

Sexual Misconduct Policy

In case of an emergency, please call 911. You may also contact,

**Annapolis Public Safety at
x2000 from a campus phone
or at 443-336-2348**

**Santa Fe Public Safety at
“0” from a campus phone
or at 505-984-6000**

If you have been affected by a violation of this Policy, it is imperative that any and all evidence be preserved. If you are a victim of sexual assault, this includes immediate preservation of physical evidence.

In Annapolis, Anne Arundel Medical Center (Emergency Room), 2001 Medical Parkway, Annapolis, MD (443-481-1000) is equipped with Maryland State Police sexual assault evidence collection kits.

In Santa Fe, evidence collection kits are available at Christus St. Vincent Regional Medical Center 455 St Michaels Drive, Santa Fe, NM (505-913-3361).

I. Statement of Policy

St. John’s College strictly prohibits Sexual Misconduct on its campuses, on non-campus property owned or controlled by the College, and at College-sponsored events or programs by any member of the College community or third parties. This Policy also applies to any off-campus behavior of students (even if unrelated to a College-sponsored event or program) that has an actual or potential adverse impact on the College or any member of the College community

St. John’s College strives to be a community in which all members readily and safely report acts of Sexual Misconduct and Discrimination or Harassment as defined in this Policy. It is our goal to remove all barriers to reporting.

II. APPLICATION

This Policy applies to alleged conduct by College students, faculty, staff, volunteers, administrators, independent contractors, Board members, as well as third parties who are part of or interacting with the College community (“Covered Individuals”).

III. INTERACTION WITH OTHER POLICIES

The College also has a Non-Discrimination and Anti-Harassment Policy. That policy addresses discrimination and harassment that does not constitute Sexual Misconduct as defined in Section V of this Policy, and other forms of discrimination which are prohibited by the College, but are not violations of this Policy.

If particular conduct would be prohibited by both this Policy and by the Non-Discrimination and Anti-Harassment Policy, this Policy controls.

IV. PROHIBITED CONDUCT

This Policy prohibits Sexual Misconduct, including Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence, Sexual Coercion, Sexual Exploitation, and Stalking. It further prohibits Retaliation and Intimidation, as those terms are defined in Section V, below.

V. DEFINITIONS

- A. Complainant** is an individual(s) directly affected by a violation of this Policy.
- B. Confidential persons** are those who are not required to convey a report of misconduct or harassment to a Title IX Coordinator. *Completely* confidential persons to whom reports can be made are the mental health counselors. Such reports will not be shared without the reporter's explicit permission, except in extreme circumstances. *Mostly* confidential reporting persons include physicians, nurse practitioners, and other counselors. Mostly confidential reporting persons will keep reports as confidential as possible, but must share de-identified information with a Title IX Coordinator.
- C. Consent** is informed, freely and actively given speech or action that indicates willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by someone who is incapacitated, by alcohol or other drugs or for some other reason. Silence and/or lack of resistance on the part of the Complainant does not imply Consent. A previous relationship or prior consent does not imply consent to future sexual acts. Consent is not indefinite; it can be withdrawn at any time.
- D. Dating Violence** means an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on all of the following: the Complainant's statement, the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
1. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 2. Dating Violence does not include acts covered under the definition of Domestic Violence.
- E. Domestic Violence** refers to felony or misdemeanor crimes of violence committed by a current or former spouse of the victim (or a person similarly situated to a spouse of the victim), by a person who shares a child with the victim, or by a person who is or formerly has cohabitated with the victim as a spouse. Domestic Violence also includes:
1. An offense that meets the definition of abuse as defined by the laws of the State of Maryland (Md. Code Ann., Fam. Law § 4-501, *et seq.*), as applicable.

2. An offense that meets the definition of assault or battery as defined by the laws of the State of New Mexico (N.M. Stat. Ann. § 30-3-12, *et seq.*), as applicable.

F. Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication.

