



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

SJCON: Title IX Sex-Discrimination Policy and Procedures other than Sex-Based Harassment

Purpose

This policy is designed to address conduct that falls within Title IX of the Education Amendments of 1972.

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 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>.

Grievance Procedure for Complaints of Sex Discrimination **(Under § 106.45 of the 2024 Title IX Final Rule)**

I. Effective Date

This Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this 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 Grievance Procedure, the Grievance 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 Grievance Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Grievance Procedure, if applicable.

II. Scope of Procedure

SJCON has adopted a grievance procedure that provides for the prompt and equitable resolution of sex discrimination Complaints made by students, employees, or other individuals who are

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participating or attempting to participate in its Education Program or Activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Sex discrimination, as defined by Title IX, includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Title IX's prohibition on sex discrimination includes sex-based harassment in the form of quid pro quo harassment, hostile environment harassment, and four specific offenses (sexual assault, dating violence, domestic violence, and stalking). For the prompt and equitable resolution of Complaints of sex-based harassment involving a student Party, the institution will utilize SJCON Sexual Violence Prevention Response Title IX Policy.

III. Jurisdiction of Procedure

SJCON's Title IX Coordinator or designee will determine if this Grievance Procedure applies to a Complaint.

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 (SJHHC) 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 OR SJHHC 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
- When conduct has continuing adverse effects and creates or continues a hostile environment on campus.

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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. **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.
2. **Consent** means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

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3. **Complainant** means:
 - (a) a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment as defined in this procedure and who was participating or attempting to participate in SJCON's Education Program or Activity; or
 - (b) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under these grievance procedures and who was participating or attempting to participate in SJCON's Education Program or Activity at the time of the alleged sex-based harassment.
4. **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 discrimination at the institution.
5. **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 discrimination. 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 discrimination 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 discrimination. The employee's confidential status is only with respect to information received while conducting the study.
6. **Disciplinary Sanctions** means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated SJCON prohibition sex discrimination.
7. **Education Program or Activity** means all of the operations of a college, university, or other postsecondary institution, or a public system of higher education.
8. **Party** means Complainant or Respondent.
9. **Peer Retaliation** means retaliation by a student against another student.

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10. ***Pregnancy or related conditions*** means

- (a) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

11. ***Relevant*** means related to the allegations of sex discrimination under investigation as part of this Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

11. ***Remedies*** means measures provided, as appropriate, to a Complainant or any other person SJCON identified as having had their equal access to SJCON Education Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to SJCON Education Program or Activity after SJCON determines that sex discrimination occurred.

12. ***Respondent*** means a person who is alleged to have violated prohibition on sex discrimination.

13. ***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, benefit, or service under SJCON 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.

14. ***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 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 Education Program or Activity (i.e., creates a hostile

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environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

1. The degree to which the conduct affected the Complainant's ability to access SJCON Education Program or Activity;
2. The type, frequency, and duration of the conduct;
3. The Parties' ages, roles within SJCON Education Program or Activity, previous interactions and other factors about each Party that may be relevant to evaluating the effects of the conduct;
4. The location of the conduct and the context in which the conduct occurred; and
5. Other sex-based harassment in SJCON Education Program or Activity.

(3) *Sexual Assault* (as defined in the Clery Act) 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: The length of the relationship; the type of relationship; and 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 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

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(B) suffer substantial emotional distress.

15. ***Student*** means a person who has gained admission.

16. ***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 Education Program or Activity, including measures that are designed to protect the safety of the Parties or SJCON educational environment; or
- 2) Provide support during SJCON Grievance Procedure for sex discrimination or during an informal resolution process.

VI. Basic Requirements of Title IX Grievance Procedure:

- a) ***Equitable Treatment:*** SJCON will treat Complainants and Respondents equitably.
- b) ***Conflicts and Bias:*** SJCON requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.
- c) ***Presumption:*** SJCON presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its Grievance Procedure.
- d) ***Reasonably Prompt Timeframes:*** SJCON has established timeframes for the major stages of the grievance procedures.
- e) ***Extensions:*** SJCON has also established the following 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.
- f) ***Privacy:*** SJCON will take reasonable steps to protect the privacy of the Parties and witnesses during its grievance procedure. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedure. The Parties cannot engage in retaliation, including against witnesses.
- g) ***Objectivity:*** SJCON will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

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- h) *Impermissible Evidence*: The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by SJCON to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- i) Evidence that is protected under a privilege 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;
 - ii) 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 treatment to the Party or witness, unless SJCON obtains that Party's or witness's voluntary, written consent for use in its grievance procedures; and
 - iii) 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. 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.

