



**ST. JOSEPH'S COLLEGE OF
NURSING at St. Joseph's Hospital
Health Center
Syracuse, NY**

SJCON: SEXUAL VIOLENCE PREVENTION AND RESPONSE, TITLE IX

Purpose

This policy is designed to address conduct that falls within Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the Campus Sexual Violence Elimination Act (SaVE Act), and NYS Education Law 129 B.

Title IX prohibits Sex-based harassment such as Quid-pro quo harassment, hostile environment harassment, sexual assault,, domestic violence, dating violence, and stalking.

Notice of Non-Discrimination

St. Joseph's College of Nursing (SJCON) is committed to maintaining a healthy and safe learning, living, educational, and working environment that is free from all forms of discrimination, harassment, and violence, and creates an environment that promotes responsibility, dignity, and respect in matters of sex discrimination and conduct.

SJCON does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including admission and employment.

SJCON prohibits sex discrimination, harassment, and retaliation of any kind on the basis of sex. Any person, regardless of gender identity, sex stereotypes, and sex characteristics, sexual orientation, pregnancy or related conditions or parental status can be a victim/survivor of sex discrimination. All protections under this policy will be provided in an equitable manner to all individuals.

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, race, color, national origin, religion, creed, age, disability, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other protected classes covered by applicable federal, state, or local law. All requirements and protections are equitably provided to

individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness.

Inquiries about Title IX may be referred to SJCON Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

SJCON Title IX Coordinator is Dr. Beth Purcell, SJCON, Office #116, beth.purcell@sjhcon.edu, 315-448-6114.

SJCON nondiscrimination policy and grievance procedures can be located at <https://www.sjhcon.edu/title-ix/#>

To report information about conduct that may constitute sex discrimination or make a Complaint of sex discrimination under Title IX, please contact Title IX Coordinator.

Individuals who wish to file a complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>. Individuals may also file complaints with the New York State Division of Human Rights (DHR), using contact information available at <https://dhr.ny.gov/complaint>.

I. Effective Date and Changes to Procedure Based on Court Rulings and Legal Challenges or Changes in Law or Regulation

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024 will be processed through the institution's previous 2020 Title IX Grievance Policy

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Procedure, the Procedure in its entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy. SJCON will update this Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Procedure, if applicable.

II. Scope of Procedure

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

III. Jurisdiction of Procedure

SJCON's Title IX Coordinator or designee will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred in the United States occurred on campus, off campus, or while studying abroad.
- The conduct alleged occurred in SJCON's Education Program or Activity; and
- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

NOTE: SJCON has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be contributing to the Hostile Environment occurred outside SJCON's Education Program or Activity, or outside of the United States. SJCON's Title IX Coordinator will work with all Complainants to assess such complaints that may fall under these criteria, and direct to appropriate SJCON Policies and Procedures that may apply if this Grievance Procedure does not. SJCON will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section below.

This Policy applies to prohibited conduct that occurs and actions committed by students, faculty, staff, or third parties against a person in the United States, whenever the conduct or action occurs:

- On SJCON campus property. St. Joseph's College of Nursing's Campus is defined as any property owned and operated by the governing organization, St. Joseph's Hospital Health Center; or
- Off SJCON campus property. If the conduct was in connection with SJCON or a SJCON recognized program or activity which includes locations, events, or circumstances over which SJCON exercised substantial control over both the person accused of the conduct and the context in which the sexual harassment occurred.
- Through the use of SJCON-owned or provided technology resources; or

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- When conduct has continuing adverse effects and creates or continues a hostile environment on campus

If all elements of jurisdiction are met, SJCON will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the complaint.

IV. Students' Bill of Rights

All Students have the right to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosures of Domestic Violence, Dating Violence, Stalking, and Sexual Assault treated seriously.
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations.
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be protected from Retaliation by the institution, any Student, the Accused and/or the Respondent, and/or their friends, family, and acquaintances within the jurisdiction of the institution.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a Reporting Individual or Complainant, Accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

V. Definitions

1. **Accused** means a person accused of a violation who has not yet entered an institution's judicial or conduct process.

