

**CSB/SJU Faculty Handbook Committee
Annual report, academic year 2022-2023**

Submitted by Terri Rodriguez, Chair

Membership 2022-2023

For the Faculty Handbook Committee (FHC) in AY 2022-2023, voting members were:

Phil Chu	(BIOL, tenured)	2020-2023
Bernadette Elhard	(NUTR, tenured)	2022-2025
Jim Read	(POLS, tenured)	2021-2024
Terri Rodriguez	(EDUC, tenured)	2020-2023 (chair)
Megan Sheehan*	(SOCL, tenured)	2021-2024
Kris Nairn**	(MATH, tenured)	Fall 2022

*leading study abroad Fall 2022

** vacancy replacement

The FHC also has one nonvoting member, Dean of the Faculty Pam Bacon.

Tasks completed 2022-2023

FHC responsibilities include processing proposed amendments to the Faculty Handbook, helping to interpret the handbook, and managing the initial stages of any grievances.

GRIEVANCES

In 2022-2023 there were no grievances.

HANDBOOK INTERPRETATION

In 2022-2023 the FHC was not asked to help interpret the handbook.

HANDBOOK CHANGES

Part II

Removal of the Joint Human Rights Policy from Part II, Appendix A: See Appendix A and Attachment A.

Changes to 2.10.1 Academic Freedom related to removal of the Joint Human Rights Policy from Part II: See Appendix A.

Addition of DEIJ language to 2.10.3.2: See Appendix B.

Part III

Removal of 3.5.1 Sexual Misconduct Policy: See Appendix C.

Addition of new 3.5.1 Joint Title IX and Sexual Misconduct Policy: See Attachment B.

Addition of new 3.5.18 Non-Discrimination and Harassment Policy: see Attachment C.

Part IV

N/A

Part V

Changes to 5.3.4.1 on the composition of the Academic Curriculum Committee: See Appendix D.

Changes to 5.3.1.1 on the composition of the Coordinating Committee on Academic Policies and Standards: See Appendix D.

Editorial Revisions

Editorial changes to update language and provide consistency throughout the entire handbook due to the removal of the Joint Human Rights Policy from Part II and the addition of the Non Discrimination and Harassment Policy to Part III: See Attachment A.

Membership 2023-2024

Bernie Elhard (NUTR, tenured)	2022-2025 (co-chair)
Jim Read (POLS, tenured)	2021-2024 (co-chair)
Megan Sheehan* (SOCL, tenured)	2021-2024
Erin Donohue (PSYC, term)	2023-2026
Annette Raigoza (CHEM, tenured)	2023-2026

*sabbatical AY 2023-2024

** vacancy replacement needed for AY 2023-2024

The FHC also has one nonvoting member, Associate Provost and Dean of the Faculty Pam Bacon.

Joint Faculty Assembly Minutes
2/28/2023 4:30-5:30 P.M. Zoom

Parker Wheatley called the meeting to order at 4:30 p.m.

1. Announcements

Wheatley shared there is a JFS meeting two days after spring break so we are attempting to send the agenda out tomorrow morning.

2. Public comments (one minute per person, five minutes total).

Steve Welch: Steve Welch: The Faculty Compensation and Benefits Committee would like to make a statement. The Committee is disappointed that our administration has not yet responded to our thoughtful recommendations regarding salaries for Academic Year 2023-24. FCBC recommended an increase to the faculty salary budget of 4.5%. However, only 3.0% of that is effectively directed at continuing faculty. The other 1.5% is to accommodate 4 additional faculty that are expected to be added to the faculty next year. Although our request will not come close to making up for the inflationary pressures all faculty and employees have been feeling, we made this request with the schools' budgetary pressures in mind. We made this request on January 25th and have not heard from the administration regarding this request since then.

FCBC met yesterday, a meeting where we were supposed to discuss the faculty salary grid for next year. However, we were unable to have a substantive discussion since we have not been allocated a budget for next year's salaries. Hopefully, this news comes in the next couple of days. With impending increases in medical expenses expected to average 12% to employees, we feel we need to know if our salary increases will at least be able to cover these costs and, hopefully, catch us up a little bit to where our standard of living was two years ago. We feel that the 4.5% request was conservative rather than aggressive. If the administration gives us less than our conservative request, we feel that FCBC may be in a position to over-ask in the future just to get what seems conservatively reasonable. That is not the position we feel we should have to take in an environment of shared governance which respects the opinions of all sides.

Another disappointment that we face is the fact that our Memorandum of Understanding (MOU) has lapsed, and with the turnover at the administrative levels, new discussions have continued to be delayed. This year's request had to use an assumption that most of the prior MOU would continue, but we felt an inflationary adjustment was needed since our model has historically been backward looking. A new MOU would be a guiding document for the next several years for FCBC to follow when determining faculty salary grids. I make this statement on behalf of all members of FCBC. Thank you.

Ana Conboy: On behalf of the Languages and Cultures department, I would like to thank the joint CCAPS/APBC committee for their tireless and thankless work throughout the year, for their reports, and their support of our department. Moreover, the department of Languages and Cultures, and its programs, would like to express our gratitude to the faculty, as a whole, for endorsing our programs and proposed changes. It is notable that the administration chose to ignore the voice of faculty that supported revised language programs. We are disheartened and disappointed by the demoralizing decision to extensively cut the language options and we deeply lament the loss of majors and minors in our programs. We continue to believe in their value in a liberal arts education. The colleagues in the Languages and Cultures

department will work diligently to guide and support our students currently majoring and minoring in our programs to the best of our ability.

3. Motion on Section 2.10.1 of the Faculty Handbook

Wheatley read the following motions.

Motion 1. The Joint Faculty Assembly approves the removal of the Joint Human Rights Policy from Part II of the Faculty Handbook in accordance with Section 2.16.3.2.c of the Faculty Handbook.

Motion 2. The Joint Faculty Assembly approves the Faculty Handbook changes to section 2.10.1 as written in the document “Part II Revision 2.10.1 Academic Freedom” in accordance with procedures laid out in 2.16.3.2.c.

Background and Rationale Senate

Procedures

- In accord with procedures laid out in 2.16.3.2.b of the Faculty Handbook, the Joint Faculty Senate completed the following actions on February 9th.
 - The Joint Faculty Senate recommended these changes to the Faculty Handbook to the Joint Faculty Assembly.
 - In lieu of the Joint Human Rights policy, the Joint Faculty Senate endorsed and acknowledged the administration’s intent to place the language described in the “Non-discrimination policy 1.23.23” document in Part III of the Faculty Handbook upon completion of procedures identified in section 3.0.1 of the Faculty Handbook.

Faculty Handbook Committee Rationale and Explanation

In August 2022, the FHC received the new Non-Discrimination and Harassment Policy, an institutional policy, which necessitated replacing the Joint Human Rights Policy of Part II, Appendix A. There is precedent that new institutional policies be placed in Part III. In addition, a Bias Reporting webpage, toolkit, and complaint form went live for the campus community.

The revisions and request for moving the policy were made by Cheryl Stanton, General Counsel and Corporate Secretary, after review of similar policies and consultation with CSB and SJU leadership and external legal counsel, for the following reasons:

- The title, Human Rights Policy, is not in line with current language and practice in this area.
- In its current form, the Joint Human Rights Policy is overly complicated and hinders the process by which complaints can be filed, investigated, and remedied.
- The new Non-Discrimination and Harassment Policy is an institutional policy that applies to faculty, students, and staff; therefore, it is necessary to have the same policy in place for all parties in Part III (not Part II) of the FHB.

Throughout the fall semester the FHC negotiated with the General Counsel regarding the revisions and also communicated with faculty leadership and Academic Affairs about the

negotiation and revision processes. The Non- Discrimination and Harassment Policy that is stated in “Non-discrimination policy 1.23.23” is the result of those negotiations. The FHC raised several concerns about the reduction in language about academic freedom in the new policy. To address this concern, the FHC has developed more robust academic freedom language to be included in 2.10.1 (as shown Part II Revision 2.10.1 Academic Freedom document).

Bernie Elhard: An area the committee wanted the faculty to understand is that the motion for the changes in 2.1. 10.1 are result of the amount of language in the new policy because it is an institution wide policy and not focused only on faculty, we are not able to include a lot of language about academic freedom and that is the reason why we are proposing those changes in the Academic Freedom section of the FHB.

Wheatley: To be clear the non-discrimination policy you received almost 10 days ago- the language of the nondiscrimination policy from the FHB Committee which is slated to go into Part III of the FHB because that would be in conflict with the Joint Human Rights Policy - that is the reason the Human Rights Policy is being removed form Part II of the handbook. For those of you not on the senate you may not be aware of that connection.

Elhard confirmed Wheatley’s statement.

Motion 1 passed by contract.

Motion 2 discussion opened.

Wheatley: As Bernie explained this was in order to ensure that there were additional safeguards in terms of Academic Freedom should there be any questions come up in cases of the discrimination policy perhaps.

Jim Read: There was some good language about academic freedom in the old Human Rights Policy that did not get transferred to the new non-discrimination policy so part of the language from our old policy we have moved to the regular academic freedom in Part II of the handbook. We also added some new language adapted from 2007 AAUP statement on academic freedom in the classroom. Our existing academic freedom language drew from the 1940 AAUP statement. There was a good 2007 statement that we thought was especially relevant to some of the things that happened at Hamline. That has now been written into a proposed revised strengthened section of Academic Freedom Part II if the handbook.

Greg Schroeder: I just wanted to say thank the FHB Committee for adding that new language. I think the additions makes it much better. Seems more up to date and relevant. Thank you to the FHB committee for adding that language.

Motion 2 passed by contract.

4. Benefits Presentation and Proposed Changes

Wheatley read motion 3.

Motion 3. On the recommendation of the Faculty Compensation and Benefits Committee, the Joint Faculty Assembly waives, for Academic Year 2022-23 only, the February 1st deadline

stipulated in Faculty Handbook Section 2.12.2.3 (“Changes in Employment Benefits”), which states that: “Consideration of faculty fringe benefits changes will be led by the Faculty Compensation Committee in collaboration with the provost and completed by the following February 1, before being submitted to the Boards as part of the annual budget.” The Joint Faculty Assembly waives this deadline retroactively in the present case for the exclusive purpose of considering and processing benefits information that was not available in time for the February 1, 2023 deadline.

Rationale:

- 1) FCBC considers the retroactive waiving of the deadline to be justified in acknowledgement of the fact that our benefits management partner, NFP, completed its analysis and negotiations with BCBS in time for the Joint Benefits Committee meeting on February 10, 2023. This information was not available prior to February 1. The delay is not the result of disagreement or lack of good faith.
- 2) The motion allows the faculty and administration to avoid the automatic declaration of impasse described in Faculty Handbook Section 2.12.2.3 and thereby maintains the voice of the Joint Faculty Assembly in the process this year.
- 3) The motion is based upon recent precedent. The FCBC made motions to waive the deadline in 2017 and 2020, and the JFA passed those motions.

Steve Welch: We have done this in the past when we felt everything was happening in good faith so we are doing this again because the benefits changes were not ready until after February 1. That is the reasoning. We have asked the CFOs to check with our NFP consultant to see what a reasonable date is to have the benefits ready. We might make a recommendation in the future to move the February 1 deadline to maybe mid-February. It seems like we have been doing this every couple of years at least.

Schroeder (FCBC): Just a clarification we have done this in the past typically we have waived the deadline prior to the deadline. This year with all the work going on with 2.14 it was not possible to have this topic on the agenda prior to the deadline this year retroactively.

Motion 3 passed.

Motion 4. The Joint Faculty Assembly endorses the following benefits changes and additions to medical benefits, effective July 1, 2023:

- The addition of a second High Deductible Health Plan (HDHP) with a Health Savings Account (HSA). This new plan will have deductibles of \$5,000 (\$10,000 family) with maximum out-of-pocket costs of \$6,500 (\$13,000 family).
- The addition of a High Value Network. This network will be in addition to the current Aware network. The new network will not include some of the higher cost facilities included in the Aware network such as Mayo Clinic*, Park Nicollet, Gillette, and Essentia (*Mayo Transplant Services is still in-network).
- The addition of Kavira, direct-to-consumer healthcare network. Kavira is an additional plan that will bring primary and urgent care to employees via virtual care and home visits, reducing the need for visits to doctors’ offices and clinics.

Explanation

Note 1: The addition of the new HDHP and the High Value Network will effectively increase our plans from three to eight: Core A, Core B, 3000 HDHP, and 5000 HDHP,

each of which may be selected on the Aware network or the High Value network.

Note 2: All employees enrolled in any of the health plans would be automatically enrolled in Kavira.

Note 3: No other benefits are recommended for change (dental, vision, life insurance, etc.), only the medical benefits.

Rationale:

- The initial expected increase to the budget was 22%. Various negotiations brought the expected increase down to 17.2%. The addition of the items above is expected to bring down the increase to approximately 12%.
- All employees may choose to remain on exactly the same plan they are on now, or they may choose a different, cheaper (or more expensive) plan.
- The additional plans offer employees more alternatives to meet individual needs.

NOTE: While not subject to faculty approval, 12% is the average expected increase. The exact increase will depend on employee selection.

Steve Welch shared slides (sent with the agenda): Basically, we are only changing medical. The initial idea was that they saw there was a 22% increase to the budget and that is absurdly high so when they looked at it they negotiated a renewal down to 17.2% which is still high so they looked at different ways to decrease that number. In doing that they found one thing we do not have that many others do is have a higher high deductible plan in so to add a 4th plan option to a higher high deductible plan of \$5,000 for single/ \$10,000 for family and then that would create about a 2% reduction in estimated renewal costs. The high value network adds an additional decrease. Once all those are added in it is an approximate 12% increase to premiums which is still higher than we are used to (usually 8% increase) but we had extra high usage last year of the medical plan.

Here is a Kavira overview. I have been told there will be a significant amount of education available between now and open enrollment time period. This is an add on this is not a replacement of any part of BCBS but you can essentially if you have Core A and Core B you don't have any co pay and you can get into Kavira and ask them to have a virtual or face to face appointment for free. Even if you need a nurse to come to your house they will come to your house. If you have the high deductible plans there is a small copay (legal issues). It is intended to reduce the cost of the overall plan. So people that go to the doctor and they charge \$300-400 for a visit to Core A and Core B it will end up being a lot cheaper through Kavira. Kavira will be expanding their own operation by hiring at least 3 nurse practitioners (in the St Cloud area) specifically because of us coming on board in July. They also have a performance guarantee to the college. If we don't make money out of this than we spend then they will refund us the money back from that.

If you use a PR actioner in the BCBS network that counts toward your deductible but if you use Kavira it will not count towards your deductible.

Welch shared slides of the plans and add ons.

Welch: Our current network is called the Aware Network. They want to add on a high value network so those 4 plans would actually have two options each (The Aware Network and the High Value Network) There would technically be 8 different choices.

- If you want to you can stay on the exact plan you are on now

- There are cheaper plan options
- They expect that the high value network to not include some of the most expensive places that are in the Aware Network. The High Value Network would include CentraCare and many places around here. It would not include some of the more expensive ones.
- All the other benefits stay the same.

Imad Rahal: in order for us to realize the financial gains by offering this new plan and the two options for every plan is there a certain number of enrollees that we are budgeting on that will make the switch? If that number is not realized what happens?

Welch: We were told there is an estimated number that is expected to switch and if they don't we would have the higher expenses but they are committed to only increasing at that average 12% rate for this year but if we end up having the higher expenses it might increase a little more than expected next year.

Rahal: Usually at this stage we see expected prices, costs, premiums. We haven't seen that I am guessing there is a story behind that. Please share.

Welch: The only story I have yet is they aren't done yet by the time they were presented to us. They should be available soon definitely before open enrollment. But the average increase should be 12% depending on which plan you choose.

Crumley: do we have any sort of estimate where the premiums for the new plan would be then relative to the current high deductible plan? I know if they don't have premiums they don't have everything figured out but it's hard to evaluate the new option without having anything to compare it to on the premium side.

Welch: The simple answer is we don't have it. We did ask about that but were told it was not ready.

Hesse: It is supposed to be at a lower price as an incentive for people to look at it.

Wheatley shared the motion 4. Motion 4 passed.

Schroeder: I wanted to point something out that we talk about in the JBC and FCBC, essentially what we have done is said yes we would like this expanded set of options so we are going from 3 options within one network to 4 options within 2 networks. So three expanded to 8 so we will all need to look carefully to see what fits the best. We have the addition of Kavira which is telehealth with home visits combined – the idea is that will help people give them more options, save money and reduce costs. The thing we talked about in JBC and FCBC was the need for education and explanation. Please be aware that HR will be trying to present a lot of information. Be on the lookout for the HR sessions to get the information you need to make an informed decision.

Phil Kronebusch: Would FCBC comment more on the process. I think the CFOs are not attending this meeting my memory going back a few decades is the CFOs usually attended this meeting.

Wheatley: for the record Jennifer Meyer is here.

Kronebusch: Is there any sort of change taking pace in how the CFOs are interfacing with faculty compensation and benefits this year compared to other years?

Welch: Greg should take that for JBC because FCBC just invited the CFOs a week ago, but JBC has worked with them more and I am not on that committee.

Schroeder: Bob Hesse can chime in too. I would say I don't have a lot of experience on FCBC in the past. I don't have that much experience with respect to the participation of the CFOs. What I can say is there is much in flux this year because we have just recently hired a new COO. The new COO's and CFOs will have a new relationship in the way that they work with FCBC which has yet to be determined. It is on our docket but we have not had a chance to meet with the COO. I think both of the Committees (JBC and FCBC) are aware that the working relationship with CFOs and or the COO is something to get worked out as soon as possible.

Kronebusch: Thanks, and I am happy to hear this is yet to be determined.

Scott Johnson motioned to adjourn and Jim Crumley seconded.

The meeting adjourned at 5:09 p.m.

Respectfully submitted by Nancy Dueland

Joint Faculty Assembly Minutes
March 23, 2023 4:30-5:30 P.M. Zoom

The meeting was called to order by Carrie Hoover at 4:32 p.m.

1. Announcements

Rachel Marston: I wanted to announce the Literary Arts Institute is hosting Public Reading and Conversation by Robert Glick Tuesday, March 28, 2023 7:00 p.m. Quad 264 SJU. It is an ARTE event.

2. Public comments (one minute per person, five minutes total).

Shannon Smith: In his book *Prioritizing Academic Programs and Services*, Robert Dickeson argues that one of the key sources of hidden costs is the number of credit hours required for a major. Dickeson writes, "In a time of scarce resources, offering departments will often inflate the number of credit hours required for a major in order to...‘justify’ the number of faculty positions required....The baccalaureate degree program typically is constituted of one-third major, one-third general education, leaving one-third for a minor and electives." (Resource E, Sources of Hidden Costs) Since Dickeson’s book was used to guide the Academic Program Prioritization process, we should fulfill his argument to analyze the credit size of existing majors as a key part of completing our APP work. This is a student-centered approach to program prioritization because it gives students sufficient depth in a major while allowing them the breadth to explore and pursue multiple interests that they desire. As the institutions reduce in size, it may be possible and necessary to combine learning goals into fewer courses. Reducing the number of required credits outside of accreditation requirements may reduce costs in some departments while freeing students to take advantage of minors and additional classes in other departments. The official APP report of July 2022, the SCOLA recommendations of November 2021 and August 2022, and the GECC report of April 2022 all state that it is necessary to "review the size and scope" and "examine the number of required credits in each major so students can best pursue exploration and the breadth they seek while still gaining depth in a major." I ask that the provost provide further information on his plans to complete this important aspect of the APP process at the community meeting on March 30. Thank you.