The impact of alcohol and drugs varies from person to person; however, warning signs that a person is incapacitated or approaching incapacitation may include acting confused or incoherent, slurred speech, vomiting, and/or difficulty walking.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's decision-making ability, awareness of consequences, ability to make informed judgments, or capacity to appreciate the nature and the quality of the act. When an investigator or panel is assessing incapacitation, they will look at the issue from the perspective of a Respondent and determine whether a Respondent should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

G. Intimidation is any act to deter an individual from making a report of an alleged violation of this Policy or participating in an investigation or related proceeding under this Policy by imposing fear through threats of physical or emotional harm to anyone.

H. Reporting Party is an individual(s) making a report that this Policy has been violated. The Reporting Party and the Complainant may or may not be the same individual(s). The report of an engaged bystander can provide critical direction for the investigation of misconduct, even when the misconduct was not directed at the Reporting Party.

I. Respondent is an individual(s) accused of violating this Policy.

J. Responsible Employee is any administrator, faculty, or staff member employed by the College who is required to report an act of sexual misconduct or sexual harassment. All employees are "responsible employees" except those specifically identified and defined in this Policy in Section X.C as On-Campus and Community Resources. Responsible Employees include senior residents and certain students employed by the College, such as resident assistants (RA's). When a Reporting Party tells a Responsible Employee about an incident of Sexual Misconduct, the Reporting Party has the right to expect the College to evaluate the report and, where warranted, take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

- K. Retaliation** is any act or attempted act to seek retribution against anyone who has reported an alleged violation of this Policy or against anyone who has participated in an investigation or related proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, and discrimination.
- L. Sexual Assault** is conduct of a sexual nature resulting in physical contact with the Complainant without the Complainant's Consent (*i.e.*, an action committed either by force, intimidation, or knowingly making use of the victim's physical or mental helplessness). Sexual Assault specifically includes:
1. An offense that meets the definition of rape, fondling, incest, or statutory rape as defined by the FBI's Uniform Crime Reporting Program.
 2. **Non-consensual sexual contact.** Non-consensual sexual contact means any sexual touching, with any object, by a person upon another person without Consent, or forcing any person to touch a person or another in a sexual manner. It is defined as engaging in any sexual contact other than intercourse with another person without that person's Consent and/or cognizance. It includes any non-consensual sexual contact, including any improper touching of intimate body parts (e.g., genitals, buttocks, groin, or breasts.) and non-consensual removal of another's clothing.
 3. An offense that meets the definition of rape or sexual offenses, as defined by the laws of the State of Maryland (Md. Code Ann., Crim. Law § 3-303, *et seq.*), as applicable.
 4. An offense that meets the definition of rape, aggravated rape, or criminal sexual contact as defined by the laws of the State of New Mexico (N.M. Stat. Ann. § 30-9-11, *et seq.*), as applicable.
- M. Sexual Coercion** is unreasonable or oppressive speech or action used to pressure someone to engage in unwanted sexual activity (*e.g.*, using inappropriate pressure, threats of a non-violent nature [for example, the release of sensitive or private information], manipulation, or exploiting a real or perceived power or authority over another). Sexual Coercion can be differentiated from seduction by a repetition of the coercive activity in the face of resistance, the degree of pressure applied, or the initiator's knowledge that the pressure is unwanted. While Sexual Coercion does not constitute Sexual Assault or involve Sexual Violence, such behavior violates the College's standard of respect for the person of another and is considered Sexual Misconduct.
- N. Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for the individual's own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses. Examples of Sexual Exploitation include, but are not limited to: non-consensual observation or recording of individuals who are undressed or engaging in sexual acts; prostituting another person; going beyond the boundaries of Consent; and knowingly transmitting a STI, STD, or HIV to another.

- O. Sexual Harassment** is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature when (a) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (*quid pro quo*); or (b) such conduct creates a hostile environment.

A hostile environment is created when unwelcome verbal or physical conduct of a sexual nature (i) is sufficiently severe or pervasive to limit a student's ability to participate in or benefit from an education program or creates an abusive educational environment, or (ii) explicitly or implicitly affects an individual's employment (including a student's employment), unreasonably interferes with an individual's work performance, or creates an abusive or offensive work environment.