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2. **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by SJCON.
3. **Bystander** means a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of the rules or policies of an institution.
4. **Code of conduct** means the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in the institution.
5. **Affirmative Consent:** Affirmative consent is a knowing, voluntary, and mutual decision between all participants to engage in sexual activity. Consent may be given by words or actions as long as those words or actions create clear permission regarding an individual's willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

Consent to any sexual act or prior sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

- a. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol at the time.
- b. Consent may be initially given and withdrawn at any time.
- c. Consent cannot be given when a person is incapacitated such that the individual lacks the ability to choose knowingly to participate in sexual activity. Incapacitation may be caused by a lack of consciousness or by being asleep, being involuntarily restrained, or in other circumstances such as being under the influence of drugs and/or alcohol to the extent that the individual is unable to consent.
- d. Consent cannot be given when it is the result of coercion, intimidation, force, or threat of harm.
- e. When consent is withdrawn or can no longer be given, sexual activity must stop

6. **Complainant** means:

- (1) a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in these procedures and who was participating or attempting to participate in SJCON's Education Program or Activity; or
- (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this grievance procedure and who was participating or attempting to participate in SJCON's Education Program or Activity at the time of the alleged Sex-Based Harassment.

A Complainant may also be referred to as a Reporting Individual in this Grievance Procedure, in alignment with New York State Education Law Article 129-B.¹

7. **Complaint** means an oral or written request to SJCON that objectively can be understood as a request for SJCON to investigate and make a determination about alleged Sex-Based Harassment at the institution.

8. **Confidential Employee** means:

- (1) an employee of SJCON whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

(2) an employee of SJCON whom the recipient has designated as confidential for the purpose of providing services to persons related to Sex-Based Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-Based Harassment in connection with providing those services; or

(3) an employee of SJCON who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-Based Harassment. The employee's confidential status is only with respect to information received while conducting the study.

9. ***Disciplinary Sanctions*** means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated SJCON's prohibition Sex-Based Harassment.
10. ***Education Program or Activity*** means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by SJCON that receives Federal financial assistance.
11. ***Party*** means Complainant or Respondent.
12. ***Peer Retaliation*** means Retaliation by a Student against another Student.
13. ***Relevant*** means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.
14. ***Remedies*** means measures provided, as appropriate, to a Complainant or any other person SJCON identifies as having had their equal access to SJCON's Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person's access to SJCON's Education Program or Activity after SJCON determines that Sex-Based Harassment occurred.
15. ***Respondent*** means a person who is alleged to have violated SJCON's prohibition on Sex-Based Harassment.

Retaliation means intimidation, threats, coercion, or discrimination by any person by SJCON, a Student, or an employee or other person authorized by SJCON to provide aid,

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benefit, or service under SJCON's Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this grievance procedure, including an informal resolution process.

16. ***Sex-Based Harassment*** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by SJCON's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(2) *Hostile Environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from SJCON's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access SJCON's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within SJCON's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in SJCON's Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent.

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic

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violence laws of New York State or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York State or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

17. ***Student*** means a person who has gained Admission.

18. ***Supportive Measures*** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that Party's access to SJCON's Education Program or Activity, including measures that are designed to protect the safety of the Parties or SJCON's educational environment; or (2) provide support during SJCON's grievance procedures for Sex-Based Harassment or during the informal resolution process.

VI. NOTE: Disability Accommodations

Generally

This procedure does not alter any institutional obligations under applicable federal disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedures. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Requests for Reasonable Accommodations During the Title IX Grievance Procedure

If the Complainant or Respondent discloses a disability, the Title IX Coordinator may consult, as appropriate, with Student Success Coordinator to provide support to students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

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VII. Policy for Alcohol and/or Drug Use Amnesty

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

VIII. Basic Requirements of the Grievance Procedure

SJCON is required to:

- Treat Complainants and Respondents equitably
- Ensure that any person designated by SJCON as a Title IX Coordinator, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay.
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this Grievance Procedure;
- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this Procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness.
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how SJCON will determine which policies and procedures apply if not all such complaints are handled under this institutional Grievance Procedure.

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- The decisionmaker may be the same person as the Title IX Coordinator or investigator as allowed by the 2024 Title IX Regulations; no inference of bias or conflict of interest can be drawn solely because the decisionmaker is the same person as the Title IX Coordinator or investigator in a case.

Per New York State Law, SJCON is also required to additionally ensure that Complainants are advised of their right to:

- Notify Campus Security, local law enforcement, and/or state police.
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a Complainant to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated New York Penal Law should be addressed to law enforcement or to the district attorney, who shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the Complainant of other reporting options;
- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants.
- Disclose confidentially the incident and obtain services from the state or local government.
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals.
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance, ensure that Complainants know that reports shall be investigated in accordance with this Grievance Procedure and/or any other institutional policies that may be applicable, and ensure that a Complainant's identity will remain private at all times if said Complainant wishes to maintain privacy.
- Disclose, if the accused is an employee of SJCON, the incident to SJHHC Human Resources or the right to request that a confidential or private employee assist in reporting to the appropriate representative for the Human Resources Department, at which point, such referral shall be handled according to the appropriate policies and procedures related to employee complaints.
- Receive assistance from appropriate SJCON representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from SJCON's Grievance Procedure at any time.