Carrie Hoover: As we have heard from President Bruess and we will hear again today from our new COO the strategic planning process will evolve quickly and align with the processes outlined in the FHB. As you know APBC has the responsibility to participate in all phases of the development and execution of the institutional strategic planning process while the Executive Committee coordinated faculty participation in all phases of the development and execution of the institutional strategic planning process. Parker and I have the responsibility to ensure this process is followed. Initial meetings have already begun. With that, I would like to introduce Dr. Kara Kolomitz our inaugural COO of both institutions as our presenter today. Kara began her new duties just a short month ago and has worked in Catholic higher education for more than 25 years including most recently as COO for 6 years at Regis College, a liberal arts institution in Boston. The short time I have known Kara I have found her to be very approachable and enthusiastic to learn from all who are willing to share. Kara and Richard will present today an overview of the strategic planning process. Following her presentation, we expect to have time for Q&A.

3. Presentations and Q&A with Kara Kolomitz (COO) and Richard Ice (Provost)

- **Presentation on Faculty Engagement in Strategic Planning**
- **Other Topics as Time Permits**

Kara Kolomitz: Richard and I would like to thank Parker and Carrie for the invitation today and the chair of APBC for the opportunity to visit with them yesterday. I make the remarks about our institutions with complete acknowledgement that my assessment has been a very rapid one but I speak for Richard when I say that it is abundantly clear that the institutions at this point in time in our history need a plan and that is generally agreed upon. I also know the last few years have been difficult - uncertainty, ambiguity for some, frustration for others. The last strategic plan I am told was written in 2015 and I think we can all agree a lot has changed in 7 or 8 years. I have also heard and acknowledge that the faculty body has been joint for a very long time and what has taken everyone else so long. But I was hired not to answer that question but help from a strategic planning standpoint to work with our provost and you for this point in the history of our institutions. Common Boards are in place, strong integration has been adopted by the boards and there is one inaugural president. Different parts of the institution are at different points of readiness to plan and move forward and some faculty are more ready than others to move forward. Some parts of the institution have deep desire to move forward rapidly but I have also heard that the work of the last 18 months to 3 years is a real lived transition for some, and I honor how hard that must be. While I understand it appears insensitive for some that we would be launching something to move forward while you are still navigating the results of APP, I would not be serving the colleges well if we didn't recognize and acknowledge the condition of parts of our community and the need for healing and trust. We will be in conversation with APBC in the coming days about this but you can appreciate I also would not be fulfilling fiduciary responsibility if I didn't balance this with the reality that we cannot afford to wait to talk and think about our future. I want to assure you wherever you stand on this continuum we collectively appreciate where you are in the coming months.

Kolomitz shared her screen and a PowerPoint (attached).

Hoover: The floor is opened for Q&A for 10 minutes.

Marston: Thank you for the presentation. In the 3 focuses of strategic planning, academics is woven into all of those, but academics is not one of them. It's embedded but I wonder if you can speak to that.

Ice: You will also notice DEI is not one pillar as well. When something becomes a pillar, then we start to isolate these things as if they are just over here and the mission of the institution is the education of our students. Everything we do needs to focus on that. That is why we don't have it as a separate entity. In the last strategic plan it was a separate thing but then what we started to see was it being separated out. But the budgeting process, economic sustainability and even DEI are also woven in, it's all intermixed. We want to highlight the fact that the student experience is one particular aspect but all of these aspects, the academic experience has to be the primary focus for it.

Phil Kronebusch: Welcome to CSB and SJU Kara. As you know, when the student faculty ratio fell to 11.4 to 1 instead of the desired 12 to 1 ratio, that triggered the Provost to start a two-year process to eliminate 25 faculty FTEs and resulted in the elimination of several liberal arts programs. I've read the Credo report and there are some good ideas in it, but I can also see the possibility that there are plans to increase administrative staff. What is the current ratio of administrative staff to students? Or if we don't know the ratio, what metric will be used to reduce administrative staff to an appropriate level, given the 25% decline in student enrollment?

Kolomitz: I do not have those figures in front of me but I am happy to come back and address specifically the administrative structure of the institution.

Jim Read: Welcome, my question is: in the strategic planning one of the central questions is who are we, who do want to be. Is this process open to the possibility to at least some of what we are and would like to be is something we are already moving away from in the wake of program prioritization and that some of what we are and would like to be may be reopened in this process.

Kolomitz: I would encourage the process in terms of faculty and APBC and the executive committee. We are here to assure you that what you move forward is certainly what we will hear and consider. I think the piece around really making solid strategy is being able to refer to success metrics and data. If that is able to be provided, of course we will consider what moves forward. I would say for us to move forward, however, there have to be metrics as to what is deemed successful. I want to highlight that specifically.

Ice: When we talk about who we are and who we want to be, we also need to think about who we are in the marketplace of students and how students are choosing. We are not going to have complete degrees of freedom to decide we want to become something prospective students don't think we are nor do they want. The idea of who we are and who we become is going to be a much more complicated question as we have to look at data from internal and external forces, so we need to carefully analyze: what are our strengths, how do we move forward and how are we competitive in the market place that is shrinking, especially here in the Midwest.

Greg Schroeder: Welcome, if I may be frank, it strikes me that from the start our strategic planning process has been narrowed down in respect to options because we have already made decisions (the Boards have already made decisions about certain things we are not going to pursue) and I think the whole strong integration process has indicated there are certain topics that are utterly out of bounds- the gender binary, the separate sex institutions. I think many faculty believe those have to be questioned, especially with the meteoric drop in CSB enrollment. This isn't a question you can answer but I just want to express a bit of concern about what might be a narrowing of our options at the start of the process especially if the institutions are unwilling to consider topics that ought to be considered if we are thinking about the marketplace. I think a lot of important decisions have already been decided, perhaps I am wrong. That is my comment.

Kolomitz: Thank you. That is duly noted.

Hoover: Thank you Kara and Richard for presenting and we look forward to the work ahead.

Faculty Handbook Section 2 Handbook Motion

Motion 1. In accordance with Section 2.16.3.2.C of the Faculty Handbook and upon the recommendation of the Joint Faculty Senate, the Joint Faculty Assembly approves the addition of the following language to section 2.10.3.2.

i. Faculty are expected to participate in annual training in diversity, equity, inclusion, and justice. Academic Affairs will consult with the Joint Faculty Senate Executive Committee and the Joint Faculty Senate Committee on Inclusion, Equity and Justice regarding the content and delivery of the annual trainings.

Rationale:

1. On March 1, 2022, the JFA passed the following: “Motion 3: Beginning in fall 2022, the JFA will require all faculty to participate in an annual training in DEIJ. The JFA charges the Executive Committee of the Senate to work with Academic Affairs to elaborate a plan for training by the Fall 2022.”
2. This addition of language fulfills part of the requirement.

Recommendations on Implementation Requests from Senate Committee on IEJ

- The training offered to faculty should be relevant and timely, varied in format, and accessible to faculty and staff at multiple times during the workday. These must be updated regularly to reflect the current understanding of issues and must be developed by experts with knowledge in the area of Diversity, Equity Inclusion, and Justice training. These trainings should not, for example, be simple web-based check boxes, but should be connected to campus and contemporary events which might spur meaningful conversations between colleagues and provide room for reflection and introspection and change.
- The annual trainings should be developed by those with expertise in diversity, equity, and inclusion and offered at different levels, offering faculty a range of training to suit their needs. They should be scheduled at multiple times to fit into busy schedules, with meaningful in-person conversations encouraged to lead to personal reflection and introspection. Ideally parts of the training tie into current events on campus and in our local communities, with a focus on how we all can work towards becoming the inclusive and anti-racist multicultural campus community we deserve.

Christi Siver: The IEJ has been in consultation with the Senior Diversity Officer and in consultation with fellow faculty members and the Parliamentarian we would like to propose an amendment to Motion 1 – we want a substitute amendment which would read: **Faculty are expected to participate in annual programming on excellence in inclusive teaching training in diversity, equity, inclusion, and justice. Academic Affairs will consult with the Joint Faculty Senate Executive Committee and the Joint Faculty Senate Committee on Inclusion, Equity and Justice regarding the content and delivery of the annual trainings programs.**

Christi Siver: This motion is an important statement of values of the faculty that is consistent with the original JFA motion and the JFS’s statement (July 1, 2020) on the killing of George Floyd. In that statement, the faculty committed: “We will play our part in making CSB and SJU anti-racist multicultural institutions, and we call, therefore, for anti-racism training across our institutions as a matter of primary concern. We must hold ourselves accountable across our campuses for racist and discriminatory language and practices. To this end, we will educate ourselves so as to enable our students to see the evil of racism and discrimination, and to fight against it.” Ensuring that our classrooms and campuses are inclusive and welcoming to all students, staff and faculty should be a basic expectation for every faculty member. Adding this expectation to the faculty handbook provides a means for all of us to hold ourselves and each other accountable. It also creates an expectation for Academic Affairs to work with faculty to ensure such programming is accessible and appropriate to the needs of our community. We have amended the language of the motion to reflect the importance of inclusive practices and be consistent with the literature. While there is a vast amount of literature on diversity, equity, and inclusion training, these studies vary widely in terms of the training examined and the metrics for success. We know we have a problem on campus – I have spent many hours with students, staff, and even fellow faculty recounting events on campus that are evidence of a dysfunctional campus culture. Having attended a number of workshops on campus ranging from inclusive pedagogy, understanding racial gas lighting, and even challenges for minoritized groups in the advising process, I know I have grown as a person, an

educator, and an ally. This motion requires Academic Affairs to offer this programming and consult with the faculty about what programming will be offered.

Is this programming a “panacea” for our problematic culture? No, it is not. There is no one silver bullet to becoming an inclusive campus. But it is a reiteration of the commitments we have made in 2020 and 2022 to make these institutions better places. All of us should expect nothing less.

Hoover: Shared the amended substitute motion.

Substitute amendment to Motion 1: Faculty are expected to participate in annual programming on excellence in inclusive teaching training in diversity, equity, inclusion, and justice. Academic Affairs will consult with the Joint Faculty Senate Executive Committee and the Joint Faculty Senate Committee on Inclusion, Equity and Justice regarding the content and delivery of the annual trainings programs.

The floor opened for discussion on the substitute motion.

Corrie Grosse: I am speaking to urge you to support the IEJ substitute motion. I would be in favor of the language of “required,” but I support the motion of “expected.”

Argument 1: DEI/inclusive excellence education/trainings work. I have participated in many DEI trainings and events in my 6 years here and, despite my undergraduate and doctoral training in this area, I have found the trainings to be tremendously beneficial to my teaching. This is corroborated by my student surveys and by my being the recipient of multiple teaching awards at CSB and SJU. Based on this experience, I find the argument that DEI trainings are not helpful lacking in credibility.

Argument 2: Faculty DEI education is needed to support our students. At the Johnnie Development Institute sponsored event on DEI, called “Speak Up, Speak Out, earlier this month (<https://www.youtube.com/watch?v=7oE5I57vc2A>, see 1:00:27), Rosemarie, a student, asked Mary Geller, Brian Bruess and Richard Ice a question. She said “when you were talking about race and people of color, who are in the college, you keep talking like we were statistics, not people in the community, so that bothered me. Sorry. I wanted to follow up on a comment from another student about microaggressions in the classroom from professors [a student had shared that a professor made a lot of racist comments]. There’s much talk about how students can get involved in increasing diversity and being more involved on campus, but what about professors? I don’t really know how professors are [learning ...]. They make these [microaggression] comments or don’t make the time to get to know their students and their cultures and traditions.”

Richard Ice replied by highlighting how the faculty had voted to put rules in the handbook to require annual trainings for DEI in a variety of formats, trainings that had previously been voluntary. To make sure people are incorporating this into their teaching, Ice highlighted that DEI is a component of faculty promotion review. I put forth the motion at the JFA last year to require annual DEI trainings. I was tired of seeing the same people – all very well versed in DEI – at all the DEI events on campus. I think the people who probably need DEI education are not benefiting from voluntary events that they do not attend. I was also part of the IEJ team that put together the DEI requirements for rank and tenure. These requirements are good, but they do nothing to hold full professors accountable. Annual required education holds full professors accountable in a small way. Faculty who oppose required DEI education remind me of the JFA meeting last year where some faculty opposed requiring land acknowledgements in CSD courses – a one minute statement recognizing whose land we are on, some nod to our Native nation neighbors. These faculty brought the Indigenous students in attendance at that JFA meeting to tears. Why make our BIPOC students, who already suffer, feel like faculty don’t care or are actively opposed to including them? I find this behavior harmful. The faculty should support annual DEI education for themselves. It will help us

grow and be better educators. Please support the IEJ motion. Thank you.

Chuck Wright: I would like to speak on behalf of the conservative students on campus who find they are entering into classes where they are told there is a particular interpretation of the world; a particular interpretation of the history of the institutions, the country and world; there is a particular way of interpreting the disparate outcomes that are observed in all areas of our society. They are told this is the particular way they need to accept- that they are wrong-headed, misguided to think otherwise and they understand what is necessary is to give the faculty what they want to hear so they can get the grade and get out. I am speaking on behalf of that cohort. Diversity, Equity, Inclusiveness and Justice is shorthand for a way of thinking that frames the world in particular way to the exclusion of other points of view. Under the rubric of diversity, equity, inclusion and justice or the rubric of inclusiveness generally, I have not seen at these institutions that we have invited scholars who are critics of the concept of microaggressions and who suggest the evidence does not exist or that evidence is not definitive that we are actually talking about a harm. I don't see that we have invited scholars who would offer a different interpretation of the causes for the educational achievement gap. These are scholars of color – there is community of responsible scholars of color. Under the rubric of diversity, equity, inclusion and justice, as well as education, we are inviting folks to campus to hear their points of view. So inclusiveness as we have experienced so far has excluded certain kinds of libertarian more conservative points of view. Our conservative and libertarian students know this, experience it and feel like they don't count as far as this conversation goes, and for that reason I would oppose integrating diversity, equity, inclusion and justice into the fundamental premises of what we are about as an institution because what it turns us into is not an institution of education but an institution of indoctrination. Thank you.

Sucharita Mukherjee: Yesterday at the Credo presentation we heard that student experience was going to be the center of what we do at CSB and SJU. At the very minimum as we seek to have an eye on our enrollments, which are going to have to be expanded towards students of color. And, of course I say this with hesitation, diversity doesn't only mean people of color, does not reside in a skin color and doesn't reside in a place of location. It is precisely for these reasons, for these ambiguities that we as a faculty community need to participate in these. Like Corrie, I would like to point out I am tired of bumping into the same people in these sessions. I would welcome if we had an institutional set up where more of us went to more of these sessions. There is a lot of information and writing about why trainings don't work and we know as academics everything we do has a negative connotation and I would like us to keep the positives in mind as we vote in favor of the IEJ's motion.

Elisheva Perelman: I am very much in support of this motion. I think that being open to information and these sorts of training do not shut us off from other points of view. In fact, if you want to look at it as a combative enterprise, which I do not think it is, I have read John Lock and Libertarian philosophy – I don't agree with them but it makes me a better scholar to understand these different points of view and not to shut them off wherever I come down on an issue – it makes me a better instructor. I think my classroom is quite open to students who don't agree with me philosophically. I try to respect them in all ways just as I try to respect students who are different from me in other ways. The issue is about bringing some sort of evidence not just opinion to the table. I invite those who might be otherwise resistant to this opportunity and privilege to look at this as evidence however you want to take that. I invite you to welcome the opportunity to utilize evidence. Thank you.

Claire Haeg: This is really about expanding our knowledge of techniques in the classroom rather than changing our ideation. We assume we are scholars, we are educated and that we act in good faith and with an open classroom. This is merely asking we take on some techniques for use to ensure the classroom itself is open and that those with and without cultural privilege are welcomed into that classroom space. It really is

not about forcing views on conservative students. It's about allowing those classroom spaces to be open for everyone so we have techniques so we can manage classrooms better. Those techniques aren't about us having our intellectual abilities challenged-we can all learn techniques to make classrooms better. Thank you.

Jean Lavigne: I am in support of the amendment. I agree with Claire the point is not to shut down discussion. The point is, because of our history and our dominant culture and because of the privileged position some of those conservative students occupy, their views have always been welcome, they have always been dominant and are easy to express in the classroom. What we actually need to do is open up the space for all of our students to be able to express their views in a way that feels safe and in a way that feels accepting and in a way that welcomes honest dialogue. This is the opposite of trying to shut down a discussion. It is trying to open space where there currently is not space in our history and culture where those students who might have opposite views may feel intimidated. Thank you.

Charles Baker: More of a question – the move was to change from training to programming and maybe Christi, when we get back to you, if you could clarify what the gist of that is. Is it just an in-person thing vs an online training? – I would like to understand what the change in the motion is more clearly.

Siver: We looked at the literature, actually I looked at much of the literature that Chuck shared on the Faculty Discussion list serv and also looked at the inclusive teaching literature, and we found that our intentions were more in-line and we think the original JFA motion intentions were more in-line with inclusive teaching than the kind of training that is done in the corporate environment, which is what much of the literature that is particularly critical of training focuses on.

Paul Schumacher: I also wanted to get a clarification on this amendment in particular to raise a point of order - we are hearing a lot of support for or against the motion as opposed to this specific amendment to the motion and we are burning a lot of time on the main motion itself before we have decided if we are going to amend it.

Hoover: I hear one question about programming rather than training. That was the only change I will make sure we are addressing that piece. So programming on excellence vs training that is the change. If you have specific questions to that.

Rachelle Larson: I know this is the next step, but want to keep this in the view. The fact that maybe there are trainings that we could do outside of the colleges--will it be a requirement that we have the programming or the training in the institution or is that something we can bring in from elsewhere?

Hoover: My understanding is this has not been set. This is the first step.

Jim Read: I want to address Chuck's concern. I don't think that concern can be dismissed. We have conservative students in class. To be inclusive is to benefit all members of the community. If those students clam up, we have accomplished nothing. So whatever inclusive programming we do will have to be ones in which they speak up and have to give reasons and have to listen to reasons of others. I would encourage our programming to keep that in mind. We all have an obligation to be inclusive. I like inclusive programming better than training which implies that the answers are all on one side. I don't dismiss the concern Chuck expressed.

Schroeder: In support the amendment and supported the other (original?)_also.

Siver: Culture and Social Difference (CSD) is already incorporated in the curriculum. This programming will aid faculty in being better able to lead difficult discussions on these topics. Rather than dictating a particular view, which I would argue pre-DEIJ coursework did, I argue that inclusive education helps faculty create space for multiple views.

The amendment passed by contract. Motion 1 as amended passed by contract.

The meeting adjourned at 5:30 pm
Respectfully submitted by Nancy Dueland

Rationale for Revisions to Joint Title IX and Sexual Misconduct Policies
Per emails from Richard Ice and Cheryl Stanton (General Counsel)
7/20/22

From Richard:

Dear Terri,

I am sending you proposed changes to the Title IX policy. Cheryl Stanton has worked on these changes and is ready to proceed. We need these changes in place for the beginning of the school year. Please begin the process for making these changes and work with Cheryl. Additionally, we need to consider the misplacement of this policy as an appendix to Part 2. Having an appendix is unclear and confusing. Further, this policy is institutional, not strictly faculty, so it shouldn't be in Part 2.