- P. Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Such conduct may include, but is not limited to, acts in which one directly or indirectly follows, monitors, observes, surveils, threatens, or communicates to or about a person in a way prohibited or interferes with a person's property. A "course of conduct" consists of two or more acts. Stalking may be conducted through any method, device or means. Stalking includes activity otherwise defined by the laws of the State of Maryland (Md. Code Ann., Crim. Law § 3-801, *et seq.*) and the State of New Mexico (N.M. Stat. Ann. § 30-3A-3, *et seq.*), as applicable.
- Q. Sexual Misconduct** includes Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence, Sexual Coercion, Sexual Exploitation, and Stalking as defined herein.

VI. REPORTING POLICY VIOLATIONS

Any member of the College community who believes that they have witnessed, experienced, or are aware of conduct that constitutes Sexual Misconduct in violation of this Policy is encouraged to report the violation, seek immediate medical attention, and take steps to preserve pertinent information and tangible materials.

Information regarding the nearest medical providers that collect forensic evidence is available in Section X.C of this Policy.

A complaint of Sexual Misconduct may be made to a variety of employees of the College, including, but not limited to:

- any Title IX Coordinator,
- a Dean,
- an Assistant Dean,
- an Associate Dean,

- a Treasurer,
- a senior resident,
- a resident assistant,
- a public safety officer,
- health center/student health office personnel, or
- personnel or human resources staff members or the employee's supervisor.

Any Responsible Employee to whom the first complaint is made is expected to consider the physical and emotional needs of the Complainant, the need to preserve evidence for future investigation of the allegation, and issues related to confidentiality. In cases of acute, short-term need, the first effort should be to bring the Complainant under the care of qualified professionals for medical purposes and/or crisis counseling. If any acute, short-term needs have been satisfactorily addressed, the College employee first approached will assist the Complainant in bringing the matter to the attention of a Title IX Coordinator in order to initiate the procedures described below.

A. Reports for Investigation

The procedures set forth in this Policy are initiated when a report of Sexual Misconduct is delivered to a Title IX Coordinator (by a Reporting Party, the Complainant, a Responsible Employee, or another party). Accordingly, Complainants interested in pursuing an investigation under this Policy are encouraged to meet with a Title IX Coordinator if they believe that a violation of this Policy has occurred. (Of course, in cases of safety emergencies, the College encourages also immediately notifying public safety and/or the Annapolis or Santa Fe Police Departments, respectively).

B. Confidential Reports

The College understands that Reporting Parties may wish to make reports of Sexual Misconduct confidentially. The College also understands that some Complainants may not wish to pursue an investigation or that they may wish to pursue an investigation in a more limited way due to confidentiality concerns. The College makes every effort to apply this Policy in accordance with a Complainant's request for confidentiality. Reporting Parties should be aware that many members of the College community, including senior residents, resident assistants, and faculty/staff members, are Responsible Employees and, therefore, are obligated to share reports of Sexual Misconduct with a Title IX Coordinator, regardless of a request for confidentiality by the Reporting Party. However, when such reports reach a Title IX Coordinator, the Complainant's request for confidentiality is considered in applying this Policy. See Requests for Confidentiality at Section VIII.E, below.

If a Reporting Party wants to make a confidential report, the report may be made in completely confidential or mostly confidential settings. "Completely confidential" reporting persons are mental health counselors. "Mostly confidential" persons to who reports can be made include physicians, nurse practitioners, and other counselors. Mostly confidential reporting persons must share de-identified information with a Title IX Coordinator.

Campus-specific confidential reporting locations are set forth in Section X.C of this Policy, below.

C. Anonymous Reports

Anonymous reports of violations of this Policy may be made to public safety via the LiveSafe app. It should be noted that the College's ability to investigate or act upon anonymous reports may be limited. Anonymous reports made through LiveSafe are received by a Title IX Coordinator.