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IX. Reporting Sex-Based Harassment Occurring Between Students to the Institution

Non-Confidential Reports

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator at SJCON:

Name: Elizabeth Purcell

Title: Associate Dean for Academic Affairs/Title IX Coordinator

Office Address: Room #116 SJCON

Email Address: beth.purcell@sjhcon.edu

Telephone Number: 315-448-6114

A. Criminal complaints:

To file a criminal complaint:

•**St. Joseph's Health Campus Safety and Security:**

315-448-5175 or 5555

•**City of Syracuse local law enforcement:** 911

•**Onondaga County Sherriff's Department:** 315-435-2962

•**New York State Police:** 1-844-845-7269 (to report a sexual assault on a New York college campus)

B. Anonymous Reporting: Individuals wishing to file an anonymous report of sexual assault, domestic violence, dating violence, and/or stalking may use the link provided. The Title IX Coordinator/Investigator will review the report and proceed with an investigation accordingly. <https://www.surveymonkey.com/r/sjcontitleix>

To best preserve evidence:

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- Avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical examination has been completed.
- Within 96 hours of an assault, the complainant can receive a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services.
- Complainants are encouraged to notify hospital personnel during the medical visit if they do not want their insurance policyholder to be notified about access to these services

C. Public Awareness/Advocacy Events: If a victim of a Title IX crime discloses a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, or other public events, SJCON is not obligated to begin an investigation. However, SJCON may review the information provided and use it to offer additional education and/or prevention to the campus community.

CRIME ALERTS/EMERGENCY NOTIFICATIONS

If a report of a sexual or interpersonal offense reveals there is an immediate threat to the health or safety of students or employees on campus or that an on-going serious or continuing threat to the campus community exists, SJCON will issue an Emergency Notification or a Campus Crime Alert through SJCON’s Emergency Notification System. The purpose of a Campus Crime Alert is to enable persons to protect themselves, heighten safety awareness, and seek information that will lead to an arrest and conviction of the perpetrator.

The victim’s/survivor’s name and other personally identifying information WILL NOT be included in any Emergency Notification or Crime Alert.

PREVENTION EDUCATION AND AWARENESS

SJCON maintains educational programs to promote prevention, intervention, and reporting of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking, among other topics. These education programs include primary prevention and awareness programs for all incoming students and employees designed to reduce risk, encourage reporting, and engage bystanders in prevention, and may be found on the College’s website: www.sjhcon.edu/titleIX

Confidential Reports

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The following officials at SJCON will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX
- All other employees at SJCON that are not designated as confidential resources.

The following officials may provide confidentiality:

- Licensed mental health counselors
- Medical Providers
- Pastoral counselors

There are other confidential options available for crisis intervention, resources and referrals, but these are not reporting mechanisms to the institution, meaning that disclosure on a call to one of these hotlines does not provide any information to SJCON.

Complainants are encouraged to additionally contact a campus confidential or private resource so that SJCON can take appropriate action in these cases. Some resources for confidential disclosure **NOT** to the institution are:

- The New York State Office for the Prevention of Domestic Violence hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options that can be found and are presented in several languages can also be found here: <http://www.opdv.ny.gov/help/index.html> (Hotline 1-800-942-6906).
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <https://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- RAINN: <https://www.rainn.org/get-help>; 1800-656-4673; and
- Safe Horizons: <http://www.safehorizon.org/>

Privacy vs. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean SJCON offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. SJCON will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

At the First Instance of Disclosure of a Report

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SJCON shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a SJCON representative, the following information shall be presented to the Complainant: “You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from Retaliation for reporting an incident; and to receive assistance and resources from your institution.”

X. Supportive and Interim Measures

Providing Supportive Measures

Complainants who report allegations of Sex-Based Harassment have the right to receive supportive measures from SJCON regardless of whether they file a complaint. Supportive measures are non-disciplinary and non-punitive. Supportive measures may vary depending upon what is reasonably available at SJCON.

As appropriate, supportive measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available
- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative.
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex-Based Harassment
- Assistance by SJCON’s police or security forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order

Supportive measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or SJCON’s educational environment, or to provide support during SJCON’s Sex-Based Harassment grievance procedures under this policy or during informal resolution under this procedure.

SJCON may modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or may continue them beyond that point within SJCON’s discretion.

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SJCON will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to SJCON's Education Program or Activity, or there is an exception that applies, such as:

- SJCON has obtained prior written consent from a person with the legal right to consent to the disclosure.
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue.
- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in SJCON's Education Program or Activity.
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

Resources

A. Medical and Counseling Resources (may have a fee):

- St. Joseph's Health Hospital 301 Prospect Ave Syracuse, NY, 315-448-5000.