Thank you for your work. I know you will understand the importance and urgency of these changes.

Sincerely,

Richard

From: "Stanton, Cheryl" <CSTANTON001@csbsju.edu>

Date: July 19, 2022 at 4:19:09 PM CDT

To: "Ice, Richard" <RICE@csbsju.edu>

Cc: "Bacon, Pam" <PBACON@csbsju.edu>, "Wheatley, Parker" <PWHEATLEY@csbsju.edu>

Subject: Time Sensitive - Please Read Now

Hi Richard, Attached is the proposed (revised) Title IX Policy and Procedure (the "Policy"). I generally discussed, and identified substantive changes to, the proposed Policy with Parker, Terri, Carrie and Pam today. They have agreed to advance the proposed Policy through the faculty review process prior to classes commencing so that we can get it in place in time for students to begin returning. (Thank you to them for doing so.) It is my understanding that some of the athletes begin returning on August 15. Therefore, I would like to get the Policy fully approved and live on our website by August 15. Once the FHC has reviewed and provided comment –the Policy will go to the Board for email approval. (I presented the proposed Policy to the Board at the Board retreat last week without issue – and Brian and outside Title IX counsel have endorsed the proposed Policy.) The Board is aware that they will be approving following FHC review.

The revisions are necessary based on substantial feedback from students, faculty and staff that our current policy and procedure are very confusing (to the students particularly), redundant, and overly complex. Laurie Hamen and Jim Mullen tasked me with drafting an improved policy and procedure before they departed.

It was not possible to redline this Policy against our current Policy and Procedure given that so much content was moved around to make the Policy more clear. Therefore, here is a summary of the changes:

- The vast majority of the changes are organizational and format-related which were done to make the Policy much more readable, understandable and user-friendly.

Sections are better labeled and some information (i.e. Confidentiality) now have their own sections so that the information is more easily identified.

- A more detailed table of contents was added so that information is more readily located.
- In our current policy and current procedure, the policy and procedure are *two separate* documents (also attached). In the proposed Policy, the “policy” and “procedure” are *one* document. Combining into one document removes redundancy and confusion – which resulted in a reduction of 20 pages combined to our policy and procedure.
- Note, there is no new *policy-type* information in the proposed Policy– the Title IX regulations dictate what is required to be in the “policy” sections – we don’t have the flexibility to select what **MUST** be in the policy. The “policy” information in the proposed Policy is simply re-organized and better labeled.
- We do have some flexibility in dictating our *procedure*. Therefore, there are two changes to the procedure which I believe will streamline the process and hopefully result in more efficient complaint resolution:
 - In our current procedure, the Deputy Coordinators (who are mostly our VP’s of Student Development and Dean of Students) handled the heavy lifting of complaint intake and process. The proposed Policy moves that work to the Title IX Coordinators where it should be. Deputies will now be responsible for student engagement on Title IX, training, education and assisting in process when needed rather than processing complaints.
 - In our current procedure, complaints in which the respondent is a student and complaints in which the respondent are staff/faculty are handled differently at the adjudication stage. Under our current procedure if the respondent is a student, the adjudication is handled by a *panel* of three individuals and if the respondent is staff/faculty, the adjudication is handled by a *single* person. The proposed procedure will handle adjudication the same regardless of if the respondent is a student, faculty or staff. All adjudications will now be handled by a *panel*.
 - In the proposed Policy, there is a specific section that outlines how long each stage of the process should take. Previously this information was scattered throughout the procedure and was harder to locate. I am hopeful that setting this out more clearly will contribute to better managing expectations in the complaint resolution process.

It is my understanding that I will be invited to a meeting of the FHC to walk them through the foregoing. As I understand it, in order to adhere to the process set forth in the Faculty Handbook, the Provost must trigger the request for review to the FHC. (I am copying Parker and Pam in case I am using the incorrect language or misstating this.) If acceptable, would you please forward this request and the outline above of the revisions on to the FHC **at your earliest convenience**? Thanks Richard!

Cheryl A. Stanton | General Counsel and Corporate Secretary
College of Saint Benedict and Saint John’s University
320-363-5070 | cstanton001@csbsju.edu
www.csbsju.edu

Motion 3. In accord with 2.16.3.5.1.b. of the Faculty Handbook, the Joint Faculty Senate approves the following changes to section 5.3.4.1 on the composition of the Academic Curriculum Committee.

5.3.4.1 Composition

The members of the Academic Curriculum Committee are:

Five ~~seven~~ faculty, elected to three-year terms—one elected from each of the four ~~three~~ academic divisions and one elected at large. At least three of the faculty members must be tenured.

Ex-officio members are:

- a. the ~~Academic Dean of Curriculum and Assessment~~,
- b. the Registrar, the Director of Academic Advising, and a representative for the Libraries, and ~~the Director of the Libraries~~,
- c. two students, one from Saint John's University and one from the College of Saint Benedict, appointed by their respective student governments. ~~and~~
- d. In addition, when deemed appropriate by the Committee Chair, other faculty members who are charged with administration of programs and curriculum may serve as consultants.

Rationale:

1. Five members was the original size of the Academic committee; seven was meant to be a temporary expansion as the Integrations Curriculum was implemented.
2. The committee has functioned with five members for the past two years. There is also the increasing issue of finding enough people to staff standing committees as the size of the faculty shrinks.
3. There are currently 5 committee members, four divisional and 1 at-large. A librarian serves as ex-officio in case a program requests library resources and they need to weigh in (although this is rare). In practice, it has been a range of librarians and it does not need to be the director.

Motion 4. In accord with 2.16.3.5.1.b. of the Faculty Handbook, the Joint Faculty Senate approves the following addition to section 5.3.1.1 on the composition of the Coordinating Committee on Academic Policies and Standards and to section 5.2.2 on the responsibilities of Vice-Chair of the Joint Faculty Assembly.

5.3.1.1. Composition

The members of the Committee for the Coordination of Academic Policies and Standards are: One representative from each of the following committees: Academic Curriculum Committee, General Education Curriculum Committee, Academic Budget and Planning Committee, and Program Assessment Committee, and the Vice Chair of the Joint Faculty Assembly. **The chair of the committee is the Vice Chair of the Joint Faculty Assembly.** At least three members of the committee must be tenured.

5.2.2 Vice-chair of the Joint Faculty Assembly

The responsibilities of the vice-chair to the Joint Faculty Assembly are to:

- a. convene and preside over meetings of the Joint Faculty Assembly when the chair is absent and
- b. serve as the Chair of the Committee for the Coordination of Academic Policies and Standards.

Rationale

1. The practice for CCAPS for the past three years has been to have the chair be the Vice-Chair of the faculty serve as chair of CCAPS.
2. This role has permitted stronger coordination in reviewing and passage of policy changes with the JFS Executive Committee. The Vice-Chair has the time/space to do that work, and it's a good way to keep faculty governance tightly connected with considerations of major policy changes.

Title IX and Sexual Misconduct Policy of the College of Saint Benedict and Saint John's University *2022-2023*

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Nothing in this Policy is intended to create a contract between the College of Saint Benedict or Saint John's University and any student, employee, independent contract, vendor, or other individual or entity.

I. Purpose

The purpose of this Policy is to maintain an environment that is free from the physical and emotional threat of Sexual Misconduct. The College of Saint Benedict (“CSB”) and Saint John’s University (“SJU”) (collectively, the “Institutions”) will not tolerate Sexual Misconduct in any form.

This Policy addresses the Institutions’ prohibition of Sexual Misconduct, the steps for recourse for those individuals who may have been subject to Sexual Misconduct, and the procedures for determining whether a violation of the Policy occurred. In accordance with Title IX and its regulations, this Policy applies to the following forms of sex discrimination, which are referred to collectively as “Sexual Misconduct”: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. Allegations of sex discrimination that do not involve Sexual Misconduct will be handled in accordance with the Human Rights Policy.

II. Non-Discrimination

CSB and SJU are committed to compliance with all applicable anti-discrimination laws, including Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, and the Americans with Disabilities Act (ADA) and ADA Amendments, and do not unlawfully discriminate on the basis of race, religion, color, national origin, sex, sexual orientation, age, marital status, disability, familial status, status with regard to public assistance, or other legally protected category or characteristic, in their education programs and activities, in their admissions policies, in employment policies and practices, and all other areas of the institutions. Harassment based upon an individual’s legally protected status is a form of prohibited discrimination.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” The Institutions are required by Title IX and its regulations not to engage in sex discrimination in their education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual’s sex that excludes an individual from participation in, denies the individual the benefits of, or treats the individual differently, in an education program or activity. Sexual Harassment is a form of sex discrimination.

As Institutions which espouse Catholic and Benedictine values, every community member’s awareness of and respect for the rights and human dignity of all persons undergirds community life. These values demand that we strive to create an environment where the sacredness of each person is honored. Sexual Assault, Sexual Harassment, and other Sexual Misconduct

violate the sacredness of the person, weaken the health of the community, and are antithetical to the missions of our Institutions.

The College of Saint Benedict and Saint John's University will promptly and equitably respond to all reports of Sexual Misconduct, and will take steps to eliminate the misconduct, prevent its recurrence, and to address its effects on any individual or the community.

Questions or concerns regarding Title IX, sex discrimination, or Sexual Misconduct may be directed to the Institutions' Title IX Coordinators, listed below, or to the Assistant Secretary for Civil Rights at the Department of Education, or both.

CSB Title IX Coordinator:

Tamara Hennes-Vix
thennesvi001@csbsju.edu
(320) 363-5943
37 South College Avenue
Lottie Hall, Office 032
Saint Joseph, MN 56374

SJU Interim Title IX Coordinator:

Patricia Weishaar
pweishaar@csbsju.edu
(320) 363-2113
2850 Abbey Plaza
Emmaus Hall, Office 139
Collegeville, MN 56321

III. Scope

This policy applies to all members of CSB and SJU's community, including but not limited to, students, employees, faculty, staff, administrators, applicants for admission or employment, Board of Trustee members, and third parties such as volunteers, vendors, independent contractors, visitors, and any individuals and entities that do business with CSB or SJU or are regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with CSB and/or SJU or on CSB and/or SJU property. This Policy may also apply to individuals who interact with the Institutions' community members under certain circumstances. All CSB and SJU members are required to follow CSB and/or SJU policies and local, state, and federal law.

This Policy applies to Sexual Misconduct committed by or against a CSB and/or SJU community member, including conduct occurring on campus or CSB and/or SJU property like a residence hall, classroom or on-campus event, conduct that occurs at CSB and/or SJU-sanctioned events or programs that take place off campus, such as study abroad and internships, and off-campus conduct that may: (1) have continuing adverse effects on campus, CSB and/or SJU property, or in a CSB and/or SJU program or activity; (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, CSB and/or SJU property, or in a CSB and/or SJU program or activity; or (3) create a hostile environment for community members on campus, CSB and/or SJU property, or in a CSB and/or SJU program or activity.

This Policy applies to Sexual Misconduct within the scope of Title IX, as well as Sexual Misconduct committed by or against a CSB or SJU community member that does not fall within the scope of Title IX. More information about what Sexual Misconduct falls within the scope of Title IX is provided in Section VI. Prohibited Conduct below and more information about the process applicable to different types of Sexual Misconduct is provided in Section X., General Provisions for Complaint Resolution Process, below.

This Policy applies regardless of the sexual orientation or gender identity of any of the parties.

IV. Title IX Coordinator and Title IX Team

The CSB and SJU Title IX Coordinators are responsible for the coordination of the Institutions' Title IX compliance efforts, including the Institutions' efforts to end Sexual Misconduct, prevent its recurrence, and address its effects. The Title IX Coordinators oversee and monitor the Institutions' overall compliance with Title IX-related policies and developments and the administration of this Policy; the implementation of complaint resolution processes, including investigation and adjudication of all formal complaints of Sexual Misconduct; the provision of educational materials and training for the campus community; and all other aspects of the Institutions' Title IX compliance. These responsibilities include, but are not limited to:

- Ensuring the Institutions' policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a complainant, a respondent or another individual, about the procedural options and processes used by CSB and SJU and about resources available at CSB and SJU and in the community;
- Training and assisting the Institutions' employees regarding how to respond appropriately to a report of sex discrimination or Sexual Misconduct;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been stated;
- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of the Institutions' climate and culture take place;
- Coordinating the Institutions' efforts to identify and address any patterns or systemic problems revealed by reports and formal complaints;
- Recordkeeping of all incidents reported to the Title IX Coordinators;
- Complying with written notice requirements of the Violence Against Women Act; and
- Assisting in answering any other questions related to this Policy.

Questions regarding this policy should be directed to the Title IX Coordinators.

The Deputy Title IX Coordinators assist with case management, training, and prevention. Other trained individuals may also be called upon to investigate or adjudicate formal complaints of Sexual Misconduct, review appeals, and/or facilitate informal resolutions to formal complaints.

The Title IX Coordinators may appoint a designee to fulfill the functions of the Coordinator under this Policy. When this Policy refers to actions of the Title IX Coordinator(s), these actions may be fulfilled by a Title IX Coordinator or a Title IX Coordinator's designee.

Title IX Coordinators:

CSB:

Tamara Hennes-Vix
thennesvi001@csbsju.edu
(320) 363-5943

SJU:

Patricia Weishaar
pweishaar@csbsju.edu
(320) 363-2113

Deputy Coordinators:

CSB:

Mary Geller
Associate Provost for Student Success
mgeller@csbsju.edu
320-363-5601

Jody Terhaar
Dean of Students and Senior Student
Affairs Officer
jterhaar@csbsju.edu
320-363-5270

Chantel Braegelmann
Senior Human Resources Partner
cbraegelm001@csbsju.edu
320-363-5071

Marcia Mahlum
Assistant Dean of Students
mmahlum@csbsju.edu
320-363-5992

Kelly Anderson Diercks
Athletic Director, CSB
KellyAD@csbsju.edu
320-363-5201

SJU:

Mary Geller
Associate Provost for Student Success
mgeller@csbsju.edu
320-363-5601

Mike Connolly
Dean of Students and Senior Student
Affairs Officer
mconnolly@csbsju.edu
320-363-2737

Chantel Braegelmann
Senior Human Resources Partner
cbraegelm001@csbsju.edu
320-363-5071

Scott Bierscheid
Head Athletic Trainer
Sbierscheid@csbsju.edu
320-363-3813

Shawn Colberg
Dean, School of Theology and
Seminary
scolberg@csbsju.edu
320-363-3188

V. Definitions

Complainant refers to an individual who is alleged to be the victim of conduct that could violate this Policy.

Respondent refers to an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

A **report** is an account of the Sexual Misconduct that has allegedly occurred that has been provided to the CSB or SJU by the complainant, a third party, or an anonymous source.

A **formal complaint** is a document filed by a complainant or signed by a Title IX Coordinator alleging a violation of this Policy and requesting that CSB and/or SJU investigate the allegation of the Policy violation. A formal complaint begins the complaint resolution process as set forth in Section X. General Provisions for Complaint Resolution Process below.

Sexual Misconduct as used in this Policy means the following forms of sex discrimination and other misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Stalking, Domestic Violence, Dating Violence, and Sexual Exploitation, as each of those terms is defined below.

Consent is words or overt actions by a person in advance clearly communicating a freely given present agreement to participate in a particular sexual contact or activity. Words or overt actions clearly communicate consent when a reasonable person in the circumstances would believe those words or actions indicate a willingness to participate in a mutually agreed-upon sexual contact or activity. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent. It is the responsibility of the person initiating the specific sexual contact or activity to obtain consent for that contact or activity.

The definition of consent is subject to the following:

Consent is active, not passive. Silence or the absence of resistance or saying “no,” in and of themselves, cannot be interpreted as consent.

- Consent to one form of sexual activity does not, by itself, constitute consent to any other forms of sexual activity.
- Previous relationships or prior consent do not, by themselves, constitute consent to future sexual acts. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- Consent can be withdrawn at any time. When consent is withdrawn, the sexual activity for which consent was initially provided must stop.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.

- An existing sexual, romantic, or marital relationship does not, by itself, constitute consent.
- Prior sexual activity with other individuals does not imply consent.
- Consent cannot be procured, expressly or implicitly, by use of force, intimidation, threats, or **coercion**, as that term is defined below.
- An individual known to be – or who should be known to be – **incapacitated**, as defined by the Policy, cannot consent to sexual activity initiated by another individual.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- In order to give consent, one must be of legal age (16).

Coercion is conduct or intimidation that would compel an individual to do something against their will by: (1) the use of physical force, (2) threats of severely damaging consequences, or (3) pressure that would reasonably place an individual in fear of severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone uses to obtain consent from another.

Incapacitation means the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the influence of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol; a person is not incapacitated just because they have been drinking or using drugs. Where drugs and/or alcohol are involved, incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation, whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent, and whether such condition was known or reasonably known to the respondent or a reasonable sober person in respondent's position.

Use of drugs or alcohol by the accused is not a defense against allegations of Sexual Misconduct. Regardless of their own level of intoxication, individuals who are initiating sexual contact are always responsible for obtaining consent before proceeding with sexual activity.

Unwelcome Conduct: For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment definitions below, conduct is **unwelcome** when the individual did not request or invite and regarded it as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that they welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that they object, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

On the Basis of Sex: For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment definitions below, conduct is on the basis of sex when it is sexual in nature or is referencing or aimed at a particular sex.

Reasonable Person: For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment definitions below, reasonable person means a reasonable person in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

VI. Prohibited Conduct

The CSB and SJU prohibit the following forms of Sexual Misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as each term is defined below. Aiding others in acts of Sexual Misconduct also violates this Policy.

A. Title IX Sexual Harassment

As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (1) in CSB and/or SJU's education program or activity and (2) against a person in the United States.

- 1. Title IX Quid Pro Quo Harassment:** Title IX Quid Pro Quo Harassment occurs when an employee of CSB and/or SJU, including a student-employee, conditions the provision of an aid, benefit, or service of CSB or SJU on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.
- 2. Title IX Hostile Environment Harassment:** Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the CSB and/or SJU's education program or activity.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment Harassment:

- Unwelcome sexual flirtations, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based request;
- Offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature;

- Verbal abuse of a sexual nature, obscene language, gender- or sexually-oriented jokes, verbal commentary about an individual's body, sexual innuendo, and gossip about sexual relations;
- The display of derogatory or sexually suggestive posters, cartoons, drawings, or objects, or suggestive notes or letters or e-mails or text messages or in a public space;
- Visual conduct such as leering or making gestures;
- Sexually suggestive comments about an individual's body or body parts, or sexual degrading words to describe an individual;
- Unwanted kissing;
- Unwelcome touching of a sexual nature such as patting, pinching or brushing against another's body;
- Unwelcome verbal or physical conduct against an individual related to the individual's gender identity or the individual's conformity or failure to conform to gender stereotypes;
- Cyber or electronic harassment on the basis of sex.

The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the CSB and/or SJU's education program or activity include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protection of academic freedom.

- 3. Sexual Assault, Domestic Violence, Dating Violence, and Stalking:** as those terms are defined below (when such conduct occurs (1) in CSB and/or SJU education program or activity and (2) against a person in the United States).

At a minimum, the Institutions' **education program or activity** includes all of the operations of the Institutions, including (1) locations on campus or otherwise owned or controlled by CSB or SJU, such as residence halls and learning spaces, (2) locations, events, or circumstances over which CSB and/or SJU exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, such as CSB and SJU athletic events and other CSB or SJU-sponsored off-campus activities, and (3) any building owned or controlled by a student organization that is officially recognized by CSB or SJU. Whether alleged conduct occurred in CSB or SJU's education program or activity is a fact specific analysis.