D. Timeframe for Reporting

Reports of Sexual Misconduct may be made to the College at any time. It is best to report the alleged act of Sexual Misconduct immediately and, if at all possible, prior to the last date of enrollment or employment of the Respondent. Prompt reporting allows evidence to be preserved, witnesses to be interviewed, and any disciplinary/resolution process to move forward most effectively. The ability to investigate a report and take action against a Respondent becomes more limited as time goes on.

A Complainant or Reporting Party may report a violation of this Policy to external law enforcement at any time.

E. Amnesty for Students Reporting Sexual Misconduct

The College encourages reporting. The College recognizes that a student who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. A student who reports Sexual Misconduct will, therefore, not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident. The College may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs. Amnesty for a student who reports Sexual Misconduct may extend to other violations of the College's policies and practices, provided that any such violations did not and do not place the health or safety of any other person at risk.

VII. INTERIM RELIEF AND REMEDIAL MEASURES

Interim relief and remedial measures may be requested and/or offered and instituted at any time following a report of Sexual Misconduct in order to ensure the safety and well-being of members of the College community. The Title IX Coordinator or Deputy Coordinator handling the report (the "Managing Coordinator") will ensure that all parties have been fully informed of the variety of support services available, both on campus and in the community. Campus-specific information on support services is set forth in Section X.C, below.

A. Examples of interim relief measures may include, but are not limited to:

1. For students: changes or modifications to academic, living, transportation, and working situations; obtaining on-campus escort services from Public Safety; campus "area restrictions."

"No-contact orders" may be enforced between parties during and after an investigation, even where no violation of this Policy is found to have

occurred. Prior to issuing a no-contact order, the Title IX Coordinator will assess the particular circumstances and potential impact on the parties to determine whether there is a threat to the health and safety of the College community warranting the issuance the order. “Mutual no-contact” orders are non-punitive, do not reflect that the individuals subject to the order have done or will do anything wrong, and are simply designed to ensure a sense of security and well-being for all members of the community.

2. For non-students: assistance in working situations; protective measures such as transfer, suspension, an order to avoid or restrict contact; changes in work schedules; administrative leave with or without pay.

B. Long-term remedial measures that may be implemented to remedy the effects of Sexual Misconduct may require changes or exceptions to the College’s services or policies.

The Managing Coordinator will provide every party with a written statement of the party’s rights and options, with respect to the complaint process and with respect to available interim measures and other resources.

VIII. COMPLAINT & INVESTIGATION PROCEDURES

A. Scope of Reporting

Any allegation of Sexual Misconduct involving a member of the College community or occurring on College property should be reported to a Title IX Coordinator, whether or not the Respondent is also a member of the College community. The College’s primary concern is safety.

B. Law Enforcement

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

It is important to emphasize that law enforcement’s decision to prosecute or not to prosecute a Respondent is not determinative of whether a violation of this Policy has occurred; similarly, the outcome of any criminal prosecution is not determinative of whether a violation has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

Regardless of whether a criminal complaint is filed, the College will pursue its own internal processes to address the alleged conduct, and it expects that all those involved will participate in the process. The fact that an individual (Complainant, Reporting Party, Respondent, and/or witnesses) refuses to participate in the College process does not mean that the disciplinary process

will not take place if the College deems it appropriate to move forward with that process. Similarly, a party's withdraw/departure from the College does not necessarily mean that the process will end.

C. Preservation of Evidence

The Title IX Coordinator will inform the Complainant of the importance of preserving evidence in the event that criminal charges are to be brought or for the sake of the College's investigation. Campus-specific information on the nearest community resources equipped with sexual assault evidence collection kits is described in Section X.C, below. At the request of the Complainant, the College will provide or arrange for safe transport for the Complainant to the nearest resource equipped with sexual assault evidence collection kits.

D. Requests for Confidentiality

Whether or not criminal charges are to be brought, and without waiting for the conclusion of any criminal investigation, the College will take immediate and appropriate steps to protect the Reporting Party, Complainant, and the Respondent and to investigate complaints of violations of this Policy in accordance with the procedures set forth below.