B. Confidential Counseling Resources:

- Vera House - Off Campus Support
 - 723 James Street, Syracuse, NY
 - 315-425-0818
 - <https://www.verahouse.org/contact-us>
- Carebridge
 - 1-800-437-0911
 - You may also send an email to clientservice@carebridge.com.
- The New York State Office of Victim Services
 - May be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds.
 - More information may be found here:
http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf.

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- Or by calling 1-800-247-8035.
- Options are explained here:
- <http://www.ovs.ny.gov/helpforcrimevictims.html>

C. Legal Assistance:

- The New York State Office of Victim Services
 - May be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds.
 - More information may be found here:
<https://ovs.ny.gov/>
 - Or by calling 1-800-247-8035.

Note on Orders of Protection and their equivalent: SJCON must provide a copy of the order of protection or equivalent when it is received by SJCON, and Parties shall have the opportunity to meet or speak with the Title IX Coordinator, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. A Complainant is also entitled to receive assistance from Campus Security in effecting an arrest when an individual violates an order of protection or, if Campus Security does not possess arresting powers, then to call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

Process for Review of Supportive Measures

SJCON provides for a Complainant or Respondent to seek modification or reversal of SJCON's decision to provide, deny, modify, terminate a supportive measure. Grounds for challenge of supportive measures include, but are not limited to:

- Whether a supportive measure is reasonably burdensome
- Whether a supportive measure is reasonably available
- Whether a supportive measure is being imposed for punitive or disciplinary reasons
- Whether the supportive measure is being imposed without fee or charge; and
- Whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

This review will be conducted by an impartial employee of SJCON, who did not make the challenged decision on the original supportive measure request. The impartial employee of SJCON who makes this determination will have the authority to modify or reverse the decision if

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that impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the procedures as outlined above for providing supportive measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual supportive measures. Challenges by one Party will not be heard to supportive measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

Emergency Removal

SJCON retains the authority to remove a Respondent from all or part of SJCON's Education Program or Activity on an emergency basis, where SJCON (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex-Based Harassment justifies removal.

SJCON will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. Challenges by Respondent to emergency removal will be resolved by the Academic Dean or designee. The challenge must be submitted in writing via electronic email or certified mail by the respondent directly to the Academic Dean or designee, with a copy to the Title IX Coordinator within 10 calendar days after respondent receives emergency removal decision from Title IX Coordinator.

The decisionmaker who hears a challenge to an emergency removal must not be involved in any decision regarding responsibility or appeal of a determination.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

Administrative Leave

SJCON retains the authority to place a non-student employee Respondent on administrative leave during the Grievance Procedure.

Note on student employees: When a Complainant or Respondent is both a student and an employee of SJCON, SJCON must make a fact-specific inquiry to determine whether this procedure applies to that student employee. SJCON will consider if the Complainant or Respondent's primary relationship with SJCON is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

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XI. The Title IX Grievance Procedure for Sex-Based Harassment Occurring Between Students

A. Filing a Complaint

Who can make a Complaint?

- A Complainant (as defined in Section VI (6) of this Grievance Procedure); or
- The Title IX Coordinator.

Note on Title IX Coordinator initiated Complaints: In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-Based Harassment. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint.
- The Complainant's reasonable safety concerns regarding initiation of a Complaint
- The risk that additional acts of Sex-Based Harassment would occur if a complaint is not initiated;
- The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the Sex-Based Harassment and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is an employee of SJCON or SJHHC.
- The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals.
- The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
- Whether SJCON could end the alleged Sex-Based Harassment and prevent its recurrence without initiating this Grievance Procedure.

If after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged present as an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents SJCON from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

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If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed in Section VI of this Grievance Procedure.

Is there a particular format that the Complaint needs to be in?

As defined in VI (6) of this Grievance Procedure, a Complaint can be an oral or written request to SJCON that objectively can be understood as a request for SJCON to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Who can I report a Complaint to?

Any reports of Sex-Based Harassment may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are other ways in which a Party may report a Complaint.

SJCON requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of SJCON or has responsibility for administrative leadership, teaching, or advising in SJCON's Education Program or Activity must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment.

All other employees at SJCON who are not Confidential Employees and are not employees as identified above are required to provide the contact information of the Title IX Coordinator and information about how to make a complaint of Sex Discrimination, including Sex-Based Harassment, to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under this Grievance Procedure.

Note: If an employee has personally been subject to conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment, under Title IX or any institutional policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

What is the timeframe for SJCON to evaluate if the Title IX Coordinator is initiating an investigation under this Grievance Procedure?

