and/or demeaning objects, e-mails, text messages, social media posts, and/or images.

A “hostile environment” results from unwelcome and discriminatory conduct that is so severe, pervasive, or persistent that it unreasonably interferes with, alters, limits, or deprives a member of the community of the ability to participate in or to receive benefits, services or opportunities from the College’s education or employment programs and/or activities. A hostile environment can be the result of acts committed by any individual or individuals.

Investigator: Within the Policy, an “investigator” is a neutral and impartial fact-finder who gathers evidence during the investigation, makes determinations about findings, and recommends sanctions. The Policy Coordinator may supervise and advise the investigator when conducting investigations. Investigators may but need not be employees of the College. Investigators are specially trained to conduct investigations under this policy.

Preponderance of the Evidence: The “preponderance of the evidence” means it is more likely than not that a policy violation occurred, or did not occur, based on the evidentiary record. This is the evidentiary standard used when making determinations under this Policy.

Protected Class: As covered under this Policy, “protected class” is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. This Policy included the following “protected classes” (the Title IX Sex-based Harassment and Discrimination addresses complaints on the basis of sex, gender identity, and sexual orientation):

1. Age: “Age” means the number of years a person has been alive.
2. Color: “Color” means pigmentation, complexion, or skin shade or tone, including the lightness, darkness, or other color characteristic of the person.
3. Disability: “Disability” means a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness; a mental impairment or deficiency; a record of having a physical or mental impairment; or being regarded as having a physical or mental impairment. “Disability” includes any degree of paralysis, amputation, or lack of physical coordination; blindness or visual impairment; deafness or hearing impairment; muteness or speech impediment; and physical reliance on a service animal, wheelchair, or other remedial appliance or device.
4. Ethnic characteristics, shared ancestry, or national origin: “Ethnic characteristics, shared ancestry or national origin” means people from a particular country or part of the world, or those sharing related characteristics, including ethnicity and accent, or those who appear to be of a certain ethnic background (even if they are not). This includes actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity.
5. Genetic Information: “Genetic information” includes information about a person’s genetic tests and the genetic tests of a person’s family members, as well as information about the manifestation of a disease or disorder in the person’s family members (i.e. family medical history).
6. Marital Status: “Marital status” means being single, married, widowed, or divorced regardless of the sex of the other person.
7. Military/veteran status: “Military/veteran status” refers to a person’s prior service, current service, or intent to join the uniformed United States’ military services.
8. Race: “Race” includes discrimination on the basis of the physical or cultural characteristics associated with a certain race, such as skin color, facial features, hair texture, and hairstyles, including afro hairstyles, and protective hairstyles.
9. Religion: “Religion” includes all aspects of religious observances, practice, and belief.

Recognized Organization: Any student organization, club, intermural sports team, or other group of students organized in a formal and/or identifiable way. Organizations may be held accountable under this Policy through the same Resolution Process outlined.

Resolution Process: The process and procedures used by the College to address a complaint of discrimination and harassment. The “Resolution Process” is explained below.

Respondent: The term “Respondent” refers to the person alleged to have committed discrimination or harassment in violation of this Policy. A Respondent may be a “Recognized Organization” as defined herein.

Responsible Employee: “Responsible Employee” is a designation given to College employees who have a duty to refer instances of discrimination or harassment to the Policy Coordinator. This duty applies in instances where a “Responsible Employee” learns of acts or behaviors that may violate this Policy or is asked about the College process for filing a complaint of discrimination or harassment as defined herein. All employees of the College are designated as “Responsible Employees” under this Policy with the exception of those designed as “Confidential Resources” and those who work in front-line positions within Dining Services and Facilities. Student employees, with the exception of Resident Advisors, are not designated as Responsible Employees.

Retaliation: Any act or attempted act to seek retribution against anyone who has reported an alleged violation of this Policy or against anyone who has participated in an investigation or related proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, and discrimination.

Supportive Measures: The term “supportive measures” are measures designated to stop and prevent the recurrence of discrimination or harassment and protect the educational and living environment for the Complainant and the Respondent pending the outcome of the Resolution Process under this Policy. In all complaints, whether the Complainant moves forward with the Resolution Process or asks that the complaint remain confidential, the College may implement reasonable supportive measures.

The range of supportive measures includes, but is not limited to, the imposition of a no-contact order instructing the parties to not contact one another; change in work schedule or job assignment; restrictions in access to the College facilities; change in housing; change in class/teaching schedule; restrictions on co-curricular activities; or any other remedy which can be tailored to the involved individuals.