If the Complainant requests confidentiality or requests that the complaint not be pursued, the Title IX Coordinator will discuss the scope of the Complainant's request for confidentiality. The Title IX Coordinator will inform the Complainant that such a request may limit the College's ability to respond to the complaint.

In evaluating requests for confidentiality, the Title IX Coordinator will consider the following factors: the seriousness of the violation alleged, the age of the Complainant, whether there have been other complaints or reports of Sexual Misconduct involving the Respondent, the right of the Respondent to receive information about the Complainant and about the allegations, if a formal proceeding with sanctions may result.

While rare, the Title IX Coordinator may determine that certain aspects of the Complainant's request for confidentiality may not be complied with, or an investigation must move forward over a Complainant's or Reporting Party's (if different) objection in order to ensure the safety of all members of the College community.

The Title IX Coordinator will inform the Complainant of the determination regarding a request for confidentiality.

E. Evaluating Whether to Conduct an Investigation

The Managing Coordinator will review the complaint and, if appropriate, speak with the Complainant to determine whether a sufficient basis exists to institute an investigation under this Policy. A sufficient basis exists where the Complainant's allegations, if true, could represent a violation of the Policy applicable at the time the alleged conduct occurred. The Managing Coordinator will ordinarily make this determination within seven (7) days.

If the Title IX Coordinator determines that, even if it should be true, the Complainant's complaint would not represent a violation of this Policy, the Title IX Coordinator will notify the Complainant

in writing of the decision that an insufficient basis exists to institute an investigation. The Complainant may then appeal this decision in writing within ten (10) days of being notified of the Title IX Coordinator's decision not to institute an investigation. If the initial report is heard and managed by the Director of Student Services or Residential Life, then appeal is directed to the Dean of the College; if the initial report is heard and managed by the Director of Personnel or Human Resources, then appeal is directed to the Treasurer.

Joseph Macfarland
Dean of the College in Annapolis
410-626-2511
Joseph.Macfarland@sjc.edu

J. Walter Sterling
Dean of the College in Santa Fe
505-984-6070
jwsterling@sjc.edu

Ally Gontang
Treasurer in Annapolis
410-626-2516
agontang@sjc.edu

Michael S. Duran
Treasurer/CFO in Santa Fe
505-984-6096
msduran@sjc.edu

The party hearing the appeal may accept the Managing Coordinator's decision or may remand the matter to the Managing Coordinator with the instruction that the Title IX Coordinator direct the Investigators to institute an investigation consistent with the following terms of this Policy. This decision, which is ordinarily made within thirty (30) days of the appeal, is final, and no further appeal regarding whether to conduct an investigation is permitted.

If a sufficient basis exists, the Managing Coordinator will refer a reported violation of this Policy to Investigators in the following cases: if the Complainant requests that the matter be investigated; if the Complainant makes a confidential report, but the Complainant provides Consent that the College investigate the matter to the best of its ability consistent with the request for continuing confidentiality; or if the Managing Coordinator has determined that, because of safety concerns, the report should be investigated despite the Complainant's request that an investigation not be conducted.

F. Investigators

The Managing Coordinator will assign two investigators from among the following persons: the Assistant Dean, the Director of Public Safety, the Director of Library Services (in Annapolis), or other designated investigator (which may include a trained investigator from outside the College). The Investigators shall receive appropriate training annually on issues related to Sexual Assault, Domestic Violence, Dating Violence, Stalking, Sexual Coercion, Sexual Exploitation, Sexual Harassment, Title IX, and how to conduct an investigation that protects the safety of all parties, promotes accountability, and is equitable.

Investigations typically conclude within thirty (30) days of the time when the College becomes aware of the complaint. This timeframe may be extended for good reason, as determined by the College, such as where the College is directed to temporarily delay the fact-finding portion of its investigation by the police, when witnesses are unavailable (such as when the investigation crosses the summer or winter break periods), or for complex or factually intricate investigations. This list is not exhaustive. The Investigators will inform the parties in writing if a delay is anticipated and the

reason for such delay.