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure within 14 calendar days after the Complaint is made and must issue the Notice of Allegations as soon as practicable after the Complaint is evaluated. If there are any delays or

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extensions, the Title IX Coordinator must appropriately notice the Parties in writing via electronic email and/or certified letter, on a case-by-case basis, with good cause and the rationale for the extension or delay.

Can I make a Complaint and request initiation of the Grievance Procedure even if I have made a complaint to law enforcement?

Yes. SJCON has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent complaint before law enforcement. This process is an administrative process that is different from the criminal justice process. Per New York state law, it is required that SJCON's process run concurrently with a criminal justice investigation and proceeding, however, temporary delays are allowed as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

B. Multi-Party Situations and Consolidation of Complaints

SJCON may consolidate complaints alleging Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex-Based Harassment arise out of the same facts or circumstances.

SJCON can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and
- Any risks to the fairness of the investigation or outcome.

C. Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

D. Dismissal of a Complaint

Grounds for Dismissal

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SJCON may dismiss a complaint of Sex-Based Harassment for any of the following reasons:

- SJCON is unable to identify the Respondent after taking reasonable steps to do so.
- The Respondent is not participating in SJCON's Education Program or Activity and is not employed by SJCON or SJHHC.
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint of these procedures, and SJCON determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Sex-Based Harassment under Title IX or this grievance procedure even if proven or
- SJCON determines that the conduct alleged in the complaint, even if proven, would not constitute Sex-Based Harassment under Title IX or these procedures. Note: SJCON must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

If SJCON dismisses a complaint, SJCON is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then SJCON must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeals of Dismissals

SJCON must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a complaint on the following grounds:

- Procedural irregularity: procedural irregularity that affected the outcome of the matter (i.e., a failure to follow SJCON's own policy to a degree that had material effect on the outcome of the matter).
- New evidence: New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred, or dismissal of the complaint was made; and
- The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

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- If the dismissal occurs after the Respondent has been notified of the allegations, then SJCON must also notify the Respondent that the dismissal may be appealed on the grounds set out above.

If dismissal is appealed:

- Supportive measures remain available during the pendency of the appeal to both complainant and respondent
- If a Party appeals, the institution will as soon as practicable notify the other Party in writing via electronic email and/or certified mail of the appeal; however, the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.
- Both parties will have reasonable and equal opportunity to make statement in support of, or challenging the outcome

Appeals may be no longer than 5 pages. Appeals should be submitted using 12-point font, and single-spaced.

Suggested format for a student writing an appeal:

1. Specify the reason(s) for the appeal. You may appeal on any conditions discussed above.
2. Provide a clear and detailed explanation for each reason cited.
3. Include any new supporting documentation.
4. Be sure to sign your appeal.
5. Include the following in the opening paragraph of your appeal:
 - Date time and location of the incident.
 - State the reason for the appeal.
6. In the body of the appeal explain the basis for the appeal (in other words provide the information to support your reason(s) for appealing).

Appeals will be decided by SJCON appointed decisionmaker who will be free of conflict of interest and bias, and has not served as investigator, Title IX Coordinator, or decisionmaker in the same matter.

Outcome of appeal will be provided in writing via electronic email and certified mail simultaneously to both Parties and include rationale for the decision.

E. Notice of Allegations

Upon initiating SJCON’s Grievance Procedures, the Title IX Coordinator shall provide a notice of allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after SJCON receives a complaint if there are no extenuating circumstances.

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SJCON will provide the Notice of Allegations within 14 calendar days after receiving a complaint.

What does the Notice of Allegations Include?

The written Notice of Allegations must include:

- SJCON's Grievance Procedures and SJCON's Informal Resolution process.
- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes:
 1. the identities of the parties involved in the incident(s),
 2. the conduct alleged to constitute Sex-Based Harassment under the Grievance Procedures, and
 3. the date(s) and location(s) of the alleged incident(s), to the extent that information is available to SJCON
- A statement that the Parties are entitled to:
 - an accurate description of the relevant and not otherwise impermissible evidence, with an equal opportunity for the parties to access the underlying relevant and not otherwise impermissible evidence upon request of any Party.
- A statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of SJCON's Grievance Procedure and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker.
- Parties may have an advisor of their choice, and that the advisor may be, but is not required to be, an attorney.
- SJCON's prohibits knowingly making false statements or knowingly submitting false information during SJCON's Grievance Procedures and
- If, in the course of an investigation, SJCON decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original written Notice of Allegations provided, SJCON is required to provide written notice of any additional allegations to the Parties whose identities are known.

What if SJCON decides to investigate additional allegations of Sex-Based Harassment?