IV. Prohibited Conduct

The College prohibits discrimination, harassment, and/or disparate treatment based on any protected characteristic, which includes age, color, disability, ethnic characteristics, shared ancestry or national origin, genetic information, marital status, military/veteran status, race, religion, or other legally protected characteristic.

The College also prohibits any form of retaliation or attempts thereof against a person who makes a complaint or report of discrimination or harassment, participates in any way in the investigation or resolution of such a complaint or report, or exercises their rights or responsibilities under this Policy or the law.

Allegations associated with sex-based harassment or discrimination, including on the basis of sex, gender identity, or sexual orientation will be adjudicated under the Title IX Sex-based Harassment and Discrimination Policy. For complaints involving *both* allegations under the Title IX Sex-Based Harassment and Discrimination Policy and this Policy, the Policy Coordinator will determine the appropriate procedures to be applied to the allegations.

Each member of the community is responsible for fostering mutual respect, for being familiar with this Policy, and for refraining from conduct that violates this Policy. Members of the community are prohibited from filing complaints or reports of discrimination, harassment and/or retaliation that the person knows to be false.

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.

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 Nondiscrimination and Anti-harassment 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 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 Policy 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. In cases involving staff and tutors, the Policy Coordinator may notify the Dean, Human Resources, supervisors and others, as appropriate, of the existence of the report and/or complaint for the purpose of overseeing compliance with this Policy. 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 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 process under this policy.

Any additional disclosure by the College of information related to the report may be made if consistent with FERPA or federal or state regulations. 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

Parties and witnesses are expected to maintain confidentiality regarding the proceedings under this Policy, provided that the parties may speak to confidantes, parents, counselors, attorneys, and law enforcement authorities regarding the matter, and may speak to others for the purposes of seeking, obtaining, or presenting evidence, or otherwise preparing for the meetings described in this Policy. With respect to employees of the College, nothing in this paragraph in any way prohibits or is intended to restrict or impede the employee from discussing the terms and conditions of employee's employment with coworkers or otherwise disclosing information as permitted by law.

The parties are reminded that, in addition to this Policy's prohibition on Retaliation, other College policies regarding expectations for behavior remain 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, or 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, as defined within the policy, are expected to maintain strict confidentiality. Failure to do so will result in the immediate removal of the advisor.

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 hate crimes, 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.

VI. Reporting Options

Any member of the College community who believes that they have witnessed, experienced, or are aware of conduct that constitutes a violation of this Policy is encouraged to talk to someone about what happened. If any individual has been subject to or witnessed any type of discrimination or harassment, the following options are available. Individuals may pursue some or all of these options simultaneously:

All members of the campus community can report the incident to or file a complaint with the College by contacting the Policy Coordinator.

- Staff may additionally speak with their supervisor and/or Human Resources.
- Tutors and students may additionally speak with the Dean.
- Students may additionally speak with the Assistant Dean or Associate Dean.
- An after-hours resource can be accessed by calling Public Safety.

Persons who feel as though they have experienced conduct that constitutes a violation of this Policy can also decide to directly address this conduct with the other party. While this is not a requirement under this Policy, it may be the most straightforward path to resolving minor conflicts or misunderstandings.

Confidential 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 resources:

- For Students: The Student Health and Wellness Center/Therapists
- For Employees: The Employee Assistance Program

NOTE: The confidentiality of even confidential resources is subject to certain exceptions, such as reporting or other obligations under state law in cases of child abuse or imminent threats to safety. At the beginning of any conversation, individuals may want to consider asking resources to describe their level of confidentiality.

Obligations of College Employees

Given the size and intimate nature of the College environment, all employees of the College, (including staff, administrators, tutors, and Resident Advisors) - with a few limited exceptions – are designed as “Responsible Employees” under this Policy and, as such, are required to report possible violations of this Policy and to refer any member of the community to the Policy Coordinator when asked how to formally report discrimination or harassment. Employees who fail to make such a referral may be subject to disciplinary action.

The Policy Coordinator is the only person with the authority to implement corrective measures as outlined within this Policy on behalf of the College. No employee is authorized to investigate or resolve reports or complaints of discrimination, harassment and/or retaliation as defined herein.

Requests for Confidentiality

The College understands that Complainants may report an incident but request confidentially. The College also understands that some Complainants may not wish to pursue an investigation or that they may wish to pursue an investigation in a more limited way due to confidentiality concerns. In such instances, the Policy Coordinator will weigh the request against the College’s obligation to provide a safe, non-discriminatory environment for all students, employees, and others.