G. Investigation Process

Once an investigation is instituted, the Investigators will provide the Respondent the written complaint against them. The complaint shall ordinarily include the identities of the parties involved, the Policy violation alleged, the conduct allegedly constituting the Policy violation, and the date and location of the alleged incident. Depending on the nature and severity of the complaint, and after an individualized assessment of each case, the College reserves the right to suspend the Respondent and otherwise restrict their access to campus during the course of the investigation.

The investigation shall be conducted in a fair and impartial manner by the Investigators.

The Investigators will notify all parties that each is permitted, if they wish, to have a support advisor of their choice present at any meeting or other proceeding under this Policy. Meetings/proceedings will be scheduled not less than forty-eight (48) hours in advance. If a party intends to have an advisor present at a meeting/proceeding, the party must notify the Investigators at least twenty-four (24) hours in advance of the meeting/proceeding of the identity of the advisor. Advisors serve in a supportive role, and are not permitted to participate actively in the meeting/proceeding, speak on behalf of the person being advised, or communicate with anyone other than the person being advised. The support advisor may not be a witness in the case. Such communication must be limited to emotional and logistical support, not substantive discussion or presentations. There may be no recording or electronic note taking. Advisors who fail to comply with these rules will be asked to leave and will not be permitted to attend future meetings/proceedings.

Both the Complainant and the Respondent will be permitted to supply documentary evidence and request that the Investigators interview witnesses possessing relevant information. Any documentary evidence that may be used in determining the outcome of the investigation shall be made available for inspection to both the Complainant and Respondent before such a determination is reached.

While neither party is entitled to be present for witness interviews of others, the Investigators will provide each party with the opportunity to review written summaries of any witness interviews, including interviews of the other party (except that summaries of discussions with the parties unrelated to the facts at issue in the complaint shall not be provided to the other party). The parties may review documentary evidence and written summaries in the presence of the Investigators at a mutually-agreeable time and location. The parties are permitted to retain copies of documentary evidence and written summaries, subject to the execution of a nondisclosure agreement. The Investigators will endeavor to provide documentary evidence and written summaries to the parties for inspection within three business days of completing interviews. Either party may request in writing follow-up questions to be posed to any witnesses or the other party. These questions will ordinarily be asked of the witnesses or other party unless they are determined, in the Investigators' sole discretion, to be irrelevant, redundant of questions previously asked, appear designed to abuse or intimidate the witness or other party, or otherwise inappropriate.

Parties and witnesses are expected to maintain confidentiality regarding the proceedings under this Policy, provided that the parties may speak to confidantes, parents, counselors, and law enforcement authorities regarding the matter, and may speak to others for the purposes of seeking, obtaining, or presenting evidence, or otherwise preparing for the meetings and proceedings described in this Policy. The parties are reminded that, in addition to this Policy's prohibition on retaliation, the College's civility policy remains in effect with respect to the parties' dealings with one another, witnesses, and third parties related to the proceedings under this Policy. Any documentary evidence, witness summaries, or other documents reviewed by the parties must be kept confidential, and may be used only for the purposes of the proceedings under this Policy.

H. Anti-Retaliation and Intimidation Statement

The College prohibits Retaliation against or Intimidation of those who make or are the subject of a complaint or third-party report of Sexual Misconduct or participate in the investigation or disciplinary/resolution process. However, if an investigation results in a finding that the Reporting Party or Complainant knowingly accused another falsely of an act of Sexual Misconduct, the Reporting Party will be subject to appropriate sanctions, which may include termination of employment or, in the case of students, dismissal from the College.

Consistent with Title IX, the College will take steps to prevent Retaliation and Intimidation, and will take strong responsive action if Retaliation or Intimidation occurs. Any Retaliation, Intimidation, or reprisal directed toward any party or witness as a result of their role in the investigation process is strictly prohibited, is itself a violation of this Policy, and should be reported immediately to the Investigators.

IX. THE SEXUAL MISCONDUCT REVIEW PANEL

The Sexual Misconduct Review Panel is responsible for evaluating the information gathered by the Investigators and determining whether a violation of this Policy occurred and the appropriate sanction.