If, in the course of an investigation, SJCON decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original issued written Notice of Allegations, or that are included in a complaint that is consolidated under this Grievance Procedure, SJCON shall provide notice of the additional allegations to the Parties whose identities are known.

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What if I have safety concerns about a Notice of Allegations being issued to a Respondent?

To the extent that SJCON has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, SJCON through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

F. Advisor of Choice and Participation of Advisor of Choice

A Party's advisor of choice may accompany the Party to any meeting or proceeding, and that SJCON cannot limit the choice of who that advisor may be or their presence for the Parties in any meeting or proceeding.

G. Investigation

General Rules of Investigations

For the investigation of prohibited conduct under this policy, SJCON will designate the Title IX Coordinator, trained SJCON representative, or outside party to perform an investigation of the conduct alleged to constitute Sex-Based Harassment in a reasonably prompt timeframe, after issuing the Notice of Allegations.

SJCON, and not the Parties, have the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred under this Grievance Procedure. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from SJCON and does not indicate responsibility.

SJCON cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. SJCON will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

Notice of Participation

SJCON will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

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Advisors of Choice and Participation of Advisors of Choice

SJCON will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding. Parties must notify the Title IX Coordinator or designee at least 48 hours prior to the meeting who is their advisor of choice.

Advisors of choice may not actively participate in the grievance process meetings. They are permitted to directly address anyone other than their advisee and cannot speak on behalf of their advisee. If the advisors violate this rule, they may be asked to leave the meeting.

Additional Support Persons Beyond Advisors of Choice

Parties may have persons other than the advisor of the Parties' choice present during any meeting or proceeding.

Expert Witnesses

Parties may present expert witnesses as part of an investigation.

Parties are allowed to call "expert witnesses" for direct examination and credibility assessment by the investigator. While the expert witness will be allowed to testify, the decisionmaker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses regardless of whether all Parties present experts as witnesses.

Character Witnesses

SJCON allows Parties to call character witnesses to testify. While the character witnesses will be allowed to testify, the decisionmaker will be instructed to afford very low weight to any non-factual character testimony of any witness.

Access to and Review of the Investigative Report

The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party and their advisors of choice with an equal opportunity to access and review an accurate description of the Relevant evidence collected throughout the investigation that is not otherwise impermissible in the form of an investigative report.

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The Parties and their advisors of choice will also have an equal opportunity to access and review the underlying Relevant and not otherwise impermissible evidence summarized in the investigative report upon the request of any Party.

The Title IX Coordinator and/or investigator designated by the Title IX Coordinator will provide each Party and their advisors of choice with a reasonable opportunity to respond to the investigative report. Both Parties will have the opportunity to respond to the investigative report and have 14 calendar days to submit a written response via electronic email and/or certified mail.

SJCON will take reasonable steps to prevent and address the Parties' and their advisors of choice's unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to SJCON Student Conduct Policy and other SJCON/Trinity Health policies and/or procedures that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Relevant Evidence

Evidence is Relevant when it is related to the allegations of Sex-Based Harassment under investigation as part of this grievance procedure.

Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by SJCON to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- Evidence that is protected under a privileged as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of

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treatment to the Party or witness, unless SJCON obtains that Party's or witness's voluntary, written consent for use in SJCON's Grievance Procedures; and

- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

Timeframes

An investigation may take up to 60 calendar days to complete depending on complexity of case. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, as detailed below.

Extensions and Delays

SJCON allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

H. SINGLE INVESTIGATOR MODEL

SJCON does not provide for a live hearing under this Grievance Procedure. However, Title IX requires that there be live questioning to assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex-Based Harassment.

The investigator and/or decisionmaker will question Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of Sex-Based Harassment. This will occur during individual meetings with a Party or witness.

Each Party shall have the opportunity to propose questions that the Party wants asked of any Party or witness and have those questions asked by the investigator/decisionmaker during one or more individual meetings, including follow-up meetings, with a Party or witness, subject to the appropriate procedures outlined below regarding the decisionmaker's advance evaluation of all questions. Each Party will be provided with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

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I. Determination Regarding Responsibility and Sanctioning

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, SJCON will:

- use the preponderance of the evidence standard of proof to determine whether or not Sex-Based Harassment occurred. This means that the findings of the investigation determine whether it is more likely than not that a violation of the Grievance Procedures occurred. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-Based Harassment occurred.
- All determinations on whether Sex-Based Harassment occurred will be communicated to the Parties in writing, simultaneously via electronic email and certified mail.