Should the Policy Coordinator determine that the allegations suggest a threat to the community, create a hostile environment or otherwise require responsive action, the request for confidentiality may not be

granted. In cases where a request for confidentiality is honored, the College's ability to investigate and take disciplinary action may be limited.

In all circumstances, the College will make appropriate supportive measures available, provide access to resources, and take such other actions as necessary and appropriate to protect the safety and security of the parties and the College community.

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 the Policy Coordinator. It should be noted that the College's ability to investigate or act upon anonymous reports will be limited.

Persons who wish to learn more about anonymous reporting are reminded that they should not disclose any information about their or another person's specific case when seeking to have their questions answered.

Reporting to Law Enforcement or Other Government Agencies

The College encourages (but does not require) Complainants to pursue criminal action for incidents of discrimination and harassment that may also be crimes under applicable law. 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 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 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.

Inquiries or reports concerning discrimination, harassment and/or retaliation or the College's handling of such inquiries or complaints may be referred to the Department of Education's Office for Civil Rights or the Department of Justice's Office for Civil Rights (depending on the specifics of the complaint). Employee reports may also be referred to the U.S. Equal Employment Opportunity Commission and/or the Maryland Commission on Civil Rights or New Mexico Human Rights Bureau.

False Allegations

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. Similarly, a person who is later proven to have intentionally given false information during the course of an investigative or disciplinary process may be subject to disciplinary action. 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.

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 harassment or discrimination.

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 harassment or discrimination 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.

Dismissal of a Complaint

The College may dismiss a complaint if:

- The College is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the College’s education program or activity and is not employed by the College;
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the complaint or allegations;

- The College receives the complainant's voluntary withdrawal in writing of any or all of the allegations, the Policy Coordinator declines to initiate a complaint, and the College determines that, the conduct that remains in the complaint would not constitute harassment or discrimination, even if proven; or
- The College determines that the conduct alleged in the complaint, even if proven, would not constitute harassment or discrimination within its programs or activities. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the complainant.
- If the College dismisses a complaint, the College will provide the complainant with a written notice of the dismissal, and the reason(s) for the dismissal, and that a dismissal may be appealed as described in this Section.

The Complainant will have five (5) business days from notification of the dismissal to appeal. Appeals will be accepted on the following grounds:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination to dismiss the complaint was made; and
- The Policy Coordinator had a conflict of interest or bias for or against complainants or respondents generally or that individual complainant or respondent that would change the outcome.

Concurrent notice will be provided to the respondent, provided the respondent was notified of the complaint prior to its dismissal. If so, the respondent will have five (5) business days to submit a statement in support of, or challenging, the dismissal.

Parties will not meet with the Appeal Officer and should not communicate with them directly. The appeals process is conducted in writing through the Policy Coordinator. As such, the Complainant's appeal must set forth all accepted grounds for appeal and support for such grounds, and any response from Respondent (if applicable) must set forth all bases refuting such grounds or supporting dismissal. Neither party is invited to submit additional information or documentation as part of the appeal process. The Appeal Officer will evaluate the appeal based on the criteria outlined above. The Appeal Officer may uphold or overturn the decision of the Policy Coordinator. Should the decision be overturned, the complaint will move forward as outlined within this policy.

The Appeal Officer for all complaints under this Policy is the Director of Human Resources on the other campus.

If a complaint is dismissed, the College will offer supportive measures to the complainant and respondent (if respondent has been notified of the allegations) and take other prompt and effective steps, as appropriate, to ensure that harassment and discrimination does not continue or recur within the College's education program and activity.

Reports Without a Complaint

The only individual who may serve as a Complainant is the person to whom the alleged discrimination, harassment, or retaliation was directed. If this individual does not want to proceed with a complaint or

when the College is made aware of conduct without a specific Complainant, the College may proceed as the Complainant if it has actual or constructive notice of a potential hostile environment or potential discriminatory conduct in violation of the Policy. In this case, the Policy Coordinator will draft a written formal complaint and the formal investigation process will proceed in accordance with this Policy

Complaints with Multiple Complainants or Respondents

In the event that the College receives a complaint involving more than two parties (one complainant and multiple respondents, multiple complainants and one respondent, or multiple complainants and multiple respondents) or in cases where there are multiple complaints involving the same two parties the College may consolidate the complaints provided the complaints arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references 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 Policy 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 Policy Coordinator will not be considered as grounds in any appeal process afforded to the parties within this policy.