A. Panel Quorum

Each Sexual Misconduct Review Panel convened shall include three members and shall be composed of faculty and/or staff members of the College who shall receive appropriate training annually on issues related to Sexual Assault, Domestic Violence, Dating Violence, Stalking, Sexual Coercion, Sexual Harassment, Sexual Exploitation, Title IX, and how to conduct the Panel process in a way that ensures safety and promotes accountability.

Campus-specific information regarding the current pool of personnel from each campus from which the Title IX Coordinator selects a Sexual Misconduct Review Panel, and alternate personnel who may be chosen in the event of a conflict of interest, scheduling conflicts, or any other reason which prevents personnel from serving, is provided below. If, due to scheduling conflicts, conflicts of interest, or any other reason insufficient members of the panel or alternate members are available for a review panel, the Title IX Coordinator may select additional College employees to serve on the Panel, provided such employees receive appropriate training before serving on a review Panel.

B. Challenging Panel Members

Either party may challenge a Panel member for an alleged lack of fairness or objectivity. A party challenging a Panel member must submit a written challenge to the Managing Coordinator stating the reasons for the challenge. The challenge must be submitted within forty-eight (48) hours after a party is notified of the names of the Panel members. The merits of the challenge will be decided by the Dean of the College or the Treasurer, depending on the Managing Coordinator supervising the complaint (the Director of Student Services/Residential Life, or the Director of Personnel/Human Resources, respectively). The Dean or Treasurer may ask the Panel member(s) to evaluate whether they are able to serve with fairness and objectivity, and provide an explanation. The Dean or Treasurer shall evaluate and communicate a final decision on bias in writing to the party challenging the Panel member.

C. Information Provided to the Panel

The Investigators shall present all relevant information obtained in their investigation, including the statements of the parties and any witness statements or documentary evidence, to the Sexual Misconduct Review Panel. The Investigators shall not supply a proposed outcome, rationale, or sanction to the Panel. A copy of all materials supplied to the Sexual Misconduct Review Panel shall be available for either party to review or retain (provided the nondisclosure agreement has been signed) by contacting the Managing Coordinator.

The Managing Coordinator will inform each party that they may provide a written statement to the Panel no later than five (5) days before the date the Panel is convened. Each party's statement, redacted if required by FERPA, will be provided to the other party. The Panel may, in its sole discretion, request that both parties appear before the Panel to respond to any questions the Panel may have. If the Panel requests that the parties appear before the Panel to respond to questions, each party will have the opportunity to hear the other party's statements to the Panel. If either party does not want to be in the same room with the other party, the parties may listen to one another's statements to the panel via teleconference from another room. Parties called before the Panel have the right to be accompanied by a support advisor of their choice. The parties shall address the Panel and may not address one another directly. However, a party may request that the Panel pose additional questions to the other party. The Panel shall determine, in its sole discretion, whether to ask the questions requested.

Other than the parties, and absent extraordinary circumstances, no other witnesses may be called to appear before the Panel. New or additional information will not be accepted or considered by the Panel at the meeting unless it was unavailable during the investigation or the Panel determines in its sole discretion that the additional information is necessary for the Panel's consideration of the matter. If additional information is accepted or considered by the Panel, any such information will be provided to both parties for review at the Panel meeting. The parties will be given adequate time to review the additional information (which will depend on the scope and subject matter of the additional information) and may challenge or respond to the additional information through a statement to the Panel.

D. Determinations & Sanctions

The deliberations of the Panel are private and closed to the parties and public.

The Panel shall determine whether a violation of this Policy occurred using the preponderance of the evidence standard. If the Panel determines that a violation has occurred, the Panel shall then determine the appropriate sanction. Members of the College community who are determined to have violated this Policy may be subject to sanctions depending on the nature and severity of the offense and the individual's disciplinary record, regardless of whether the Sexual Misconduct is the subject of a criminal investigation or results in a criminal conviction.