B. Non-Title IX Sexual Harassment

While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the Institutions prohibit unwelcome conduct on the basis of sex (1) that may not rise to the level of Title IX Sexual Harassment (as defined above), (2) that did not occur in the Institutions' education program or activity, but may nevertheless cause or threaten to cause a unacceptable disruption at the Institutions or interfere with an individual's right to a non-discriminatory educational or work environment, or (3) that did not occur against a person in the United States.

As used in this Policy, Non-Title IX Sexual Harassment is unwelcome conduct of a sexual nature, including sexual advances, requests for sexual favors, offensive comments or other conduct based on sex, sexually motivated physical contact, or other verbal, nonverbal, or physical conduct or communication of a sexual nature, when:

- submission to that conduct is made, either explicitly or implicitly, a term or condition of an individual's educational experience or employment, or the individual's submission or rejection of such conduct is used as the basis of an educational program or activity decision or employment decision affecting such individual ("quid pro quo" harassment); or
- such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's employment or education, or of creating an intimidating, hostile, or offensive employment or educational environment ("hostile environment" harassment).

Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institutions' education program or activity; (2) does not occur in the Institutions' education program or activity; or (3) does not occur against a person in the United States.

C. Sexual Exploitation

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited. Examples of Sexual Exploitation may include, but are not limited to:

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Taking of or distribution of photographs/images, video or audio recording, or electronically broadcasting (e.g., with a web cam) a sexual activity without consent;
- Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, or intimate body part, or that is otherwise sexual in nature, without consent;

- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex) without consent;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Engaging in voyeurism without consent;
- Exposing one's genitals or breasts in non-consensual circumstances;
- Inducing another to expose his or her genitals or breasts in non-consensual circumstances;
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without his or her knowledge and consent;
- Ejaculating on another person without consent;
- Distributing or displaying pornography to another in non-consensual or unwelcomed circumstances.

Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of hostile environment harassment pursuant to either the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not separately be analyzed as Sexual Exploitation.

D. Sexual Assault

Sexual Assault is any actual or attempted sexual contact, including penetration and contact with any object, with another person without that person's consent. As used in this Policy, sexual contact includes intentional contact by the accused with the victim's intimate parts (genital area, groin, inner thigh, buttocks, or breasts), whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself with or on any of these body parts. Sexual Assault includes but is not limited to an offense that meets any of the following definitions:

- Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without the consent of the victim.
- Fondling: the touching of the intimate parts (genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Minnesota, the age of consent is 16.

Sexual Assault also is prohibited by Minnesota law. See Minnesota Statutes Section 609.341 et seq. or the State Law Definitions section below for applicable criminal law definitions of criminal sexual conduct.

E. Dating Violence

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined with 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. Dating Violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, or criminal assault, or the threat of such abuse. For purposes of this Dating Violence definition, consent will not be a defense to a complaint of physical abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

F. Domestic Violence

As used in this Policy, Domestic Violence includes a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under Minnesota family or domestic violence laws (or if the crime occurred outside of Minnesota, the jurisdiction in which the crime occurred).

Domestic Violence is prohibited by Minnesota law. See Minnesota Statutes Section 518B.01; 609.2242 or the State Law Definitions section below for applicable criminal law definitions relating to Domestic Violence. While not exhaustive, the following are examples of conduct that can constitute Domestic Violence: (1) physical harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

For purposes of this Domestic Violence definition, consent will not be a defense to a complaint of physical abuse.

G. Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through others (by any action, method, device, or means), follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. For purposes of this definition, not all communication about a person will be considered to be directed at that person.

Reasonable person means a reasonable person in the victim's circumstances.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, and/or email or other electronic communications, including social media;
- Repeatedly leaving or sending the victim unwanted items, presents, or flowers;
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities;
- Making direct or indirect threats to harm the victim, or the victim's children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property;
- Repeatedly posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth, that would cause a person to feel threatened or intimidated;
- Unreasonably obtaining personal information about the victim.

Stalking is also prohibited by Minnesota law. See Minnesota Statutes Section 609.749 or the State Law Definitions section below for applicable definitions of criminal Stalking.

H. Retaliation and Interference with Process

Retaliation and Interference with Process is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy or 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 this Policy. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered Retaliation/Interference with Process and violate this Policy. While the Institutions do not prohibit the parties from discussing the allegations in a formal complaint, acts that could constitute Retaliation and Interference with Process may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in the complaint resolution process, including the live hearing; acts or comments intended to embarrass the individual; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation and Interference with Process may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation and Interference with Process may be present against a person even when the person's allegations of Sexual Misconduct are unsubstantiated.

The Institutions are committed to protecting the rights of the complainant, the respondent, and anyone else involved in the complaint resolution process. Any conduct constituting Retaliation

or Interference with Process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation to the Title IX Coordinators. For more information, see Section XII. Complaints of Related Misconduct below.

I. Consensual Relationships

In some cases, consensual romantic or sexual relationships may form the basis for a claim of Title IX or Non-Title IX Sexual Harassment. These relationships are particularly complex when there is a power imbalance between the individuals involved in the relationship. Such relationships may also affect other members of the campus community adversely and give rise to conflict of interest concerns when there is real or perceived favorable treatment or an unacceptable work environment. Refer to the policies on Consensual Romantic or Sexual Relationships for further information at <https://www.csbsju.edu/human-rights/consensual-romantic-or-sexual-relationships>. Allegations of a violation of the Consensual Romantic or Sexual Relationship policies will be handled separately from this Policy and are not subject to the Sexual Misconduct Complaint Resolution Process set out in the Procedures.

VII. Confidentiality

The Institutions encourage individuals who have experienced Sexual Misconduct to talk to someone about what happened. Privacy and confidentiality have distinct meanings under this Policy. Different people on campus have different legal reporting responsibilities, and different abilities to maintain privacy or confidentiality, depending on their roles at CSB and/or SJU.

In making a decision about whom to contact for support and information, it is important to understand that most of the Institutions' employees are not confidential resources, and are therefore obligated to report to CSB and/or SJU any information they receive about Sexual Misconduct. Persons who have experienced Sexual Misconduct are encouraged to consider the following information in choosing whom to contact for information and support, and are encouraged to ask about a person's ability to maintain confidentiality before offering any information about alleged Sexual Misconduct.

A. Confidential Resources

The Institutions recognize that some individuals may wish to keep their concerns confidential. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the physical abuse, sexual abuse, or neglect of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person. Individuals who desire the details of Sexual Misconduct to be kept confidential should speak with a medical professional, professional counselor, professionals at CSB and SJU and in the community, including designated staff members in Counseling and Health Promotion and CSB Health Services,

ordained clergy (when bound by the seal of sacramental confession), the Central MN Sexual Assault Center, the Employee Assistance Program, and care providers at the St. Cloud Hospital. Individuals that desire the details of the incident be kept confidential should contact any of the following confidential resources:

CSB/SJU Counseling and Health Promotion

[Well-Being Center – CSB/SJU \(csbsju.edu\)](http://csbsju.edu)

CSB Campus
Lottie Hall, Lower level
320-363-3236

SJU Campus
Mary Hall #10
320-363-3236

CSB/SJU Health Services

[Well-Being Center – CSB/SJU \(csbsju.edu\)](http://csbsju.edu)

CSB Lottie Hall, Lower Level or SJU Mary Hall, Lower Level
320-363-5605

Central MN Sexual Assault Center

www.cmsac.org

15 Riverside Drive NE Saint Cloud, MN 56304
320 251-4357 or 1-800-237-5090

CSB/SJU Employee Assistance Program

VITAL WorkLife Employee Assistance Program (EAP) – CSB/SJU (csbsju.edu)

Vital WorkLife

800-383-1908

St. Cloud Hospital

www.centracare.com/locations/centracare-st-cloud-hospital/

1406 6th Ave N
Saint Cloud, MN 56303 320-251-2700

Ordained Clergy, when bound by the seal of sacramental confession

Note that conversations with clergy members outside the seal of confession are not confidential.

A person who speaks to a confidential resource should understand that if the person does not report the concern to a non-confidential resource at CSB or SJU, the Institutions will be unable to provide certain supportive/interim measures that would require involvement from the Institutions (such as issuing a no-contact order), conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource may later decide to file a formal complaint with CSB or SJU or report the incident to local law enforcement.

B. Non-Confidential Communications

Non-confidential communications are those communications with any CSB or SJU employee who is not a confidential resource. Only confidential resources can promise confidentiality. All other CSB and SJU employees who become aware of incidents or allegations of Sexual Misconduct have a responsibility to report the matter to a Title IX Coordinator. CSB and SJU employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to a Title IX Coordinator.

Although most CSB and SJU employees cannot promise confidentiality, the Institutions are committed to protecting the privacy of individuals involved in a report of Sexual Misconduct. Allegations of Policy violations will be considered private and will only be shared with other CSB and/or SJU employees on a need-to-know basis, as permitted by law, even if the individuals involved do not specifically request confidentiality. The Institutions will keep confidential the identity of any individual who has made a report or filed a formal complaint alleging a violation of this Policy, as well as any complainant, respondent, and witness, except as permitted by law or to carry out the complaint resolution process pursuant to this Policy. Allegations of Sexual Misconduct will not be shared with law enforcement without the consent of the individual who has alleged the Sexual Misconduct, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child under the age of 18 (see Section IX.D. Mandatory Reporting Concerning Minors below for more information) or unless CSB and/or SJU are compelled to do so pursuant to a subpoena or court order.

In addition, although the Institutions will strive to protect the privacy of all individuals involved to the extent possible consistent with the Institutions' legal obligations, CSB and/or SJU may be required to share information with individuals or organizations outside the Institutions under reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, CSB and/or SJU may be subject to a subpoena or court order requiring CSB and/or SJU to disclose information to law enforcement and/or the parties to a lawsuit. In these cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the Institutions' responsibilities under FERPA, as allowed by law.

C. Requests for Confidentiality or Non-Action

When CSB and/or SJU receive a report of Sexual Misconduct, the Institutions have a legal obligation to respond in a timely and appropriate manner. Making a report to CSB or SJU does not require an individual to begin or participate in a complaint resolution process or to report to local law enforcement. However, based on the information gathered, the Institutions may determine that they have a responsibility to move forward with the complaint resolution process (even without the participation of the complainant). In a situation in which the complainant requests that their name or other identifiable information not be shared with the respondent, or that no action be taken against the respondent, the Institutions will evaluate the request

considering the following factors: the seriousness of the alleged misconduct, the respective ages and roles of the complainant and respondent, whether there have been other Sexual Misconduct complaints about the same respondent, whether the respondent has a history of arrests or records from a prior school indicating a history of Sexual Misconduct, whether the respondent threatened further Sexual Misconduct or other violence against the complainant or others, whether the Sexual Misconduct was committed by multiple respondents, whether the Sexual Misconduct was perpetrated with a weapon, whether the Institutions possess other means to obtain relevant evidence of the Sexual Misconduct (e.g., security footage, eyewitness, physical evidence), whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol, at a given location, or by a particular group), and the extent of any threat to the Institutions' community.

The Institutions will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue an investigation made by the complainant; however, the scope of the response by the Institutions may be impacted or limited based on the nature of the complainant's request. The Institutions will likely be unable to conduct an investigation into the particular incident or to pursue disciplinary action against the respondent and also maintain confidentiality. Action while honoring the complainant's request could include steps to limit the effects of the alleged Sexual Misconduct and prevent its recurrence that do not involve an investigation or disciplinary action against the respondent or reveal the identity of complainant.

The Institutions will strive to accommodate the complainant's requests for confidentiality or non-action in most cases, to the extent possible consistent with the Institutions' legal obligations. There may be times when, in order to provide a safe, non-discriminatory environment for all students and employees, the Institutions may not be able to honor a complainant's request for confidentiality or non-action. The presence of one or more of the factors above could lead the Institutions to move forward with a complaint resolution process (even without the participation of the complainant). In this instance, a Title IX Coordinator will inform the complainant and may, at the complainant's request, communicate to the respondent that the complainant asked the Institutions not to investigate and that the Institutions determined it needed to do so. A complainant can choose not to participate in any complaint resolution process.

In instances where the Institutions move forward with a complaint resolution process without the participation of the complainant, the complainant will have the same rights as provided to a complainant under this Policy even if the complainant did not sign the formal complaint.

D. Clery Act Reporting and Timely Warning

Pursuant to the Clery Act, the Institutions include statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education and Minnesota Office of Higher Education in a manner that does not include any personally identifying information about individuals involved in an incident. In addition, the Clery Act requires the Institutions to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and

employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any identifying information about the complainant. In addition, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. To ensure that a complainant's and respondent's personally identifying information will not be included in publicly available recordkeeping, a Title IX Coordinator will describe the alleged incidents by removing the complainant's and respondent's names and any other identifiers that would enable the public to identify either party in the context of the incident report.

All of the Institutions' complaint resolution processes are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, and state and federal law. No information shall be released from such processes except as required or permitted by law and CSB and/or SJU policy.

Minnesota law requires institutions to collect statistics, without inclusion of any personally identifying information, regarding the number of reports of Sexual Assault received by an institution and the number of types of resolutions. See Minnesota Statute Section 135A.15. Data collected for purposes of submitting annual reports containing those statistics to the Minnesota Office of Higher Education under Minn. Stat. 135A.15 shall only be disclosed to the complainant, persons whose work assignments reasonably require access, and, at the complainant's request, police conducting a criminal investigation. Nothing in this paragraph is intended to conflict with or limits the authority of the Institutions to comply with other applicable state or federal laws.

Employees who are confidential resources contribute to the Institutions' statistical reporting requirements by reporting non-identifying information about reports they have received.

VIII. Reporting Sexual Misconduct

A. Reporting to CSB and/or SJU

Because of the significant interaction between students and employees of CSB and SJU, the institutions have determined that reports of Sexual Misconduct at one institution shall be shared with the other institution so that each institution can take appropriate measures.

The Institutions encourage anyone who has experienced or knows of Sexual Misconduct to report the incident to CSB and/or SJU. An individual may report Sexual Misconduct to CSB and/or SJU by contacting the following:

Title IX Coordinators:

CSB Title IX Coordinator:

Tamara Hennes-Vix
thennesvi001@csbsju.edu
(320) 363-5943
37 South College Ave.
Lower Lottie Hall, Office 032
Saint Joseph, MN 56374

SJU Interim Title IX Coordinator:

Patricia Weishaar
pweishaar@csbsju.edu
(320) 363-2113
2850 Abbey Plaza
Emmaus Hall, Office 139
Collegeville, MN 56321

Deputy Title IX Coordinators

CSB Deputy Title IX Coordinators:

Mary Geller
Associate Provost for Student Success
mgeller@csbsju.edu
320-363-5601

Jody Terhaar
Dean of Students and Senior Student
Affairs Officer
jterhaar@csbsju.edu
320-363-5270

Chantel Braegelmann
Senior Human Resources Partner
cbraegelm001@csbsju.edu
320-363-5071

Marcia Mahlum
Assistant Dean of Students
mmahlum@csbsju.edu
320-363-5992

Kelly Anderson Diercks
Athletic Director, CSB
KellyAD@csbsju.edu
320-363-5201

SJU Deputy Title IX Coordinators:

Mary Geller
Associate Provost for Student Success
mgeller@csbsju.edu
320-363-5601

Mike Connolly
Dean of Students and Senior Student
Affairs Officer
mconnolly@csbsju.edu
320-363-2737

Chantel Braegelmann
Senior Human Resources Partner
cbraegelm001@csbsju.edu
320-363-5071

Scott Bierscheid
Head Athletic Trainer
Sbierscheid@csbsju.edu
320-363-3813

Shawn Colberg
Dean, School of Theology and Seminary
scolberg@csbsju.edu
320-363-3188

Safety and Security

CSB Department of Security

csbsecurity@csbsju.edu
(320) 363-5000
37 South College Avenue
St. Joseph, MN 56374
<https://www.csbsju.edu/csb-security>

SJU Life Safety Services

lsafety@csbsju.edu
320-363-2144
St. Thomas Hall Basement
Collegeville, MN 56321
<https://www.csbsju.edu/sju-life-safety-services>

CSB and SJU take all reports seriously. Reports can be made by telephone, via email, via mail, or in person. Reports may be made at any time, including non-business hours by phone, email, mail, or the Institutions' website through the online form: <https://www.csbsju.edu/title-ix/self-report>.

Reports to the Institutions should include as much information as possible, including the names of the complainant, the respondent, and any other involved individuals, and the date, time, place, and circumstances of the incident, to enable the Institutions to respond appropriately.

When CSB or SJU receives a report of Sexual Misconduct, a Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process of filing a formal complaint. When a student or employee reports to CSB or SJU that they have been a victim of Sexual Misconduct, whether the offense occurred on or off campus, the Institutions will provide the student or employee with a written explanation of the student's or employee's rights and options and procedures victims should follow.

If an individual has made a report to a CSB or SJU employee who is not a confidential resource and has not yet heard from a Title IX Coordinator, please report directly to a Title IX Coordinator.

B. Employee Reporting Obligations

All CSB and SJU employees who are not confidential resources and who obtain or receive information regarding possible Sexual Misconduct must report that information to a Title IX Coordinator. Student employees who receive such information in the course of their work position or duties must report the information to a Title IX Coordinator.

Incidents that must be reported by CSB or SJU employees and student employees include:

- Incidents personally observed;
- Incidents that are reported to the employee or student employee; and
- Incidents of which the employee or student employee otherwise becomes aware

Such report should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the complainant, respondent, and other individuals involved in the incident, as well as relevant facts, including the date, time, and location.

Employees and student employees who receive such reports should not attempt to "investigate" the allegation or require the reporting individual to provide all of the details surrounding the alleged Sexual Misconduct. To the extent the reporting individual provides detail, that information should be provided to a Title IX Coordinator. Upon receiving a report of alleged or possible Sexual Misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with the complaint resolution process and this Policy.

CSB and/or SJU employees who are not confidential resources and student employees who receive a report of Sexual Misconduct should bring the report directly to a Title IX Coordinator and should not share information about the report with any other individual. If the individual is uncertain whether the information should be reported to a Title IX Coordinator, the individual should seek guidance from a Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the report. Failure of a CSB and/or SJU employee who is not a confidential resource or a student employee to report allegations of Sexual Misconduct to a Title IX Coordinator may result in disciplinary action.

If an individual has made a report to a CSB and/or SJU employee who is not a confidential resource and has not yet heard from a Title IX Coordinator, they should make the report directly to a Title IX Coordinator.

C. Anonymous Reports

The Institutions will accept anonymous reports of Sexual Misconduct. Reports may be filed anonymously using the Institutions' online reporting form: <https://www.csbsju.edu/title-ix/self-report>. The individual making the report is encouraged to provide as much detailed information as possible to allow the Institutions to investigate the report and respond as appropriate. The Institutions will likely be limited in their ability to investigate an anonymous report unless sufficient information is furnished to enable the Institutions to conduct a meaningful investigation. A Title IX Coordinator will receive anonymous reports and meet with the Title IX team to determine the best way to respond.