The written determination must include:

- A description of the alleged Sex-Based Harassment.
- Information about the policies and procedures that SJCON used to evaluate the allegations.
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-Based Harassment occurred.
- Any Disciplinary Sanctions SJCON will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by SJCON to the Complainant, and, to the extent appropriate, other students identified by SJCON to be experiencing the effects of Sex-Based Harassment, if there is a finding that Sex-Based Harassment occurred; and
- SJCON's procedures for Complainant and Respondent to appeal.

Disciplinary Sanctions and Remedies

Following a determination that any type of sex-based harassment occurred, SJCON may impose disciplinary sanctions which may include but not limited to: written warnings, disciplinary probation, suspension or dismissal from the program(expulsion), termination, as well as educational assignments and referrals.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by SJCON within 14 calendar days of the completion of the investigation and evaluation.

Determination of Disciplinary Sanctions After a Finding of Responsibility

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Per New York state law, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction. However, it is not admissible prior to determination of responsibility.

In addition, the Complainant will have an opportunity to make an impact statement during the point of the proceeding where the decisionmaker is deliberating on appropriate sanctions.

Finality of Determination

The determination regarding responsibility becomes final either on the date that SJCON provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

Disclosures of Outcome by the Parties

The Complainant and Respondent have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process related to sexual assault, dating violence, domestic violence, or stalking.

The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

J. Appeals

Each Party may appeal a determination regarding responsibility. To appeal, a Party must submit their written appeal within 14 calendar days of being notified of the decision, indicating the grounds for appeal.

For appeals resulting from dismissal of a complaint, please see the section on *Dismissal of Complaints*.

Grounds for Appeal

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome.
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred, or dismissal was made; and

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- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.
- SJCON reserves the right to evaluate and accept other grounds for appeal and will be equally available to both parties.

Additional Procedures for Appeal Process

SJCON will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive measures and remote learning opportunities (if available) remain available while an appeal is being deliberated and before a final decision has been made.

Appeals may be no longer than 5 pages. Appeals should be submitted using 12-point font and single-spaced.

Suggested format for a student writing an appeal:

- A. Specify the reason(s) for the appeal. You may appeal on any conditions discussed above.
- B. Provide a clear and detailed explanation for each reason cited.
- C. Include any new supporting documentation.
- D. Be sure to sign your appeal.
- E. Include the following in the opening paragraph of your appeal:
 - Date time and location of the incident.
 - State the reason for the appeal.
- F. In the body of the appeal explain the basis for the appeal (in other words provide the information to support your reason(s) for appealing).

Appeals will be decided by SJCON appointed decisionmaker who will be free of conflict of interest and bias, and has not served as investigator, Title IX Coordinator, or decisionmaker in the same matter.

Outcome of appeal will be provided in writing via electronic email and certified mail simultaneously to both Parties and include rationale for the decision.

K. Informal Resolution

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Procedures for Entering and Exiting Informal Resolution Process

At any time prior to determining whether Sex-Based Harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek SJCON's assistance to resolve allegations of Sex-Based Harassment, and may elect to enter the informal resolution process.

The Parties may voluntarily elect to enter the SJCON's informal resolution process at any time through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and SJCON may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within SJCON's Education Program or Activity.

Notice Prior to Entry Into Informal Resolution Process

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations.
- The requirements of the informal resolution process.
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume SJCON's Grievance Procedures.
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming SJCON's Grievance Procedures arising from the same allegations.
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and

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- What information SJCON will maintain and whether and how SJCON could disclose such information for use in its Grievance Procedures if they are initiated or resumed.

Determination to Approve Entry into Informal Resolution Process

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or other designated official may approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator or other designated official may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

Informal resolution processes may never be applied where the allegations include [Sexual Assault: Penetration or the equivalent].

Informal resolution may be available to address allegations of student-on-student and is not allowed to address allegations of employee-on-student Sex-Based Harassment.

At any time after the commencement of the informal resolution process, the Title IX Coordinator or other designated official may determine that the informal resolution process is not an appropriate method for resolving the matter and may require that the matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

If informal resolution is approved or denied, SJCON will provide the outcome in writing via electronic email and/or certified mail simultaneously to the Parties. If informal resolution is approved, the Title IX Coordinator shall also provide the information of the facilitator in writing to the Parties in a reasonable timeframe once the facilitator is assigned.

Role of the Facilitator

Informal resolution processes are managed by trained facilitators. All facilitators must not be the same person as the investigator or the/a decisionmaker(s) in SJCON's Grievance Procedures. Any person designated to facilitate informal resolution must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator may never serve as the facilitator, subject to these restrictions.

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All facilitators must have specialized training, required by law and regulation. Such training includes:

- SJCON's obligation to address sex discrimination, including Sex-Based Harassment, in its Education Program or Activity.
- The scope of conduct that constitutes sex discrimination, including Sex-Based Harassment, under Title IX, including the definition of Sex-Based Harassment.
- All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and SJCON's response to sex discrimination.
- The rules and practices associated with SJCON's informal resolution process; and
- How to serve impartially, including by avoiding conflicts of interest and bias.