Records and Documents

Records and documents generated related to a complaint associated with the Policy will be maintained in accordance with applicable policies, procedures, and legal requirements. This includes all reports of discrimination, harassment, retaliation and intimidation and related evidence, documents, records, and information pertaining to the investigation and resolution of the complaints.

VII. 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.

VIII. Grievance Procedures

The purpose of this Policy is to stop, remediate the effects of, and prevent the recurrence of discrimination, harassment, and retaliation as defined within this Policy. All complaints and investigations will be handled in a prompt, thorough, equitable, and impartial manner. Additionally, Complainants and Respondents are entitled to treatment with dignity, respect, and sensitivity by the College.

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

Throughout the grievance process, each party may have an adviser present, provided that person agrees to serve in this capacity; parties may change their adviser 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. An adviser may be a member or non-member of the College community; advisors may not be an attorney. Parties are not required to have an advisor.

The role of advisers 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 is invited to attend, but they may not actively participate in interviews and may not serve as a proxy for the party. Any individual who serves as an adviser is expected to make themselves available for meetings 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 to take appropriate steps to ensure compliance with this policy.

Witnesses are not entitled to be accompanied by an advisor.

Anybody serving as an advisor must sign and agree to the terms as outlined in the Support Person-Advisor Agreement.

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.

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.

Notification of Complaint

If the Complainant decides to proceed with the process, the Complainant must submit a written complaint. The written complaint should include the names of individuals involved, the alleged conduct, the time and date of the alleged conduct, the location where the alleged conduct occurred, and how the

alleged conduct is discriminatory or harassing based on membership in a Protected Class. A copy of the formal complaint will be provided to the Respondent.

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

Supportive Measures

The Policy Coordinator will work with impacted parties to put supportive measures in place aimed at stopping and preventing the recurrence of discrimination or harassment and to protect the educational and living environment for the Complainant and the Respondent pending the outcome of the procedures under this Policy.

The range of supportive measures include, but are not limited to, the imposition of a no-contact order instructing the parties to not contact one another; change in work schedule or job assignment; restrictions in access to the College facilities, including but not limited to the Dining Hall or Residence Halls; change in housing; change in class schedule; restrictions on co-curricular activities; interim suspension/administrative leave; or any other remedy which can be tailored to the involved individuals.

Violations of no contact orders and failures to comply with other interim measures may result in disciplinary action pursuant to the student conduct code or relevant divisional policy for faculty and staff.

Informal Resolution

In lieu of resolving a complaint through an investigation, 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 and Respondent.

An informal resolution can be requested by a Complainant or Respondent at any time after a complaint has been submitted up to the conclusion of the investigation. 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 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 Policy 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. The College will generally allow only one informal resolution per Respondent.

Should the Policy Coordinator determine that informal resolution is appropriate to the circumstances the complainant or respondent will be notified of this option and will have five (5) business days to notify the Policy Coordinator in their interest in the informal resolution process. In the instance when a party does not reply to the notice or a party does not voluntarily agree to participate in the informal resolution process, the College will begin an investigation into the complaint by proceeding with the grievance process.

The College will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of complaints of harassment or discrimination as defined within this policy. Similarly, the College will not require, encourage, or discourage the parties from participating in the informal resolution process.

The existence of an informal resolution and/or the agreed-upon terms is considered private information. 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.

The Policy Coordinator may use the information obtained during an informal resolution process as evidence when investigating the complaint when the terms of an informal resolution are broken or incomplete. The Policy Coordinator may also use the information obtained during an informal resolution as evidence when investigating a complaint if a subsequent allegation of Prohibited Conduct involving the same Respondent is made. If this occurs, the relevant portion of the complaint may be shared with an Investigator and the Complainant may be called as a witness.

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 Policy 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 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 Policy 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, responses of both parties will be compiled into one document.

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

The Complainant and Respondent must identify and agree upon the consequences for violating the terms of the informal resolution. The Policy 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.

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.

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.

Investigation

If the Policy 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 Policy Coordinator will refer the matter for investigation.

The Policy Coordinator will appoint a trained investigator. The appropriate investigator will be determined based on the status of the parties as outlined below. The Policy Coordinator may appoint an equal co-investigator; where dual investigators are appointed, both investigators need not be present at all interviews or meetings. An investigator appointed by the Policy Coordinator may be external to the College. In most cases, the investigator appointed will be the Policy Coordinator for the other campus.