D. Mandatory Reporting Concerning Minors

Any CSB or SJU employee who becomes aware of the abuse (physical or sexual) or neglect of a child under the age of 18 on campus or in connection with any CSB and/or SJU event, program, or activity must report it immediately to a Title IX Coordinator. In addition, as a mandatory reporter under Minnesota law, such individuals must also immediately report the abuse or neglect to the local welfare agency responsible for assessing or investigating the report, police department, or county sheriff.

E. Reporting to Law Enforcement

Some types of Sexual Misconduct prohibited by this Policy, such as Sexual Assault, also constitute criminal conduct. Individuals who believe they may have been subjected to criminal Sexual Misconduct are strongly encouraged to notify local law enforcement authorities, CSB Security or SJU Life Safety. The Institutions will comply with an individual's request for assistance in notifying authorities. The Institutions will, at the direction of law enforcement, provide complete and prompt assistance in obtaining, securing, and maintaining evidence in connection with criminal conduct that violates this Policy. Individuals also have the option to decline to notify law enforcement.

Individuals may file a criminal complaint and a formal complaint under this Policy simultaneously. Reporting to law enforcement is not necessary for the Institutions to proceed with a complaint resolution process.

If you would like to report Sexual Misconduct to law enforcement, for incidents occurring on the CSB campus in the St. Joseph community, contact the St. Joseph Police by calling (320) 363-8250; for incidents occurring on the SJU campus, contact the Stearns County Sheriff's Department by calling (320) 251-1200; and for incidents occurring in St. Cloud, contact the St. Cloud Police by calling (320) 251-1200. Ask to speak to an officer regarding a sexual assault. If you are not comfortable indicating the specific reason for the call, you can ask to speak with an officer regarding a possible crime. The Institutions are available to support you during this process.

Minnesota law provides individuals who report crimes to law enforcement with certain rights. For further information, consult [Crime Victim Rights](#), a publication of the Minnesota Department of Safety, or Minnesota Statutes Chapter 611A.

F. Harassment Orders, Protective Orders and No-Contact Orders

Individuals who would like to avoid contact with another individual have several options available to them, including seeking a harassment restraining order or protective order from a civil court or requesting a no-contact order from the Institutions.

Harassment restraining orders and orders for protection are legal orders issued by a state court which forbid someone from harassing and/or making contact with another. A harassment restraining order is a court order issued against an alleged harasser, regardless of the relationship between the alleged harasser and the alleged victim, which orders the harasser to stop harassing the victim and/or to have no contact with the victim. An order for protection is a civil court order that protects one family or household member from domestic abuse by another family or household member. The Institutions do not issue harassment restraining orders or orders for protection; however, petition forms to apply for a harassment restraining order or to seek an order for protection are available at the Court Administration Office located at the Stearns County District Courthouse, 725 Courthouse Square, St. Cloud, MN 56303 or online from the Minnesota Judicial Branch website, <http://www.mncourts.gov/GetForms.aspx?c=17#subcat39>. The telephone number for the Court Administrator is (320) 656-3620. More information about writing and filing a petition for a restraining order is available at <https://www.stearnscountymn.gov/455/Orders-for-Protection>.

A no-contact order is a directive issued by the Institutions that prohibits both parties from communication or contact with another. Generally, no-contact orders issued prior to the conclusion of the complaint resolution process will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another. To request a no-contact order from the CSB and/or SJU, individuals should contact a Title IX Coordinator.

The Institutions are responsible for honoring requests for information about available options for orders for protection, restraining orders, and no-contact orders and have a responsibility to comply with and enforce such orders. To request additional information about available options for orders for protection, restraining orders, and no-contact orders, contact a Title IX

Coordinator. An order of protection and/or harassment restraining order can be enforced by contacting local law enforcement. A no-contact order issued by CSB and/or SJU may be enforced by contacting CSB Security, SJU Life Safety or a Title IX Coordinator. The Institutions will fully cooperate with any harassment restraining order and/or order for protection issued by a criminal, civil, or tribal court.

G. Crime Victims Bill of Rights

Pursuant to state law, victims of crime must be informed of their rights under the Crime Victims Bill of Rights. The following is a summary of crime victims' rights under Minnesota law.

- When a crime is reported to law enforcement, victims have the right to:
- Request that their identity be kept private in reports available to the public;
- Be notified of crime victim rights and information on the nearest crime victim assistance program or resource;
- Apply for financial assistance for non-property losses related to a crime;
- Participate in prosecution of the case, including the right to be informed of a prosecutor's decision to decline prosecution or dismiss their case;
- Protection from harm, including information about seeking a protective or harassment order at no cost;
- Protection against employer retaliation for taking time off to attend protection or harassment restraining order proceedings; and
- Assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety.

Victims of domestic abuse also have the right to terminate a lease without penalty. Victims of Sexual Assault have the right to undergo a confidential Sexual Assault examination at no cost, make a confidential request for HIV testing of a convicted felon, and are not required to undergo a polygraph examination in order for an investigation or prosecution to proceed. In cases of domestic abuse and violent crime where an arrest has been made, victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency.

Complete information about crime victims' rights can be found at:

<https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>

Information about victims' rights is also available from the Title IX Coordinators or from the Minnesota Department of Public Safety, Office of Justice Programs, and in Minnesota Statutes Chapter 611A.

H. Waiver of Drug, Alcohol or Open House Policy Violations

CSB and SJU strongly encourage students to report instances of Sexual Misconduct. Therefore, any student who makes a good faith report about Sexual Misconduct and/or who participates in

a Complaint Resolution Process will not be disciplined by CSB or SJU for any violation of the institutions' drug, alcohol, or open house policies in which they might have engaged in connection with the reported incident, except as outlined in this section. CSB or SJU may still require the individual to participate in educational or restorative action. In addition, a waiver may not be extended in instances where the conduct constituting a violation of the Institutions' drug, alcohol, or open house policies causes harm to any individuals or where the conduct constitutes a felony crime. In such cases, the Institutions may still pursue disciplinary action for the alleged violation of the Institutions' drug, alcohol, or open house policies.

I. Emergency Removal

The Institutions reserve the right to remove a student respondent, in whole or in part, from the CSB and/or SJU education program or activity on an emergency basis. Prior to removing the student respondent on an emergency basis, the Institutions will undertake an individualized safety and risk analysis and will determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. If a student respondent is removed on an emergency basis, the Institutions will provide the student respondent with notice and an opportunity to challenge the decision immediately following the removal.

J. Administrative Leave

The Institutions reserve the right to place a non-student employee respondent on administrative leave during the pendency of the complaint resolution process.

An employee may also be assigned other duties during the pendency of the complaint resolution process.

IX. General Provisions for Complaint Resolution Process

When CSB or SJU receive a formal complaint of a potential Policy violation, the Institutions will promptly and equitably respond to the formal complaint pursuant to the guidelines and procedures set forth below. The Institutions will provide a fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides complainant an opportunity to file a formal complaint alleging a violation of the Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and provides both parties an opportunity to challenge the credibility of the other party and any witnesses prior to a decision on responsibility. In cases involving allegations of Sexual Misconduct that is not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and witnesses during the investigation, through the Written Response Statements in response to the investigation report, and through the

Written Rebuttal Statements in response to the other party's Written Response Statement as discussed in Section XI. Procedures for Sexual Misconduct Complaint Resolution below.

Each complaint resolution process will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the Institutions and not on the parties. The Institutions will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The Institutions will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a complaint resolution process.

This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Upon receiving a formal complaint, a Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information at the end of the investigation phase, a Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

If a formal complaint includes both an allegation of Title IX Sexual Harassment and an allegation of Sexual Misconduct that does not meet the definition of Title IX Sexual Harassment, the College reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes.

A. Trained Officials

Each complaint resolution process will be conducted by individuals, including coordinators, investigators, Title IX Hearing Panel members, and any person who facilitates an informal resolution process, who do not have a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent. In addition, those individuals will receive annual training on the definition of Title IX Sexual Harassment; the scope of CSB and/or SJU's education program or activity; how to conduct an investigation and complaint resolution process, including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudice of the facts at interest, conflicts of interest, and bias; issues related to sexual harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking; and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. Investigators will receive training on issues of relevance to create an investigation report that fairly summarizes

relevant evidence. Title IX Hearing Panel members will receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The training is free of bias such as sex stereotypes or generalizations, promotes impartial investigations and adjudications, and includes the following topics, as applicable: relevant evidence and how it should be used, proper techniques for questioning witnesses, basic rules for conducting proceedings, avoiding actual or perceived conflicts of interest, and the Institutions' policies and procedures.

B. Rights of the Complainant and Respondent

In all Sexual Misconduct complaint resolution processes under this Policy, the complainant and respondent are entitled to:

- be treated with respect, sensitivity, and dignity;
- appropriate support from the Institutions;
- privacy to the extent possible based on applicable law and this Policy;
- information on the Policy and procedures;
- written explanation of available resources;
- the right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- be free from retaliation as defined in this Policy;
- equitable procedures that provide both parties with a prompt and equitable complaint resolution procedure conducted by officials who receive annual training on conduct prohibited by the Policy;
- notice of the allegations and defenses and an opportunity to respond;
- an equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal complaint resolution process;
- written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present;
- the right to appeal the decision and/or the dismissal of a formal complaint in certain circumstances as discussed in Section XI.G.7. Appeal below;
- the right to notification, in writing, of the resolution, including the outcome of any appeal;
- the right to the assistance of campus personnel (during and after the complaint process), in cooperation with the appropriate law enforcement authorities, in shielding the complainant or respondent, at their request, from unwanted contact with the complainant or respondent, including but not limited to a no-contact order issued by the Institutions, transfer to alternative classes or to alternative housing owned by CSB or SJU (if alternative classes or housing are available and feasible), change in work location or

schedule, or reassignment (if available and feasible); and to receive assistance with academic issues;

- the complainant has the right to decide when to repeat a description of an incident of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, and the respondent has the right to decide when to repeat a description of a defense to such allegations;
- the right to the complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Assault incident;
- the right to the assistance of campus authorities in preserving materials relevant to a campus complaint proceeding;
- the right to be provided access to their description of the incident, as it was reported to the Institutions, including if the individual transfers to another post-secondary institution, subject to compliance with FERPA, the Clery Act, Title IX, and other federal or state law. Requests for an individual's description of the incident should be made to a Title IX Coordinator.

C. Additional Rights in Cases Involving Allegations of Title IX Sexual Harassment

In cases involving allegations of Title IX Sexual Harassment, in addition to the rights provided in Section X.B. Equal Rights in Cases Involving Allegations of Title IX Sexual Harassment, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The Institutions will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section X.E. Advisors below for additional information and requirements regarding the conduct of advisors.
- The parties will be provided an equal opportunity to inspect and review a copy of any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as set forth in Section XI.F.2. Access to Information below.
- The parties will be provided a copy of the investigation report for their review and written response, as set forth in Section XI.F.2. Access to Information below.
- The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, as set forth in Section XI.F.3(a)(ii) Live Hearings below.

In addition, a complainant who alleges Title IX Sexual Harassment, has the following rights:

- To be informed by the Institutions of options to notify proper law enforcement authorities of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
- Not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or

evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct;

- Not to be treated by campus authorities in a manner that suggests that they are at fault for the Sexual Misconduct or that they should have acted in a different manner to avoid the Sexual Misconduct;
- To the complete and prompt assistance of campus authorities, at the complainant's request, in notifying the appropriate law enforcement officials and CSB and/or SJU officials of a Sexual Assault Dating Violence, Domestic Violence, or Stalking incident and filing criminal charges with local law enforcement officials in Sexual Assault, Dating Violence, Domestic Violence, or Stalking cases;
- To be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing Sexual Assault advocacy, Dating Violence, Domestic Violence, or Stalking services;
- To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
- For students who choose to transfer to another post-secondary institution, at the student's request, the right to receive information about resources for victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking at the institution to which the victim is transferring.

D. Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, or Stalking, *Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States*

In cases involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, in addition to the rights provided in Section X.B. Equal Rights of the Complainant and Respondent above, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The Institutions will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See Section X.E. Advisors below for additional information and requirements regarding the conduct of advisors.
- The complainant and respondent have the right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in Section XI.F.2. Access to Information below.

In addition, a complainant who alleges Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, has the following rights:

- To be informed by the Institutions of options to notify proper law enforcement authorities of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
- Not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct;
- Not to be treated by campus authorities in a manner that suggests that they are at fault for the Sexual Misconduct or that they should have acted in a different manner to avoid the Sexual Misconduct;
- To the complete and prompt assistance of campus authorities, at the complainant's request, in notifying the appropriate law enforcement officials and CSB and/or SJU officials of a Sexual Assault Dating Violence, Domestic Violence, or Stalking incident and filing criminal charges with local law enforcement officials in Sexual Assault, Dating Violence, Domestic Violence, or Stalking cases;
- To be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing Sexual Assault advocacy, Dating Violence, Domestic Violence, or Stalking services;
- To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
- For students who choose to transfer to another post-secondary institution, at the student's request, the right to receive information about resources for victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking at the institution to which the victim is transferring.

E. Advisors

The complainant and the respondent in the complaint resolution process involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, and Stalking *occurring outside* of the CSB and/or SJU's education program or activity or against a person *outside* of the United States, have the right to be accompanied to meetings by an advisor of their choice, who may be, but is not required to be, an attorney. Generally, the advisor selected by the complainant or respondent should be free of conflicts of interest in the resolution process and, if a member of the Institutions' community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the Institutions' complaint resolution process.

The following guidelines apply to advisors:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings during the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend interviews and meetings which may occur in person. As a general matter, the Institutions will not delay their proceedings to accommodate the schedules of advisors.

- Advisors may confer with their advisee, but, with the exception of live hearings for cases involving allegations of Title IX Sexual Harassment (discussed below), advisors may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution process. The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to CSB and/or SJU. The advisor may not communicate directly with the investigator, Title IX Hearing Panel/Adjudication Panel, Appeal Officers, Title IX Coordinator or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.
- In complaint resolution processes involving allegations of Title IX Sexual Harassment:
 - At the live hearing, advisors will be permitted to ask the parties and any witnesses all relevant questions and follow-up questions. Additional information about an advisor's role at the live hearing is included in Section XI.F.3.(a)(ii), Live Hearing below.
 - Advisors will receive a copy of all directly-related evidence and the investigation report, as set forth in Section XI.F.2. Access to Information below.
- In complaint resolution processes involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the CSB and/or SJU's education program or activity or against a person *outside* of the United States:
 - Advisors may have access to information as is described further below in Section XI.F.2. Access to Information.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must notify a Title IX Coordinator who they have selected as their advisor. The Institutions will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor. The notice shall indicate if the other party's advisor is an attorney.
- Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The Institutions reserve the right to dismiss an advisor.

F. Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation should contact a Title IX Coordinator. The Institutions will consider requests for reasonable accommodations submitted to a Title IX Coordinator on a case-by-case basis. Accommodations the Institutions may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the complaint resolution process.
- Providing an interpreter for individuals who are limited English-language proficient.

G. Supportive/Interim Measures

After receiving a report of alleged Sexual Misconduct, the Title IX Coordinator(s) will consider whether supportive/interim actions, accommodations, or protective measures are reasonably necessary or appropriate to protect the parties and the broader community of the Institutions. Such supportive/interim measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available. Such measures will be designed to restore or preserve equal access to CSB or SJU's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or CSB and/or SJU's educational environment, or to deter sexual harassment.

The Institutions will provide written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The Institutions are obligated to comply with a student's reasonable request for a living and/or academic situation change following an alleged incident of Sexual Misconduct. The Institutions will make appropriate accommodations and provide appropriate supportive/interim measures with or without a formal complaint, even when an individual asks to keep a reported violation of this Policy confidential, when a request is made to not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

Examples of supportive/interim measures include, without limitation:

- Establishing a no-contact order prohibiting the parties involved from communicating with each other.
- Changing an individual's dining arrangements.
- Assistance in finding alternative housing.
- Special parking arrangements.
- Changing an individual's student or employee status or job responsibilities.
- Changing an individual's work or class schedule.
- Providing academic accommodations or providing assistance with academic issues.
- Providing security escorts.
- Access to counseling and medical services.

- Making information about orders for protection and harassment restraining orders available to a complainant.
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.
- For students who choose to transfer to another institution: At the student's request, providing information about resources for victims of Sexual Assault at the institution to which the student is transferring.

The Institutions determine which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including but not limited to the specific need expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the complainant. A Title IX Coordinator will be responsible for determining what measures will be put in place.

To request supportive/interim measures, individuals should contact a Title IX Coordinator.

The Institutions will maintain as confidential any supportive/interim measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the Institutions to provide the accommodations or protective measures. The Institutions will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator(s) will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The Institutions will inform the individual before sharing personally identifying information that the Institutions believe is necessary to provide an accommodation or protective measure. The Institutions will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Any concern about a violation of a supportive/interim measure should be reported to a Title IX Coordinator promptly. Complaints of a violation of a supportive/interim measure will be handled as discussed in Section XII. Complaints of Related Misconduct below.

H. Obligation to Act in Good Faith

Reports and formal complaints of alleged Sexual Misconduct should be made only in good faith. Reports and formal complaints that are not made in good faith may be a form of retaliation under this Policy and/or may violate other CSB and/or SJU policies.

An allegation that a person has violated the obligation to act in good faith will be handled through the procedures identified below in Section XII. Complaints of Related Misconduct.

I. Conflicts of Interest and Bias

If a complainant or respondent has any concern that any individual acting for the Institutions under this Policy has a conflict of interest or bias, for or against complainants or respondents generally or for or against the individual complainant or respondent, such concern should be reported in writing to a Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted in writing within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflicts of interest or bias exist on the part of anyone investigating or adjudicating a complaint under this Policy.

If complainant or respondent has any concern that a Title IX Coordinator has a conflict of interest or bias, such concern should be reported in writing to the Institutions' President. If a Title IX Coordinator has a conflict of interest with respect to a complaint, the President or the President's designee shall appoint an alternate person to oversee adherence to the Sexual Misconduct Policy with respect to the formal complaint at issue. In cases where the President of CSB and SJU is a party to the complaint or has a conflict of interest with respect to a complaint, the Chair of the Board of Trustees for the institution shall ensure that the institution puts in place appropriate safeguards under the circumstances to ensure that the institution promptly and equitably responds to the formal complaint, including, but not limited to appointment of alternate individuals to serve in roles of Lead Title IX Coordinator.

The parties should be mindful that the Institutions have a small and close-knit community. That a party simply knows an individual acting for the Institutions under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the Institutions encourage the parties to bring any concern of conflict of interest or bias to a Title IX Coordinator's attention for consideration.

J. Obligation to be Truthful

All parties and witnesses have an obligation to be truthful in this process. Engaging in dishonesty may be considered retaliation or interference with process under this Policy and/or violate other CSB and/or SJU policies. An allegation that a person has violated the obligation to be truthful will be handled through the procedures identified in Section XII. Complaints of Related Misconduct below.

K. Non-Participation and Silence

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If at any time the complainant declines to participate in the process, the Institutions' ability to meaningfully investigate and adjudicate a formal complaint may be limited. In such cases, the Institutions will proceed with the complaint resolution process, if possible, without the complainant's participation, and will make a determination based upon the information available. The respondent also has the right to decline to participate in the complaint resolution process. In such cases, the Institutions will proceed with the

complaint resolution process and will make a determination based upon the information available. A respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation but may leave the complainant's allegations undisputed. Similarly, a complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses but may leave the respondent's denials or defenses undisputed.

Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.