Contents of Informal Resolution Agreements

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of SJCON's education programs or activities or attendance at specific events, including restrictions SJCON could have imposed as Remedies or Disciplinary Sanctions had SJCON determined at the conclusion of the Grievance Procedures that Sex-Based Harassment occurred.

Breach of Informal Resolution Agreements

If a Party breaches the resolution or if SJCON has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, SJCON may void the agreement and initiate or resume the Grievance Procedures.

Confidentiality

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the complaint are confidential while the Parties participate in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the Grievance

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Procedures, provided that this information is disclosed and reviewed by the Parties under SJCON's Grievance Procedures.

Informal Resolution Options

SJCON offers the following informal resolution procedures for addressing complaints of Sex-Based Harassment described under this Grievance procedure.

Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the complaint at any point during the informal resolution process, the institution may administratively resolve the complaint. Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and [a decision-maker(s)] will convene to determine the Respondent's sanction and other Remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and Remedies, which may be appealed according to the process described below.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing via electronic email and/or certified mail of the appeal; however, the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals may be no longer than 5 pages (including attachments). Appeals should be submitted using 12-point font and single-spaced.

Suggested format for a student writing an appeal:

- Specify the reason(s) for the appeal. You may appeal on any conditions discussed above.
- Provide a clear and detailed explanation for each reason cited.
- Include any new supporting documentation.
- Be sure to sign your appeal.
- Include the following in the opening paragraph of your appeal:
 - Date time and location of the incident.
 - State the reason for the appeal.
- In the body of the appeal explain the basis for the appeal (in other words provide the information to support your reason(s) for appealing).

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1. Appeals will be decided by SJCON appointed decisionmaker who will be free of conflict of interest and bias, and has not served as investigator, Title IX Coordinator, or decisionmaker in the same matter.
2. Outcome of appeal will be provided in writing via electronic email and certified mail simultaneously to both Parties and include rationale for the decision.

XII. Transcript Notations

For crimes of violence, including, without limitation, sexual violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act (20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII)), SJCON is required to make a notation on the transcript of a student found responsible for suspension or expulsion, per SJCON's Transcript Notation Policy.

SJCON Transcript Notation

If the respondent is a student and found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including aggravated assault and/or sexual violence) and is suspended or dismissed as a result, their transcript will note that they were suspended or dismissed. The transcript will note a code of conduct violation. Any student who withdraws with such charges pending and does not participate through completion in the St. Joseph's College of Nursing process will have noted on their transcript that they withdrew with charges pending. The College reserves the right to process to completion a report filed against a student, and impose a sanction, notwithstanding their withdrawal. A student who has been suspended may be eligible to seek to have the notation removed, but not sooner than one year following completion of the suspension.

XIII. Retaliation

When SJCON has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedures, SJCON is obligated to initiate its Grievance Procedures or, as appropriate, SJCON's informal resolution process.

SJCON will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a complaint of Sex-Based Harassment or sex discrimination under SJCON's Title IX Grievance Procedures, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law,

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or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under SJCON's Title IX Grievance Procedures.
No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under SJCON's Grievance Procedures.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or Sex-Based Harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or complaint of Sex-Based Harassment.

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DOCUMENT CONTROL TRACKING FILE

Title: Sexual Violence and Prevention, Title IX	
Document Owner: Dean of SJCON	
Reviewed by the following:	
Administration Committee	Date: 3/19 11/20 6/23 8/24
Shared Governance Council:	Date:
Academic Freedom ad hoc	Date:
	Date:
Administrative Approvals:	
	
Lenore L. Boris, PhD, JD, RN Dean St. Joseph's College of Nursing	
Additional Approvals:	
Revisions:	
4/19 Policy placed online	
12/20 Updated all processes and standards according the state and federal regulations.	
6/23 Updated IX Coordinator to Kara Evans, no changes to nay standards as of June 12, 2023	
8/23: Changed Title IX Coordinator name from Kara Evans to Sunday Kulang	
8/24: Updated policy according to new federal regulations	
References:	
New York State NYS Consolidated Laws, Education Law (EDN § 6443). Students' Bill of Rights	
Definition of Sexual Activity: Current definition used by the federal government. 18 U.S.C. 2246(2)-(3)	
Family Educational Rights and Privacy Act (FERPA): See 34 CFR §§ 99.31(a)(13) and (14)	
Original Date:	Reviewed/Revision Dates: 3/19 12/20 8/23

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Review/Updated 7/2024 NP

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