- In cases where the Respondent is an employee (staff or tutor) and the Complainant is an employee (staff or tutor) the Policy Coordinator for the other campus will ordinarily serve as the investigator.
- In cases where the Respondent is a student and the Complainant is a student, the Policy Coordinator for the other campus will ordinarily serve as the investigator.
- In cases where one party is an employee (staff or tutor) and the other party is a student, an external investigator will ordinarily be assigned.
- In cases where the respondent is unknown, a fact-specific determination about who will serve as the investigator will be made by the Policy Coordinator on the campus where the incident occurred.
- If due to conflict, unavailability, or other reasons it is not appropriate for an investigator to serve in a particular case, alternative investigators other than those described above may be appointed.

The investigation will be prompt, thorough, and impartial. The College will strive to complete all investigations within 60 business days; should an extension be required the parties will be notified. 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 protected-class harassment or discrimination occurred. Although formal rules of evidence will not apply, the investigator will not consider character evidence.

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 not be grounds for an appeal. 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 present at any meeting, as outlined in Section VII 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 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. In all cases, any information relied on in adjudicating the matter will be provided to the parties. 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 Report.

Following their review of the parties' responses (if any) to the Summary of Evidence, the investigator will create a Final Report that includes the investigator's findings of fact, analysis of the facts based upon the preponderance of the evidence standard, a determination as to whether the Respondent is responsible for the alleged violation(s) by a preponderance of the evidence, and recommended sanctions associated with the complaint. Proposed remedies for the complainant or College community will also be considered.

The full report will be provided to the Policy Coordinator who will ensure that the recommended sanctions are in-line with other similar cases. If recommended sanctions are not in-line with other similar cases, the Policy Coordinator will confer with the investigator(s). Once the investigator(s) determine final sanctions, with concurrence from the Policy Coordinator, an outcome letter will be generated and shared with the parties; the Final Report will also be shared with the parties.

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 Title IX Sex-based Harassment and Discrimination, including, but not limited to, prevention and awareness, victims' rights, and appropriate behaviors.

Where an investigation has identified a concern regarding a College policy, procedure, or other measure which has a broader impact beyond the particular circumstances of the Complainant and the complaint, the Policy Coordinator will be responsible for addressing the concern with the appropriate College official.

IX. Appeals

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

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonable available when the determination was made;
- The Policy Coordinator or one of both of the investigators 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, although the Policy Coordinator has discretion to stay enforcement of the sanctions. Both the Complainant and the Respondent will have five (5) days from written notification of an outcome to submit a written appeal to the Policy Coordinator. If the Policy Coordinator receives no timely appeals, both parties will be notified that the original decision stands.

If and when the Policy 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) 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.

The Appeal Officer for all complaints under this Policy is the Director of Human Resources on the other campus. The Complainant will not meet with the Appeal Officer and should not communicate with them directly. The appeals process is conducted in writing through the Policy Coordinator. The Appeal Officer will evaluate the appeal based on the appeal and response, documentary evidence collected during the investigation, and Final Report and any additional information submitted during the appeal process.

Any information or materials that were previously submitted and determined to contain information that is irrelevant to the complaint, including information that is not permitted by law and character evidence, will not be considered by the Appeal 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 investigators. 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 investigators to address the appealed aspects of the case; or c) determine that grounds for appeal have been met, and 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 Appeal Officer's decision is final, and no further appeal is permitted.

Absent unusual circumstances, the Policy Coordinator will provide the outcome of the appeal in writing to the Complainant and Respondent within fifteen (15) days from the Appeal Officer's receipt of the appeal.

IX. Withdrawal or Resignation with Charges Pending

If a student Respondent withdraws from St. John's College while any aspect of this Policy is in progress, and before an informal resolution is reached or findings have been made, the Respondent's academic file will include a letter from the Policy Coordinator reflecting that the student withdrew pending an investigation under this Policy. Should a student decide to withdraw and not participate in the Resolution Process, St. John's College may opt to proceed without the student to a reasonable resolution and the student will not be permitted to return unless all sanctions have been satisfied.

Should an employee Respondent decide to resign or otherwise leave the College and not participate in the Resolution Process, St. John's College may opt to proceed with the investigation without the employee to a reasonable resolution and the employee may not be permitted to reapply for employment or to otherwise participate in the St. John's College community if a policy violation is found or if the investigation is impeded or impossible due to the employee's lack of participation.

Policy effective as of August 1, 2024