VII. Disability Accommodations

A. Generally

This Procedure does not alter any institutional obligations under federal disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. 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 Procedure. 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.

B. Supportive Measures

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 Section 504 of the Rehabilitation Act of 1973 in the implementation of any supportive measures.

VIII. Reporting Sex Discrimination to the Institution

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Complaints

The following people have a right to make a **Complaint of sex discrimination**, including Complaints of sex-based harassment, requesting that SJCON investigate and make a determination about alleged discrimination under Title IX:

- A “Complainant,” which includes: a student or employee of SJCON who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- A person other than a student or employee of SJCON who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in SJCON Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or SJCON Title IX Coordinator.

With respect to **Complaints of sex discrimination other than sex-based harassment**, in addition to the people listed above, the following persons have a right to make a Complaint:

- Any student or employee of SJCON or
- Any person other than a student or employee who was participating or attempting to participate in SJCON Education Program or Activity at the time of the alleged sex discrimination.

Types of Complaints that may be addressed under these Grievance Procedures include, but are not limited to, sex discrimination other than sex-based harassment, such as:

- Complaints of retaliation
- Complaints of sex discrimination that do not involve sex-based harassment.
- Complaints regarding failure to make reasonable modifications to policies, practices, or procedures as necessary to ensure equal access and prevent sex discrimination on the basis of parental, family, or marital status, including pregnancy or related conditions; or
- Complaints that SJCON policies or procedures discriminate on the basis of sex.

Complaints may be submitted 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: Beth Purcell

Title: Associate Dean for Academic Affairs/Title IX Coordinator

Office Address: Room #116

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Email Address: beth.purcell@sjhcon.edu
Telephone Number: 315-448-6114

Confidential Reports

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.
- Other required reporters

The following individuals may provide confidentiality:

- Licensed mental health counselors
- Medical providers
- Pastoral Counselors

Public Awareness Events

When SJCON's Title IX Coordinator is notified of information about conduct that reasonably may constitute sex-based harassment under Title IX or this policy that was provided by a person during a public event to raise awareness about sex-based harassment that was held on SJCON's campus or through an online platform sponsored by it, SJCON is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other persons.

However, in all cases SJCON must use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its Education Program or Activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

Nothing in Title IX or this policy obligates SJCON to require its Title IX Coordinator or any other employee to attend such public awareness events.

IX. Supportive and Interim Measures

A. Providing Supportive Measures

Complainants who report allegations of sex discrimination 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.

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As appropriate, supportive measures may include but not be limited to:

- 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; or
- Training and education programs related to sex discrimination

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

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

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 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 discrimination under Title IX in SJCON 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).

B. Process for Review of Supportive Measures

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SJCON provides opportunity for a Complainant or Respondent to seek modification or reversal of SJCON decision to provide, deny, modify, or terminate a supportive measure.

This review will be done 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 that impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the procedure 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).

C. Emergency Removal

SJCON retains the authority to remove a Respondent from SJCON 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 discrimination 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.

D. Administrative Leave

SJCON retains the authority to place a non-student employee Respondent on administrative leave during the Title IX 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 these

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procedures apply to that student employee. If the Complainant or Respondent's primary relationship with SJCON is to receive an education and whether the alleged sex discrimination occurred while the Party was performing employment-related work.

X. The Title IX Grievance Procedure for Sex Discrimination

A. Filing a Complaint

Who can make a Complaint?

- A Complainant, which includes: a student or employee of SJCON who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of SJCON who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- The Title IX Coordinator.

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 discrimination. 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 were not initiated;
- The severity of the alleged sex discrimination, including whether the sex discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex discrimination and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is an employee of the recipient.
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals.
- The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- Whether SJCON could end the alleged sex discrimination and prevent its recurrence without initiating these grievance procedures.

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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.

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 these procedures.

Format of Complaint

As defined in IV (4) of these procedures, 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 discrimination 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.

B. Consolidation of Complaints

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SJCON may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

C. Dismissal of a Complaint

Bases for Dismissal

SJCON may dismiss a Complaint of sex discrimination 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 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 under the bases described in 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 discrimination under Title IX or these grievance procedures even if proven; or
- SJCON determines that the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX or these procedures. Note: SJCON must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

Notice of Dismissal

Upon dismissal, SJCON will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then SJCON will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

When a Complaint is dismissed, SJCON will, at a minimum:

- Offer supportive measures to the Complainant as appropriate.
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within SJCON's Education Program or Activity

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SJCON will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then SJCON will also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- 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.