In cases involving allegations of Title IX Sexual Harassment, the Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

L. Time Frames for Resolution

The Institutions are committed to the prompt and equitable resolution of allegations of Sexual Misconduct. As is discussed in more detail above and below, different procedures apply to cases involving allegations of Title IX Sexual Harassment than to other cases of alleged Sexual Misconduct. The time frames for each phase of the different procedures are as follows:

1. Cases Involving Allegations of Title IX Sexual Harassment

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of Title IX Sexual Harassment are set forth in Section XI. Procedures for Sexual Misconduct Complaint Resolution below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: fifty (50) calendar days
- Review of directly-related evidence and investigator consideration of evidence response statements: seventeen (17) calendar days
- Review of investigation report and written response: five (5) calendar days
- Live Hearing and Determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

2. Cases Involving Allegations of Other Forms of Sexual Misconduct

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of any other form of Sexual Misconduct are set forth in Section XI.

Procedures for Sexual Misconduct Complaint Resolution below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: fifty (50) calendar days
- Review of investigation report and written response/rebuttal, if applicable: ten (10) calendar days
- Adjudication: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

In any Sexual Misconduct complaint resolution process, the process may include additional days between these phases as the Institutions transition from one phase to another. The parties will be notified when each listed phase begins and when it ends. If any transition period will last longer than five (5) calendar days, the parties will be notified of the delay and the reason for it.

Circumstances may arise that require the extension of time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties and witnesses involved, the addition of new parties or new allegations to an amended notice of allegations, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, the need for language or assistance or accommodation of disabilities, or other unforeseen circumstance.

In cases where conduct that violates this Policy has also been reported to the police, the Institutions will not delay their complaint resolution process in order to wait for the conclusion of a criminal investigation or proceeding. However, the Institutions will comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the Institutions may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. This process typically takes 7-10 days. Once law enforcement has completed its gathering of evidence, the Institutions will promptly resume and complete their investigation and resolution procedures.

To the extent additional time is needed during any of the phases of the process discussed above or below, the Institutions will notify all parties of the delay and the reasons for it. When a time frame for a specific phase of the process, as set forth below, is less than five (5) calendar days, the Institutions may, in their discretion, use business days to calculate the time frame deadline. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged incident of Sexual Misconduct. The Institutions do not impose a time limit for reporting an incident of Sexual Misconduct; however, the Institutions' ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with CSB or SJU. If a formal complaint is brought forward more than four (4) calendar years after an alleged incident, CSB and/or SJU, in their discretion, may decline to

process a formal complaint under these procedures, but reserve the right to take other administrative action as appropriate depending on the specific circumstances of the formal complaint, and will provide reasonably appropriate supportive/interim measures, assist the complainant in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. If respondent is still a member of the Institutions' community as a student or employee, the complaint generally will be processed under these procedures.

M. Presumption of Non-Responsibility

The presumption is that the respondent is not responsible for a policy violation. The respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process. The respondent will be deemed responsible for a policy violation only if the appointed Title IX Hearing Panel/Adjudication Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent more likely than not engaged in Sexual Misconduct.

N. Application of Policy

When the Institutions receive a report or formal complaint of a violation of this Policy, the Institutions will apply the complaint resolution procedures from the Policy that is in effect at the time that the report or formal complaint is made and generally will apply the Sexual Misconduct definitions from the Policy that was in effect at the time the alleged misconduct occurred. For cases involving allegations of Title IX Sexual Harassment, the Institutions will apply the definitions from the policy that is in effect at the time the formal complaint is made to determine what procedures apply and the definitions from the policy that was in effect at the time the alleged misconduct occurred to determine whether a policy violation occurred.

O. Reservation of Flexibility

The procedures set forth in this Policy reflect the Institutions' desire to respond to formal complaints in good faith and in compliance with legal requirements. The Institutions recognize that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. The Institutions reserve the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

In instances where a formal complaint is made against an individual who is not a student or employee of CSB and/or SJU, and in instances when the conduct alleged, if true, would not meet the definition of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the Institutions reserve discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

X. Procedures for Sexual Misconduct Complaint Resolution

When the Institutions receive a formal complaint of a potential Sexual Misconduct Policy violation, the Institutions will promptly and equitably respond, investigating and adjudicating the formal complaint pursuant to the guidelines and procedures set forth below.

As discussed above in Section X. General Provisions for Complaint Resolution Process, different procedures apply to the complaint resolution process depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Further information about the different procedures is provided below.

A. Meeting Between Complainant and Title IX Coordinator

In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and a Title IX Coordinator. The purpose of the preliminary meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or formal complaint; it is not intended to be a full investigation interview.

As part of the initial meeting with the complainant, the Title IX Coordinator will:

- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional well-being of the complainant;
- notify the complainant of the right to contact law enforcement and seek medical treatment;
- notify the complainant of the importance of preservation of evidence;
- provide the complainant with information about on- and off-campus resources;
- notify the complainant of the range of supportive/interim measures with or without filing a formal complaint;
- provide the complainant with an explanation of the procedural options, including how to file a formal complaint, if not already filed, and the complaint resolution process;
- advise the complainant of the right to have an advisor of choice, as applicable under this Policy;
- discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- explain the Institutions' policy prohibiting retaliation.

All reports and formal complaints of Sexual Misconduct will be reviewed by a Title IX Coordinator to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks in consultation with the members of the Title IX Team.

If the Title IX Coordinator determines that the report or formal complaint, even if substantiated, would not be a violation of this Policy, they may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

B. Formal Complaint and Notice of Allegations

The filing of a formal complaint begins the complaint resolution process under this procedure. In most cases, formal complaints are made by the complainant. However, the Institutions reserve the right to move forward with the complaint resolution process to protect the safety and welfare of the community, even if a complainant chooses not to make or move forward with a formal complaint. Generally, a Title IX Coordinator will make a determination of whether the Institutions will move forward with a complaint resolution process when the complainant has not filed a formal complaint. If the Institutions decide that they have an obligation to move forward with the complaint resolution process, a Title IX Coordinator will sign the formal complaint and CSB or SJU will notify the complainant before proceeding. See Section VII.C. Requests for Confidentiality or Non-Action above for more information. The signing of the formal complaint by a Title IX Coordinator does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent.

Formal complaints of Sexual Misconduct should be made through a Title IX Coordinator.

When a Title IX Coordinator has received a formal complaint, the Title IX Coordinator will assess the formal complaint to determine if it states any allegations of Sexual Misconduct. If the formal complaint alleges Sexual Misconduct, the Title IX Coordinator will provide a written notice of allegations to the parties who are known. The written notice will include:

- Notice of the Institutions' complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the complaint resolution process;
- Notice that the parties have the right to an advisor of choice, as applicable under this Policy, who may be, but is not required to be, an attorney;
- Notice that the parties have the right to inspect and review evidence, as applicable under this Policy; and
- Notice of policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including Section X.H., Obligation to Act in Good Faith and Section X.J., Obligation to be Truthful above.

If the Institutions decide to investigate allegations about the complainant or respondent that are not included in the notice provided, the notice will be updated to provide notice of the additional allegations to the parties whose identities are known.

In addition, upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process.

When a Title IX Coordinator has received a formal complaint of Sexual Misconduct, a Title IX Coordinator will also meet with the respondent and will:

- notify the respondent of the complaint and alleged Policy violation(s);
- provide the respondent an explanation of the complaint resolution process;
- notify the respondent of the importance of preservation of evidence;
- notify the respondent of any supportive/interim measures that have been put in place that directly relate to the respondent (i.e., no-contact order);
- notify the respondent of available supportive/interim measures;
- provide the respondent with information about on- and off-campus resources;
- advise the respondent of the right to have an advisor of choice, as applicable under this Policy; and
- explain the Institutions' Policy prohibiting retaliation.

This stage of initial review of the formal complaint by the Title IX Coordinator and initial notice of the allegations to the parties generally will take no more than ten (10) calendar days. In some cases, more time may be required.

C. Investigation of Other Policy Violations of CSB and/or SJU

If a formal complaint of Sexual Misconduct also implicates alleged violations of other CSB and/or SJU policies, the Title IX Coordinator(s), in coordination with other appropriate school officials, will evaluate the allegations to determine whether the investigation of the alleged Sexual Misconduct and the other alleged policy violations may be appropriately investigated together without unduly delaying the resolution of the Sexual Misconduct formal complaint. Where the Title IX Coordinator(s), in coordination with other appropriate school officials, determine that a single investigation is appropriate, the determination of responsibility for each of the alleged policy violations will be evaluated under the applicable policy. The adjudication may be conducted in accordance with this Policy or the adjudication of the other policy violation may be conducted separately from the adjudication of the alleged Sexual Misconduct.

D. Consolidation of Formal Complaints

The Institutions reserve the right to consolidate formal complaints into one complaint resolution process as to allegations of Sexual Misconduct against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Sexual Misconduct arise out of the same facts or circumstances.

E. Informal Resolution Process

Following a formal complaint, at any time prior to reaching a determination regarding responsibility, the Institutions may facilitate an informal resolution process. In cases involving allegations of Sexual Assault or more serious Sexual Misconduct, informal resolutions may not be appropriate. In addition, in cases involving allegations that an employee engaged in Title IX Sexual Harassment against a student, informal resolution is not appropriate.

If the complainant, the respondent, and the Institutions agree to pursue an informal resolution, a Deputy Title IX Coordinator (or their assignee) will attempt to facilitate a resolution that is agreeable to all parties. The appointed Deputy Title IX Coordinator (or their assignee) will not be an advocate for either the complainant or the respondent in the informal resolution process, but rather will aid in the resolution of formal complaints in a non-adversarial manner. Under the informal process, the Institutions will only conduct such fact-gathering as is useful to resolve the formal complaint and as is necessary to protect the interests of the parties, the Institutions, and the Institutions' community.

The Institutions will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process and request a formal complaint resolution process at any time prior to reaching an agreed upon resolution. In addition, the Institutions also always have the discretion to discontinue the informal process and move forward with a formal complaint resolution process. If at any point during the informal resolution process prior to reaching an agreed upon resolution, the complainant or respondent or the Institutions wish to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.

Prior to engaging in an informal resolution process, the Institutions will provide the parties with a written notice disclosing: the allegations, the requirements of the informal resolution process, including the circumstances under which the informal resolution process precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. In addition, the Institutions will obtain the parties' voluntary, written consent to the informal resolution process.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the Institutions to stop, remedy, and prevent Policy violations. In their effort to stop, remedy, and prevent Policy violations, the Institutions will take prompt and corrective action which may involve the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the Institutions. Examples of potential remedies are provided in Section X.G. Supportive/Interim Measures above. The proposed resolution may also include other institutional responses, requirements, or sanctions imposed on the respondent.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the Institutions terminate the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the formal complaint and the Institutions agree in writing to the terms and conditions of a proposed resolution within five (5) calendar days of the Deputy Title IX Coordinator (or their assignee) presenting the proposed resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the formal complaint and the Institutions do not

agree in writing to the terms and conditions of the proposed resolution within five (5) calendar days of the Deputy Title IX Coordinator (or their assignee) presenting the proposed resolution to the parties, the formal complaint will be referred to the formal complaint resolution process.

Appeals are not allowed in cases where the parties have agreed to a voluntary alternative resolution of the matter.

The informal resolution process generally will take no more than fifteen (15) calendar days. In some cases, more time may be required.

F. Formal Resolution Process

If the formal complaint is not processed or resolved through the informal resolution process discussed above, the formal complaint will be processed according to the formal resolution process outlined below.

1. Investigation

The Institutions will appoint one or more trained and impartial investigators to conduct a prompt and equitable investigation. The Institutions will ensure that the investigator has received the appropriate training, is impartial, and is free of any conflict of interest or bias for or against complainants and respondents generally and for or against the complainant and respondent in the case. The Institutions reserve the right to appoint any trained investigator who is free of conflict of interest and bias, including a third-party investigator. The parties will receive written notice of the investigator appointed. If a party has a concern that the investigator has a conflict of interest or bias, the party should report the concern in writing as set forth in Section X.I. Conflicts of Interest and Bias above.

The investigator will conduct the investigation in a manner appropriate to the circumstances of the case. The investigation will typically involve interviews of the complainant and respondent and may also involve questioning of other witnesses and/or review of other information. The investigator will audio record interviews. The parties will have the opportunity to advise the investigator of any witnesses they believe should be interviewed, other evidence they believed should be reviewed by the investigator, and questions they believe the investigator should ask the other party or witnesses, including questions challenging credibility. The investigator, in consultation with the Title IX Coordinator(s), has discretion to assess the relevancy of any proposed witnesses, evidence, and questions, and, in their discretion, may decline to interview witnesses suggested by the parties and may interview witnesses who were not suggested by either party. The investigator may also determine whether to ask some or all of the questions suggested by the parties. The complainant and respondent will be given an equal opportunity to present witnesses they believe should be interviewed, and other inculpatory and exculpatory evidence, as part of the investigation. In cases involving allegations of Title IX Sexual Harassment, any witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigation report, unless extraordinary

circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator(s).

The parties will be informed of a close of evidence date before the end of the investigation phase. The parties must submit any and all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator, in consultation with the Title IX Coordinator(s), determines otherwise. In cases involving allegations of Title IX Sexual Harassment, all evidence a party wishes to offer or refer to at the hearing must have been provided as part of the investigation process, prior to the close of evidence, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator(s).

At the conclusion of the investigation, the investigator will prepare a report that fairly summarizes the relevant evidence. The investigation report may consist of any information, documents, or other evidence that will be provided to the Title IX Hearing Panel/Adjudication Panel. At the investigator's discretion, such information may include, as applicable: the formal complaint, the notice of allegations, any other evidence obtained during the investigation, and the investigator's report of the investigation. The investigation report shall be forwarded to the Title IX Coordinator(s) who will review the investigation report and has the discretion to ask the investigator for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report.

The Institutions will strive to complete the investigation within (i) fifty (50) calendar days from the date the investigator is appointed or (ii) if, after the date the investigator is appointed, the parties receive an amended notice of allegations that includes new allegations or new parties, forty-five (45) calendar days from the date of the amended notice of allegations. This time frame may be extended depending on the circumstances of each case. In cases involving allegations of Title IX Sexual Harassment, the Institutions will strive to complete the initial investigation in this 45-day time frame, but the final investigation report will not be completed until after the review of directly related evidence. See Section XI.F.2. Access to Information below for more information.

2. Access to Information

The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator(s) will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

(a) Cases Involving Allegations of Title IX Sexual Harassment

(i) Review of Directly Related Evidence

For formal complaints involving allegations of Title IX Sexual Harassment, the parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon

which the Institutions do not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. A Title IX Coordinator will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a ten (10) calendar day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). Each party's Evidence Response Statement may not exceed 2,000 words in length. The Evidence Response Statement must be submitted to a Title IX Coordinator within the ten (10) calendar day period described above. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the investigation report, and to identify evidence previously provided to the investigator that was not included in the directly related evidence which the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Evidence Response Statement.

The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

A Title IX Coordinator will review the parties' Evidence Response Statements and may remove or redact any portions of the parties' Evidence Response Statements that exceed the word limit of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent or information subject to a legal privilege without a waiver).

The investigator will consider the parties' Evidence Response Statements prior to completion of the investigation report.

All the evidence made available for the parties' review will be available during the hearing.

(ii) Review of Investigation Report

For complaints involving allegations of Title IX Sexual Harassment, a Title IX Coordinator will send the investigation report to each party and each party's advisor in electronic format or hard copy at least ten (10) days prior to the live hearing. The parties will have a five (5) calendar day period to review the investigation report and prepare a written response to the report (the "Written Response Statement"). Each party's Written Response Statement may not exceed 2,000 words in length. The Written Response Statement must be submitted to a Title IX Coordinator within the five (5) calendar day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report, identify

information previously given to the investigator that is not included in the investigation report which the party believes should have been included, or raise other concerns regarding the evidence. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties and parties' advisors may use the investigation report only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the investigation report with any other individual. Prior to being provided the investigation report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

A Title IX Coordinator will review the parties' Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator for clarification, additional investigation, and/or to have information removed or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' Written Response Statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

(b) Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, or Stalking Occurring Outside the Education Program or Activity or Against a Person Outside of the United States

(i) Review of Investigation Report

For complaints involving allegations of Sexual Assault, Dating Violence, Domestic Violence or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, the investigation report will be made available for review by the complainant and respondent. A Title IX Coordinator will provide a five (5) calendar day period for the complainant and respondent to have access to review the investigation report and prepare a response to the investigation report, as discussed below.

Both parties will have the opportunity to provide a written response to the report (the "Written Response Statement"). To do so, the party must submit Written Response Statement, which shall not exceed 4,000 words in length, to a Title IX Coordinator. The Written Response Statement must be submitted by the conclusion of the 5-day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report, identify information previously given to the investigator that is not included in the investigation report which the party believes should have been included, identify questions a party believes the other party has not yet answered or evidence the other party has not explained, raise other concerns regarding the evidence, and to challenge the credibility of the other party and witnesses. While the parties may be assisted by their advisors in preparation of

the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties shall have an opportunity to review the Written Response Statement submitted by the other party and, if desired, may submit a rebuttal statement (the "Written Rebuttal Statement"), not to exceed 2,500 words. A Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Response Statement and submit a Written Rebuttal Statement.

The Written Rebuttal Statement may only be used to respond to arguments made or concerns raised in the other party's Written Response Statement and to challenge the credibility of the other party and any witnesses. While the parties may be assisted by their advisors in preparation of the Written Rebuttal Statement, the Written Rebuttal Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Rebuttal Statement.

The parties shall have an opportunity to review the Written Rebuttal Statement submitted by the other party. A Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Rebuttal Statement. While the parties have the opportunity to review the Written Rebuttal Statement of the other party, no further responses are permitted by either party.

The parties and parties' advisors may use the investigation report and written statements of the other party reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the report and written statements with any other individual. Prior to being provided the report and written statements, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

A Title IX Coordinator shall review the Written Response Statement and Written Rebuttal Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limit of the statements as set forth above or that otherwise exceed the scope of information that may be considered in the complaint resolution process (e.g., treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

3. Adjudication

Upon completion of the investigation, a Title IX Coordinator will compile the adjudication file which will be shared with the adjudicators. In cases involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Domestic Violence, Dating Violence, or Stalking *occurring outside* of the Institutions' education program or activity or against a person *outside* of the United States, the parties will be given access to any information that is included in the adjudication file to the extent that it includes additional information that the parties did not review as part of the Access to Information step discussed above in Section XI.F.2. Access to Information.

(a) Cases Involving Allegations of Title IX Sexual Harassment

Upon completion of the investigation in cases involving allegations of Title IX Sexual Harassment, the matter will be submitted to a Title IX Hearing Panel to hold a live hearing and to make a determination regarding responsibility and, if appropriate, sanctions.

The Title IX Hearing Panel will conduct a prompt and equitable live hearing and adjudication.

(i) Appointment of the Title IX Hearing Panel

A Title IX Coordinator will designate a panel of three adjudicators to serve as the Title IX Hearing Panel. Generally, the Title IX Hearing Panel shall be chosen from a pool of trained faculty and administrators. The Institutions reserve the right to appoint any trained individuals who are without conflict or bias to the Title IX Hearing Panel, including third-party adjudicators. The Title IX Hearing Panel will not include the Title IX Coordinator or the investigator from the same matter. If any party has a concern that a member of the Title IX Hearing Panel has a conflict of interest or bias, the party should report the concern in writing as indicated in Section X.I. Conflicts of Interest and Bias above.