Appeal rights must also be outlined in any notification of dismissal of a Complaint, as outlined below.

D. Allegations Potentially Falling Under Two Policies

Option 1: 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.

E. Notice of Allegations

Upon initiation of SJCON Title IX grievance procedure, SJCON will notify the Parties of the following:

- SJCON Title IX grievance procedure and any informal resolution process.
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s).
- That Retaliation is prohibited; and
- The Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If SJCON provides a

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description of the evidence: The Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any Party.

If, in the course of an investigation, SJCON decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, SJCON will notify the Parties of the additional allegations.

F. Investigation

For this grievance procedure, SJCON Title IX Coordinator or other trained designee will serve as investigator and/or decisionmaker. SJCON reserves the right to use an outside party as the investigator and/or decisionmaker.

SJCON will provide for adequate, reliable, and impartial investigation of Complaints. The burden is on SJCON not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

SJCON will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. SJCON will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

SJCON will provide each Party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

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.

Investigative Report:

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence and will provide that Report to the Parties via electronic email and certified mail.

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The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of the relevant evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

SJCON will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; Parties will have up to 14 calendar days to respond in writing via email and/or certified mail.

SJCON will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by SJCON to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege 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 treatment to the Party or witness, unless SJCON obtains that Party's or witness's voluntary, written consent for use in its grievance procedure; 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. 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 discrimination or preclude determination that sex discrimination occurred.

Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

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When a party or witness's credibility is in dispute, and such dispute is relevant to evaluating one or more allegations of sex discrimination, the investigator and/or decisionmaker must have an opportunity to question any party or witness whose credibility is in dispute in a live format.

The investigator/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 discrimination. 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 herein 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.

G. Informal Resolution

Procedures for Entering and Exiting Informal Resolution Process

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

The Parties may voluntarily elect to enter the SJCON 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

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extent necessary, take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within SJCON 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 Grievance Procedure.
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming SJCON Grievance Procedure 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
- What information SJCON will maintain and whether and how SJCON could disclose such information for use in its Grievance Procedure 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.

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 Procedure. 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

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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 Grievance Procedure. 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.

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

- SJCON 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 response to sex discrimination.
- The rules and practices associated with SJCON 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 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 Procedure 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 Procedure.

Confidentiality

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

Informal Resolution Options

SJCON offers the following informal resolution procedures for addressing Complaints of sex discrimination described under this Grievance.

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. Appeals should be submitted using 12-point font and single-spaced.

Suggested format for a student writing an appeal:

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- 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).

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.

H. Determination Regarding Responsibility

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 sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded by the evidence, under the applicable standard, that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the Parties in writing via electronic email and/or certified mail of the determination whether sex discrimination occurred under Title IX, including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable.
- Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedure that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

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- Coordinate the provision and implementation of remedies to a Complainant and other people SJCON identifies as having had equal access to SJCON’s Education Program or Activity limited or denied by sex discrimination.
- Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within SJCON Education Program or Activity.
- Comply with the grievance procedure before the imposition of any disciplinary sanctions against a Respondent; and
- Not discipline a Party, witness, or others participating in the grievance procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Disciplinary Sanctions and Remedies

- Following a determination that any type of sex discrimination 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.

I. Appeal of Dismissals and Determinations

SJCON offers the following process for appeals from a dismissal or a determination whether sex discrimination occurred:

If the dismissal or determination is appealed, SJCON will:

- Notify the Parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent.
- Implement appeal procedures equally for the Parties.
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint.
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulation.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the appeal and the rationale for the result.

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

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The submission of appeal stays (or pauses) any sanctions for the pendency (or duration while the appeal is being deliberated and decided upon) of an appeal. Supportive measures and remote learning opportunities (if available) remain available during the pendency of the appeal.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing 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 in 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).

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.

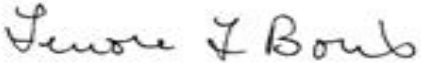
J. Retaliation

SJCON prohibits retaliation, including peer retaliation, in its Education Program or Activity. Upon receiving a Complaint alleging retaliation or upon receiving information about conduct that reasonably may constitute retaliation under Title IX, SJCON will initiate its grievance procedure or, as appropriate, an informal resolution process.

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DOCUMENT CONTROL TRACKING FILE

Title: SJCON: Title IX Sex-Discrimination Policy and Procedures other than Sex-Based Harassment	
Document Owner: Dean of SJCON	
Reviewed by the following:	
Administration Committee	Date 8/2024
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:	
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) U.S. Department of Education's 2024 Title IX Final Rule	

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Review/Updated 7/2024 NP

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