(ii) Live Hearings

At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questions will be conducted directly, orally, and in real time by the party's advisor and will never be conducted by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question at the hearing, the Title IX Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant in the formal complaint, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

All evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available at the hearing.

The hearing will generally be held by video-conference with the parties, witnesses, and Title IX Hearing Panel located in separate locations and technology enabling the Title IX Hearing Panel and parties to simultaneously see and hear the party or the witness answering questions. The Institutions reserve the right to determine that a hearing will instead be conducted with all participants, including the parties, witnesses, and the Title IX Hearing Panel physically present in the same location. In the event that the live hearing is held with the participants in the same location, at the request of either party, the Institutions will provide for the parties to be located in separate rooms with technology enabling the Title IX Hearing Panel and parties to simultaneously see and hear the party or witness answering questions.

The Institutions will create an audio or audiovisual recording, or transcript, of any live hearing and, upon request, will make it available to the parties for inspection and review.

(iii) Advisors Appointed by the Institutions

If a party does not have an advisor present at the live hearing, the Institutions will provide an advisor to the party, without fee or charge to that party, to conduct cross-examination on behalf of that party. If a party will not have an advisor present at the hearing, the party must inform a Title IX Coordinator at least three (3) calendar days prior to the live hearing so that the Institutions may appoint an advisor for the hearing. The appointed advisor's role will be limited to relaying the party's questions to be asked of other parties and witnesses. The appointed advisor shall not perform any function beyond relaying the party's desired questions. The Institutions reserve the right to appoint any individual as the Institutions deem appropriate to act as an advisor at a live hearing, including third-party advisors. The Institutions' appointment of an advisor is final and a party who refuses to work with an appointed advisor at the live hearing will forfeit his or her right to conduct cross-examination or other questioning at the hearing.

(iv) Live Hearing Procedures

Additional information about live hearings can be found by contacting a Title IX Coordinator.

(v) Decision-Making Process

The presumption is that the respondent is not responsible for a policy violation. The respondent will be deemed responsible for a policy violation only if the Title IX Hearing Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in Sexual Misconduct. If the Title IX Hearing Panel determines that the respondent is responsible for a policy violation, the Title IX Hearing Panel will then determine what sanctions and remedies are warranted.

The Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to

answer cross-examination or other questions. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

Lie detector test results will not be considered credible by the Title IX Hearing Panel in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the Institutions or a court of law will generally be given little weight, if any, by the Title IX Hearing Panel in the decision-making process.

When a respondent is found not responsible for a policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of a violation of this Policy—the Institutions may, in their discretion, require the respondent to receive appropriate education and/or training. The Institutions may also recommend counseling or other support services for the respondent.

(b) Cases Involving Allegations of Other Forms of Sexual Misconduct

Upon completion of the investigation in matters involving allegations of Sexual Misconduct that are not Title IX Sexual Harassment, a Title IX Coordinator will appoint appropriate adjudicators to the Adjudication Panel. Generally, a three-person Adjudication Panel will be appointed from a group of trained faculty and staff members. However, the Institutions reserve the right to appoint any trained adjudicators who are free from conflict of interest or bias, including third-party adjudicators. If any party has a concern that a member of the Adjudication Panel has a conflict of interest or bias, the party should report the concern in writing as indicated in Section X.I. Conflicts of Interest and Bias above.

The Adjudication Panel will review the adjudication file. The Adjudication Panel may, in their discretion, seek additional information from the investigator, the parties, or another individual, or request additional investigation by the investigator. In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that *occurred outside* of the education program or activity or against a person *outside* of the United States), if such information is shared with the Adjudication Panel, the parties will be notified and provided access to that information.

The respondent is presumed to be not responsible for violating this Policy. The Adjudication Panel will use a preponderance of the evidence standard to determine whether there is sufficient evidence to conclude it is more likely than not that the respondent violated the Policy. If the Adjudication Panel determines that the respondent is responsible for a policy violation, typically the Adjudication Panel will impose remedies and/or sanctions as necessary to end the misconduct, prevent its recurrence, and address its effects. A Title IX Coordinator has discretion to appoint a different sanctioning officer as they determine appropriate. The Institutions reserve the right to appoint any trained sanctioning officer who is free from conflict of interest or bias, including third-party sanctioning officers.

Lie detector test results will not be considered credible by the Adjudication Panel in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the Institutions or a court of law will generally be given little weight, if any, by the Adjudication Panel in the decision-making process.

As part of the determination of sanctions and remedies, a Title IX Coordinator may, in their discretion, provide the Adjudication Panel with information regarding previous violations of the Sexual Misconduct Policy or other CSB and/or SJU policies by the respondent, if any. In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that *occurred outside* of the education program or activity or against a person *outside* of the United States), if such information is shared with the Adjudication Panel, the parties will be notified and provided access to that information.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of a violation of this Policy—the Institutions may, in their discretion, require the respondent to receive appropriate education and/or training. The Institutions may also recommend counseling or other support services for the respondent.

4. Sanctions and Remedies

The Title IX Hearing Panel/Adjudication Panel, in consultations with the Title IX Coordinator will impose remedies and/or sanctions as necessary to end the misconduct, prevent its recurrence, and address its effects. The Institutions reserve the right to take whatever measures deemed necessary in response to an allegation of Sexual Misconduct to protect the rights and personal safety of the complainant and the Institutions' community members. In determining sanctions, the Title IX Hearing Panel/Adjudication Panel will consider the following factors, among others: the nature and severity of the misconduct, the need to protect the safety and educational/employment environment of the campus community, the particular facts and circumstances of the matter, any previous conduct violations by respondent, any aggravating or mitigating factors, and sanctions imposed in similar cases by the Institutions.

Individuals who are found responsible under this Policy may face sanctions as appropriate for students, employees, visitors, or others, including, but not limited to the following sanctions. Each of these sanctions and other sanctions may be imposed alone or in combination for a respondent found responsible for Sexual Misconduct, as defined by this Policy:

- verbal warning;
- written warning;
- disciplinary censure;
- disciplinary probation;
- suspension, ranging from 1 semester to 5 years with reinstatement requirements that could include behavioral contracts, required attendance at educational programs, required assessment or counseling, and other potential conditions on reinstatement;
- expulsion;

- suspension or withdrawal of privileges;
- withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions;
- temporary revocation of degree;
- revocation of admission to CSB or SJU;
- temporary or permanent restricted access to areas of campus, and campus events, activities, organizations or courses;
- temporary or permanent removal from class or living or housing assignment;
- conditions upon presence on campus or at CSB and/or SJU events;
- no trespass or no-contact orders;
- required attendance at an educational training or meetings;
- behavioral contracts;
- required assessment or counseling;
- community service hours;
- unpaid suspension;
- loss or reduction of salary or benefit such as travel funding;
- suspension of promotion and salary increments ranging from 1 semester to 5 years, with reinstatement requirements that could include behavioral contracts, required attendance at educational programs, required assessment or counseling, and other potential conditions on reinstatement;
- removal or non-renewal of scholarships or honors;
- transfer or change of job or responsibilities;
- demotion;
- termination of employment;
- payment of restitution or costs incurred.

Any concern about a violation of an imposed sanction should be reported to a Title IX Coordinator promptly.

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, staff/faculty committee) has committed or promoted behavior involving Sexual Misconduct, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of CSB and/or SJU privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of CSB and/or SJU facilities), educational requirements for organization members, required additional oversight of organization activities, temporary loss of organization recognition and/or funding, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

Remedies for the complainant are designed to restore or preserve equal access to CSB and/or SJU's education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. Remedies, accommodations, and protective

measures for the complainant include implementing or extending remedial or protective measures, including, without limitation, the following examples:

- A mutual no-contact order;
- Restricted contact;
- Prohibiting an individual involved from being on the Institutions' property;
- Prohibiting an individual involved from participating in CSB or SJU-sponsored events;
- Changing an individual's living or housing, or dining arrangements;
- Changing an individual's student or employee status or job responsibilities.
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Access to counseling;
- Making information about orders for protection and harassment restraining orders available to a complainant;
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

Remedies designed to address the Institutions' community include increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur and targeted or broad-based educational programming or training for relevant persons or groups.

The Title IX Coordinators are responsible for effective implementation of any remedies.

5. Notice of Determination

The complainant and respondent will simultaneously receive a written notice of the determination.

For complaints involving (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of an education program or activity or against a person *outside* the United States, the written notice shall include the allegations potentially constituting Sexual Misconduct, a description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held), findings of fact supporting the determination, conclusions regarding the application of the Institutions' policy to the facts, the determination regarding responsibility as to each allegation, any imposition of sanctions, whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant, and the rationales for the determination and sanctions (including how the evidence was weighed, how the information supports the result, and the standard of evidence applied). The written notice will also include information about the procedures and permissible bases for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the Institutions have taken to eliminate the conduct and prevent its recurrence.

For all other complaints of Sexual Misconduct, the written notice shall include the determination of the Adjudication Panel.

In cases involving allegations of Title IX Sexual Harassment, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the live hearing concluded. In cases involving allegations of other forms of Sexual Misconduct, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the Adjudication Panel receives the adjudication file. In some cases, more time may be required.

The determination of the Title IX Hearing Panel/Adjudication Panel may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final and the sanctions, if any, will be effective.

6. Dismissal of Formal Complaint Prior to Adjudication

If the allegations in a formal complaint are initially included in the notice of allegations as allegations of Title IX Sexual Harassment, but facts are gathered during the course of the complaint resolution process that indicate that the alleged conduct does not meet the definition of Title IX Sexual Harassment, the Institutions will dismiss the formal complaint as to those allegations. Even if a formal complaint or any allegations of Title IX Sexual Harassment are dismissed, the Institutions reserve the right to move forward with a complaint resolution process using the other Sexual Misconduct definitions and the other procedures in this Policy, as applicable.

In cases involving allegations of any Sexual Misconduct, the Institutions may, at their discretion, dismiss the case prior to adjudication in certain circumstances. Circumstances that may lead to dismissal prior to adjudication, include, but are not limited to: the complainant notifies a Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by the Institutions, or specific circumstances prevent the Institutions from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. If the Institutions dismiss a formal complaint, the Institutions will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. A dismissal of a formal complaint may be appealed as provided below.

G. Appeal

Either the complainant or the respondent may appeal a decision to dismiss a formal complaint or any allegations therein, as discussed above in Section XI.F.6. Dismissal of Formal Complaint Prior to Adjudication. The parties may also appeal the Title IX Hearing Panel's/Adjudication Panel's decision regarding responsibility.

Grounds for appeals are as follows:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- A Title IX Coordinator, investigator, or Title IX Hearing Panel/Adjudication Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

1. Submitting an Appeal

Either party may request an appeal by submitting a written appeal statement, which may not exceed 2,000 words, challenging the outcome of the complaint resolution process. The written appeal statement must be submitted to a Title IX Coordinator at TitleIXAppeals@cbsju.edu within two (2) calendar days of receiving the notice of determination and must explain which of the above grounds the party is invoking for the appeal. While the parties may be assisted by their advisors in preparation of the appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

A Title IX Coordinator will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. A Title IX Coordinator may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

If the Title IX Coordinator determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to a Title IX Coordinator within two (2) calendar days of receiving notice of the appeal. While the party may be assisted by their advisors in preparation of the responsive appeal statement, the responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

A Title IX Coordinator will review any responsive appeal statement and may remove or redact any portions of the statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

A Title IX Coordinator generally will compile an appeal file, which may consist of any information, documents, or other evidence that is provided to the Appeal Officer(s). Such information may include, the written appeal statement, the responsive appeal statement, the notice of determination, the adjudication file in its entirety or in part, any previously undiscovered evidence (if discovery of new evidence is a ground for the appeal), and any other information determined to be necessary for the Appeal Officer(s)' decision, at the Title IX Coordinator's discretion.

For complaints involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, the appeal file will be made available for review by the complainant and respondent. A Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the appeal file.

In cases where the appeal file is made available for review as discussed above, the parties and parties' advisors may use the appeal file reviewed at this step and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the appeal file or additional information with any other individual. Prior to being provided access to the appeal file or any additional information, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

2. Consideration of Appeal

Appeals will be considered by one or more Appeal Officers. When the respondent is a student, the Appeal Officer will generally be the Associate Provost for Student Success or other senior level officers of the Institutions. When the respondent is a faculty or staff member, the Appeal Officer(s) will generally be the Dean of Faculty, the Academic Dean, Vice Presidents of the Institutions or other senior level officers of the Institutions. The Institutions reserve the right to appoint any trained individual who is free of conflict of interest or bias as an Appeal Officer, including a third-party Appeal Officer. The Appeal Officer(s) will not be one of the Title IX Hearing Panel/Adjudication Panel members, the investigator, or the Title IX Coordinator on the same matter. The parties shall receive written notice of the Appeal Officer(s) who have been appointed. If any party has a concern that an Appeal Officer has a conflict of interest, the party should report the concern in writing as indicated in Section X.I. Conflicts of Interest and Bias above.

The Appeal Officer(s) will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The Appeal Officer(s) may choose to meet with the parties and consider other additional information, in the Appeal Officer(s)' sole discretion. For cases of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, if

the Appeal Officer(s) receive(s) any additional information, the parties shall have an opportunity to review the additional information.

If the Appeal Officer(s) determine(s) that there is sufficient evidence to conclude that it is more likely than not that one or more of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and/or deliberations by the Title IX Hearing Panel/Adjudication Panel and/or an additional live hearing, as determined by the Appeal Officer(s).

When the matter is remanded, the Appeal Officer(s), in consultation with a Title IX Coordinator, will determine whether the matter should be remanded to the original Title IX Hearing Panel/Adjudication Panel or whether a new Title IX Hearing Panel/Adjudication Panel should review the matter. The Appeal Officer(s) may not change Title IX Hearing Panel's/Adjudication Panel's determination of whether the respondent was responsible or not responsible for a Policy violation. Only the Title IX Hearing Panel/Adjudication Panel reviewing the matter on remand from an appeal may change the determination of the original Title IX Hearing Panel/Adjudication Panel of whether the respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the Appeal Officer(s), in consultation with a Title IX Coordinator, will determine whether the matter should be remanded to the previous investigator or whether a new investigator should be appointed.

Upon remand, the investigator and Title IX Hearing Panel/Adjudication Panel shall utilize the same process as required for all complaint processes under this Policy. If the matter is remanded, the determination made on remand will be appealable under the procedures discussed in this Section.

If the Appeal Officer(s) determine(s) that there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the Appeal Officer(s) will dismiss the appeal. This decision is final and is not appealable. If the Appeal Officer(s) dismiss the appeal, the sanctions will be effective on the date the Appeal Officer(s)' decision is provided to the parties.

The Appeal Officer(s) will simultaneously issue to the parties a written decision describing the result of the appeal and Appeal Officer(s)' rationale for the result. The Institutions will strive to complete the appeal within twenty (20) calendar days following the Appeals Officer(s)' receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty, staff or student grievance policies or processes.

XI. Complaints of Related Misconduct

Any complaint relating to retaliation or interference with process in violation of this policy or violations of supportive/interim measures, sanctions, the obligation to be truthful, the obligation to action in good faith, or a nondisclosure agreement should be reported promptly to a Title IX Coordinator. The Institutions will provide a prompt and equitable process for the resolution of complaints alleging retaliation or interference with process or a violation of supportive/interim measures, sanctions, the obligation to be truthful, the obligation to action in good faith, or a nondisclosure agreement.

When the Institutions receive a complaint of retaliation or interference with process or of violations of supportive/interim measures, sanctions, the obligation to be truthful, the obligation to action in good faith, or a nondisclosure agreement, the Title IX Coordinator(s) may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator(s)' discretion, options for resolution include, but are not limited to: informal discussions and resolution facilitated by a Title IX Coordinator, investigation and/or determination by a Title IX Coordinator, or assignment of a designated individual to investigate the complaint and/or determine an appropriate response. This process will be separate and distinct from the Complaint Resolution Process outlined above for addressing Sexual Misconduct complaints. A Title IX Coordinator will document the complaint received, the process used, and the outcome. In instances where the outcome of the process results in a suspension longer than one year, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights as set forth in this Policy. The Institutions will notify the parties of the outcome of the complaint.

XII. Recordkeeping

The Title IX Coordinator(s) are responsible for maintaining the Institutions' official records of Sexual Misconduct reports and formal complaints. When a formal complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the formal complaint will be provided to a Title IX Coordinator, who will maintain such records in accordance with the Institutions' record retention requirements and applicable law. Records related to Sexual Misconduct reports and formal complaints will be treated as confidential and shared only on a need-to-know basis, as required by law, or to conduct a complaint resolution process.

XIII. Alternative Procedures

Nothing in this Policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR). The person filing the complaint need not be a complainant of the alleged Sexual Misconduct, but may complain on behalf of another person. More information about filing a complaint can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>.

The OCR office for institutions located in Minnesota is:

U.S. Department of Education

Office for Civil Rights

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago IL 60661-4544

Tel: (312) 730-1560

TDD: (877) 521-2172

Email: OCR.Chicago@ed.gov

XIV. Immediate and Ongoing Assistance Following an Incident of Sexual Misconduct

The Institutions will support any person adversely impacted by Sexual Misconduct. Both the Institutions and the surrounding community provide a variety of resources to assist and support individuals who have experienced Sexual Misconduct or are affected by allegations of Sexual Misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the Institutions or to law enforcement.

Support services that may be available include, but are not limited to, connecting the individual with appropriate, fair and respectful on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about restraining orders and other available protections and services. Additional information about ongoing assistance is in Section X.G. Supportive/Interim Measures below. To receive information about obtaining support services, individuals should contact a Title IX Coordinator or a confidential resource.

The Institutions will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance,

student financial aid, and other services available for victims, both within the Institutions and in the community.

A complete description of CSB and SJU and community resources, both confidential and non-confidential, and additional information regarding what to do if you experience Sexual Misconduct is provided in Section XV. Resources at the end of this Policy and on the Institutions' website. Individuals who believe they have been subjected to any form of Sexual Misconduct are encouraged to seek support from these resources.

XV. Resources

Emergency Contacts:

- 911
- Anna Marie's Alliance (Emergency Domestic Violence Shelter and Services)
Tel: (320) 253-6900
- Central Minnesota Sexual Assault Center (CMSAC)
Tel: (320) 251-4357

CMSAC is a 24-hour crisis intervention center for victims of all forms of sexual violence. The Center's purpose is to provide non-judgmental direct services to victims of sexual assault, their families and friends, to provide professional training and prevention education regarding sexual assault; and to improve the coordination of services of various agencies that deal with sexual assault and its victims.

At CMSAC Forensic Nurse Examiners ("FNE") (formerly Sexual Assault Forensic Examiners "SAFE Nurses") perform a special exam and collect evidence in a "rape kit." There is no charge for the sexual assault exam.

You can have a sexual assault exam within 120 hours after the rape or sexual assault. The purpose of the sexual assault exam is to collect forensic evidence, receive preventative health care, and see if you have any physical injuries that need tending. The exam will take place at the sexual assault exam site, in a confidential room with trained staff and volunteers. During the exam, the FNE will collect evidence such as your clothing, DNA swabs, etc. Prior to the exam, preserve all evidence and do not shower, bathe, change clothes, douche, brush teeth, drink or eat, or throw away any clothing until police or medical personnel say it is okay. If you have done any of the above, it is still possible to do an exam, but it is not as effective. If possible, please try to avoid any of these actions.

Campus Resources:

- | | |
|-----------------------------|------|
| • SJU Life Safety | 2144 |
| • CSB Security | 5000 |
| • CSB Dean of Students | 5601 |
| • SJU Dean of Students | 2737 |
| • Title IX Office | 5943 |
| • CSB/SJU Counseling | 3236 |
| • VISA/Immigration concerns | 5455 |

- CSB/SJU Health Center 5605
- Violence Prevention 2036
- Financial Aid 5388

Community Resources:

- St. Joseph Police
Tel: (320) 363-8250
- St. Cloud Police
Tel: (320) 251-1200
- Stearns County Sheriff's Office
Tel: (320) 251-4240
- St Cloud Hospital
1406 Sixth Avenue North
St. Cloud, MN 56303
Tel: (320) 251-2700
- Mid-Minnesota Legal Aid - St. Cloud Office
Tel: (320) 253-0121
- Harassment Restraining Orders & Orders for Protection
Court Administration Office
Stearns County District Courthouse
725 Courthouse Square
St. Cloud, MN 56303
Tel: (320) 656-3620
Online Forms Available at Minnesota Judicial Branch website:
<http://www.mncourts.gov/GetForms.aspx?c=17#subcat39>
More information: <https://www.stearnscountymn.gov/455/Orders-for-Protection>

State Resource:

- Minnesota Coalition Against Sexual Assault: <https://www.mncasa.org/>

National Resources:

- National Sexual Violence Resource Center: <http://www.nsvrc.org/>
- Rape, Abuse and Incest National Network: <http://www.rainn.org/>
- The Office on Violence Against Women (Department of Justice):
<https://www.justice.gov/ovw>
- U.S. Department of Education, Office for Civil Rights
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago IL 60661-4544
Tel: (312) 730-1560
TDD: (877) 521-2172
Email: OCR.Chicago@ed.gov

Hotlines:

- Central Minnesota Sexual Assault Center (CMSAC): (320) 251-4357
- National Sexual Assault Hotline: 1 (800) 656-HOPE
- Anna Marie's Alliance (Domestic abuse services): (320) 253-6900
- Mental Health Hotline: Central MN Mental Health Center: 1 (800) 635-8008

Survivor Information:Books

- <http://www.voicesofcourage.com/>

Resources for Friends and Family of Survivors:

- Secondary Survivors/Concerned Persons – Central MN Sexual Assault Center (cmsac.org)

For more information, contact:

- Tamara Hennes-Vix, Title IX Coordinator
(320) 363-5943; or
- Chantel Braegelmann, Faculty/Staff Human Rights Officer,
(320) 363-5071

XVI. Minnesota Criminal Law Definitions

Some of the conduct prohibited by this Policy may be crimes. Links to relevant Minnesota criminal law definitions are provided below. The Minnesota criminal law citations are provided for informational purposes only. The definitions set forth in Section VI. Prohibited Conduct above will be used for all purposes under this Policy.

Sexual Assault:

See [Minnesota Statutes Section 609.341](#) et seq. for applicable criminal law definitions relating to sexual assault. Minnesota law prohibits criminal sexual conduct in the first through fifth degrees as set forth in Minnesota Statutes Sections 609.342-609.3451; criminal sexual conduct includes non-consensual sexual contact and non-consensual sexual penetration as those terms are defined in Minnesota Statutes Section 609.341.

Dating Violence:

See [Minnesota Statutes Sections 518B.01](#); [609.2242](#) for applicable criminal law definitions relating to dating violence. Minnesota law does not specifically define dating violence; however, Minnesota law prohibiting domestic abuse includes physical harm, bodily injury, or assault committed between persons involved in a significant romantic or sexual relationship.

Domestic Violence:

See [Minnesota Statutes Sections 518B.01; 609.2242](#) for applicable criminal law definitions relating to domestic violence. Minnesota law prohibits domestic abuse committed against a family or household member by a family or householder member, as those terms are defined in Minnesota Statutes Section 518B.01.

Stalking:

See [Minnesota Statutes Section 609.749](#) for applicable criminal law definitions relating to stalking. Minnesota law prohibits stalking as defined in Minnesota Statutes Section 609.749.

Approved by the College of Saint Benedict and Saint John's University Boards of Trustees on August 11, 2022

COLLEGE OF SAINT BENEDICT AND SAINT JOHN'S UNIVERSITY NON-DISCRIMINATION AND HARASSMENT POLICY

I. PURPOSE

The College of Saint Benedict ("CSB") and Saint John's University ("SJU") (collectively the "Institutions") are committed to working toward a workplace and educational environment, as well as other benefits, programs, and activities, which are free from discrimination, harassment, and retaliation. Discrimination, harassment, and retaliation of any form are a violation of a person's rights, dignity, and integrity. Such acts debase the integrity of the educational process and work environment and are contrary to the mission and values of CSB and SJU. The Institutions value the right to free speech and the open exchange of ideas and views in their learning and working environment. Acts of harassment and discrimination obstruct the open exchange of ideas. This Policy outlines the Institutions' expectations to promote a campus free from discrimination, harassment, and retaliation, the steps for recourse for those individuals who have been subject to such conduct, and the procedures for determining whether a violation of CSB or SJU policy has occurred.

II. NOTICE OF NON-DISCRIMINATION

CSB and SJU are committed to compliance with all applicable anti-discrimination laws, including Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, and the Americans with Disabilities Act (ADA) and ADA Amendments, and do not unlawfully discriminate on the basis of race, religion, color, national origin, sex, sexual orientation, age, marital status, disability, familial status, status with regard to public assistance, or other legally protected category or characteristic, in their education programs and activities, in their admissions policies, in employment policies and practices, and all other areas of the institutions. Harassment based upon an individual's legally protected status is a form of prohibited discrimination.

III. SCOPE

This Policy applies to all forms of discrimination and harassment, except sexual misconduct. Incidents of sexual misconduct, including Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, will be handled through the Institutions' [Title IX and Sexual Misconduct Policy](#).

This Policy applies to all CSB and SJU community members, including students, employees, faculty, administrators, staff, applicants for admission or employment, and third parties, such as trustees, volunteers, vendors, independent contractors, visitors, and any individuals or entities regularly or temporarily employed, studying, living, visiting, conducting business, interacting with a member or members of the CSB or SJU community, or having any official capacity with CSB or SJU or on CSB or SJU property.

This policy applies to all education programs and activities, as well as all employment practices and terms and conditions of employment, including but not limited to promotions, transfers, compensation, terminations, training and participation in CSB and/or SJU sponsored benefits or

programs. This policy applies to conduct occurring on CSB and SJU property or at CSB and/or SJU sanctioned events or programs that take place off campus, including study abroad and internships. This policy also applies to off-campus conduct that may cause an unacceptable disruption at CSB and/or SJU or which may interfere with an individual's right to a non-discriminatory educational or work environment.

IV. DEFINITIONS

- **Protected class status:** As used in this Policy, protected class status includes race, religion, creed, color, national origin, citizenship, sex, sexual orientation, gender identity, pregnancy, age, marital status, disability, veteran status, familial status, genetic information, status with regard to public assistance, or any other legally protected category or characteristic.
- **Complainant:** An individual who is alleged to be the victim of conduct that could violate this Policy.
- **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

V. PROHIBITED CONDUCT

This Policy prohibits discrimination, discriminatory harassment, retaliation and interference with process, as each of those terms is defined below. Aiding another in acts of prohibited conduct also violates this Policy.

A. Discrimination

Discrimination is conduct based upon an individual's protected class status that treats the individual differently, excludes the individual from participation in, denies the individual the benefits of, or otherwise adversely affects a term or condition of the individual's employment, education, living environment or participation in a program or activity.

Examples of unlawful discrimination include:

- Consideration of an applicant's protected status as a negative factor in deciding whether to offer the applicant a job interview.
- Giving prohibited consideration to an individual's protected status in deciding whether to offer an employee a promotion.
- Requiring that members of protected classes meet higher standards for advancement or promotion than employees who are not in protected classes.
- Denying a student the opportunity to participate in an educational activity because of his or her protected class status.

B. Discriminatory Harassment

Discriminatory harassment is conduct (including verbal, nonverbal, or physical conduct) based on an individual's protected class status, when:

- submission to that conduct is made, either explicitly or implicitly, a term or condition of an individual's educational experience or employment, or the individual's

- submission or rejection of such conduct is used as the basis of an educational program or activity decision or employment decision affecting such individual; or
- such conduct would be determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment ("hostile environment" harassment).

Discriminatory harassment may occur in situations where there is a power differential between the parties or where the persons share the same status (i.e., student-student, faculty-faculty, staff-staff).

The criteria for determining whether an environment is "hostile" include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the mental or emotional state of the person subject to the conduct;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the educational or work performance of the person subject to the conduct;
- Whether the statement was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protections of academic freedom.

Examples of discriminatory harassment include, but are not limited to:

- verbal abuse, offensive innuendo or derogatory words or slurs, stereotyping, threats, intimidation, epithets or comments based upon or motivated by the person's protected class status;
- threats or intimidation based upon or motivated by the person's protected class status;
- negative stereotyping based upon or motivated by the person's protected class status;
- jokes and/or comments directed at a protected class status;
- gossip about someone's protected class status;
- obscene gestures or leering based upon or motivated by the person's protected class status; and
- written or graphic materials or objects, pictures, or other media placed on or circulated within CSB or SJU premises (walls, bulletin boards, computer terminals, vehicles, email, text messages, etc.) that show hostility or aversion toward an individual or group or which create a hostile working/learning environment based on or motivated by a person's protected class status;
- cyber or electronic harassment based on or motivated by a person's protected class status.

One type of harassment is sexual harassment. Sexual harassment and other forms of sexual misconduct are covered under the Institutions' [Title IX and Sexual Misconduct Policy](#).

C. Retaliation

Retaliation is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured under this Policy or because the individual has made a report or complaint, served as a witness, assisted, or participated or refused to participate in any manner in a process under this Policy. Retaliation may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation may be present against a person even when the person's allegations of other policy violations are unsubstantiated. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered retaliation/interference with process and violate this Policy.

VI. REPORTING PROHIBITED CONDUCT

The Institutions strongly encourage individuals to report incidents of prohibited conduct to CSB or SJU. In addition, all employees who obtain or receive information regarding a possible violation of this Policy must report that information to the appropriate Designated Person ("DP") identified below.

Designated Person for Reports by a **Student** ("Student DP"):

Mary Geller, Associate Provost for Student Success
mgeller@csbsju.edu
320-363-5601

Designated Person for Reports by **Staff** ("Human Resources DP"):

Chantel Braegelmann, Sr. Human Resources Partner
Cbraegelm001@csbsju.edu
320-363-5071

Designated Person for Reports by **Faculty** ("Faculty DP"):

Pam Bacon, Dean of Faculty
pbacon@csbsju.edu
320-363-5401

Reports can be made by telephone, mail, email, in person and online through the [Incident Report Form](#). Individuals also have the option to file an anonymous report using the Bias Incident Report Form. Reports to the Institutions should include as much information as possible, including the names of the complainant, respondent, and other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the Institutions to respond appropriately.

For incidents involving an emergency situation where there exists an immediate threat of physical harm to any person or property or medical attention is required, community members should call 911 and either CSB Department of Security (320-363-5000) or SJU Life Safety

Services (320-363-2144) immediately. In addition, if you believe a crime has occurred, avoid touching objects or areas where the incident or crime has occurred. For example, CSB Department of Security or SJU Life Safety staff will photograph vandalism and graffiti for future record.

VII. PROCEDURES FOR RESPONDING TO COMPLAINTS OF PROHIBITED CONDUCT

The process is designed to provide a fair and reliable gathering of facts. All individuals will be treated with appropriate sensitivity and respect.

To file a complaint of prohibited conduct, an individual should contact the appropriate DP identified in Section VI above and indicate that the individual wants to file a complaint.

If the respondent in the complaint is a student, the Student Conduct Process for the institution (CSB or SJU) in which the respondent is/was registered will be followed, including the determination of the outcome and appeal.

If the respondent in the complaint is a faculty member, the Faculty DP (or their assignee) will be responsible for coordinating the responsive process. If the respondent in the complaint is a staff member, the Human Resources DP (or their assignee) will be responsible for coordinating the responsive process. The DP assigned to the complaint has discretion to determine an appropriate responsive process based on the facts and circumstances. Receipt of the complaint, the process applied, and the outcome will be documented.

Every complaint or report of discrimination or harassment made to any individual listed above will be investigated either by the DP (or their assignee), the Institutions' Compliance Investigator, a third-party, or a combination of the above. If the investigation is initiated by a DP, it may be referred to the Institutions' Compliance Investigator or a third-party investigator at any point in time. Reasons for referral may include, but are not limited to, the scope or complexity of the investigation, or a potential or actual conflict of interest.

The timing, nature and scope of the investigation will be determined by the party investigating the complaint. Determination of whether a written fact-finding report is necessary will be determined on a case-by-case basis and in consultation with the DP (or their assignee). If a fact-finding report is prepared by the Compliance Investigator or third-party investigator, the report will be provided to the DP (or their assignee). The DP (or their assignee) will consider the facts discovered in the investigation (whether in a written report or otherwise) and make a determination on whether a policy violation has occurred. The Institutions will notify the parties of the outcome of the process.

In circumstances when the conduct at issue does not constitute a violation of this Policy, but nevertheless does not meet the Institutions' expectations for our community, the Institutions reserve the right to take appropriate responsive action.

The following general provisions apply to any responsive process under this Policy.

A. Supportive/Interim Measures

When CSB or SJU receives a report of alleged prohibited conduct, it will assess the allegations to determine whether supportive/interim measures are appropriate. The DP, or their designee, may initiate supportive/interim actions, accommodations, or protective measures as necessary

to protect the parties and the broader CSB and SJU community. Such supportive/interim actions, accommodations, and protective measures are available to the complainant, respondent, and others adversely impacted by prohibited conduct or the process under this Policy, if requested and appropriate under the circumstances.

Examples of supportive/interim measures include, without limitation:

- Establishing a “no contact” directive prohibiting the parties involved from communicating with each other;
- Changing an individual’s on-campus residency, dining, or transportation arrangements;
- Changing an individual’s student or employee status or job responsibilities;
- Changing an individual’s work or class schedule or job assignment;
- Providing academic accommodations or providing assistance with academic issues;
- Allowing a voluntary leave of absence;
- Providing security escorts.

The Institutions determine which measures are appropriate on a case-by-case basis based on the particular facts and circumstances of the situation. Not all supportive/interim measures are appropriate in all cases. To request a supportive/interim action or protective measure, individuals should contact the DP.

B. Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation should contact a DP. The Institutions will consider requests for reasonable accommodations submitted to the DP on a case-by-case basis. Accommodations the Institutions may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the process.
- Providing an interpreter for individuals who are limited English-language proficient.

C. Conflicts of Interest

If a complainant or respondent has any concern that any individual acting for the Institutions under this Policy has a conflict of interest or bias, such concern should be reported in writing to the DP. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person’s involvement in the process. The Designated Person will review the concerns and take appropriate steps to resolve conflicts of interest related to a complaint under this policy.

If complainant or respondent has any concern that the DP has a conflict of interest or bias, such concern should be reported in writing to the Institution’s Provost. If the DP has a conflict of interest or bias with respect to a matter, the President shall appoint another person to oversee adherence to the Policy with respect to the matter at issue.

D. Advisors

A staff or faculty member who is a complainant or respondent in a disciplinary proceeding is permitted, but not required, to select an Advisor from either of the CSB or SJU communities. (For students, the allowability of an Advisor is set forth in the applicable Student Conduct Process.) The Advisor to a staff or faculty member may be a CSB or SJU faculty member, administrator or staff member. The Advisor must be free of conflict of interest and may not be a witness. The role of the Advisor is to advise and assist the complainant or respondent during the course of the proceeding. The Advisor may accompany the complainant or respondent to all meetings relating to the proceedings under this policy. The Advisor may confer with the advisee but may not actively participate in the complaint resolution process. The Advisor may not appear in lieu of the complainant or respondent or speak on his or her behalf. If a hearing takes place, the Advisor may not address the hearing officer or the committee (if a committee is utilized) and may not interrupt or otherwise delay the proceedings. In selecting an advisor, the party must consider the potential advisor's availability to attend interviews and meetings. Under no circumstances will the Institutions delay any proceeding to accommodate the schedule of an Advisor. Parties must notify the DP who they have selected as an Advisor three business days prior to attendance by the Advisor. The Institution(s) will notify the other party to the complaint resolution process if another party has obtained an Advisor. The Advisor will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements and a Confidentiality Agreement prior to being allowed to serve as an Advisor. Violations of the Advisor Agreement, the Confidentiality Agreement, or other forms of interference with the proceedings by the Advisor may result in the immediate disqualification of an Advisor, discipline of the Advisor and/or the party may be required to proceed without the privilege of an Advisor. The Institutions reserve the right to dismiss an Advisor.

VIII. SANCTIONS AND REMEDIES

The Institutions reserve the right to take whatever measures they deem necessary in response to an allegation of prohibited conduct in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other CSB and SJU community members. When a determination is made that the policy was violated, sanctions will be addressed in the following manner:

- If the respondent is a student, sanctions will be determined in accordance with the Student Conduct Process.
- If the respondent is faculty and the Faculty DP (or their assignee(s)) concludes that it is more likely than not that the faculty member has violated the Non-Discrimination Policy, the matter will be referred to the Provost for appropriate sanctions.
- If the respondent is staff and the Human Resources DP (or their assignee(s)) concludes that it is more likely than not that the staff member has violated the Non-Discrimination Policy, the Director of Human Resources and divisional vice-president will determine sanctions.

Sanctions and remedies may be imposed alone or in combination. Examples of possible sanctions and remedies may include, but are not limited to:

- Education, training, counseling;
- Remedies including those listed above in the supportive/interim measures section of this Policy;
- Probation, warning, suspension, expulsion, demotion, or discharge.

IX. APPEAL OF DECISION

Appeals may be made as follows:

A. For appeals in which the respondent is a **student**, the appeal process set forth in the Student Conduct Process for [CSB](#) or [SJU](#), whichever is applicable, will be applied.

B. For appeals in which the respondent is **faculty** or **staff**, the following appeal process applies:

The respondent may appeal the outcome on one or more of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter;
- The DP, investigator(s), or decision-maker(s) had a conflict of interest or bias that affected the outcome of the matter.

Appeals by faculty or staff must be submitted writing (not to exceed 2000 words) to the Chief Human Resources Officer within two (2) business days of the date the written decision was sent to the parties and should outline the basis for the appeal. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The Chief Human Resources Officer will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Chief Human Resources Officer may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the process.

If the Chief Human Resources Officer determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Chief Human Resources Officer within two (2) calendar days of receiving notice of the appeal.

The Chief Human Resources Officer will appoint one or more appeal officer(s) to consider the appeal. The appeal officer(s) will not rehear the case but will consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The appeal officer(s) may choose to request additional information, in the appeal officer(s)' sole discretion. If the appeal

officer(s) determines that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and/or deliberations, as determined by the appeal officer(s). If the matter is remanded, the determination made on remand will be appealable under the procedures in this section.

If the appeal officer(s) determines there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer(s) will dismiss the appeal. This dismissal decision is final and is not appealable. The appeal officer(s) will simultaneously issue an appropriate written decision to the parties.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty or staff grievance policies or processes.