Sanctions include, but are not limited to: formal reprimand (to be included in the permanent record of the student or employee); expulsion from the dormitories (if the person is a student residing on campus); suspension or expulsion from the College, with or without the refund of fees, in the case of students; suspension with or without pay or termination of employment, in the case of employees; commencement of procedures to terminate appointment by reason of "failure to perform teaching duties in a satisfactory manner" or for "moral turpitude," as provided in Polity Article IV (6) (a) (i) and (ii), in the case of tutors; disciplinary probation; no-contact orders or prohibitions from entering certain parts of campus or attending certain campus events; and mandatory education on issues related to Sexual Misconduct, including, but not limited to, prevention and awareness, victims' rights, and appropriate behaviors.

If either party (or their surrogates) is found to have engaged in Retaliation or Intimidation, they may be subject to sanctions by the Assistant Dean, depending on the nature and severity of the offense and the individual's disciplinary record.

Both the Complainant and the Respondent shall be notified in writing of the outcome of the investigation and the rationale of the Panel in reaching the outcome. The parties shall also be notified in writing of any sanction imposed on the Respondent as a result of a violation of this Policy.

The Panel process ordinarily concludes within thirty (30) days of the date the Panel is convened.

E. Appeals

If either party is dissatisfied with either the outcome or the sanction(s) in the Panel's decision, they may file a written appeal, via the Managing Coordinator, to the President of the Campus within ten (10) days of being notified of the Panel's decision. The President on either campus will designate that campus's Dean, Treasurer or other officer (the "Officer") to review and decide the appeal. Grounds for appeal shall be limited to claims: of procedural error; of the existence of new or additional evidence that was unavailable during the investigation; of disproportionate sanction; or that the finding was unsupported by the evidence. The appeal will be shared with the non-appealing party who may, but need not, provide a written response within ten (10) days of receiving a copy of the appeal.

The Officer will evaluate the appeal based on the record considered by the Panel. New or additional evidence will not be accepted for consideration by the Officer unless it was unavailable during the

investigation and Panel proceedings. In the event new or additional information is accepted by the Officer for consideration, the information will be made available to both parties for inspection within five (5) days of the Officer's decision to accept the new or additional information. A party may submit a written response to the new or additional information to the Officer via email within ten (10) days of the Officer's decision to accept the information. The Officer may accept, reject, or modify the Panel's decision with respect to the finding and/or sanction(s) or remand the matter for further investigation or consideration by the Panel. The Officer's decision will be made based on the preponderance of the evidence standard.

Both parties will be notified in writing of the outcome of the appeal and the rationale of the Officer in reaching the outcome. The Officer's decision is final, and no further appeal is permitted. The appeal process ordinarily concludes within thirty (30) days of the date the non-appealing party provided a written response to the appeal (or indicates that no response will be provided).

The foregoing procedures shall constitute the College's grievance procedures with respect to matters involving allegations of Sexual Misconduct. The Non-Discrimination and Anti-Harassment Policy set forth in Appendix B shall not be used.

X. CAMPUS-SPECIFIC INFORMATION

A. Title IX Coordinators and Sexual Misconduct Investigators

1. Annapolis

Title IX Coordinators

Lynn Hobbs, Director of Personnel
Lynn.Hobbs@sjc.edu
410-626-2504

Taylor Waters, Director of Student Services
Taylor.Waters@sjc.edu
410-626-2512

Sexual Misconduct Investigators*

Nathan Dugan, Assistant Dean
Robert Mueck, Director of Public Safety
Catherine Dixon, Director of Library Services

2. Santa Fe

Lead Title IX Coordinator

Christine Guevara, Executive Director of Campus Health and
Wellness
Christine.Guevara@sjc.edu

Title IX Coordinators

Matt Johnston, Director of Residential Life

Matt.Johnston@sjc.edu
505-984-6925

Aaron Young, Director of Human Resources
Aaron.Young@sjc.edu
505-984-6925

Sexual Misconduct Investigators*
Frank Loera, Campus Safety Manager
Andrea D'Amato, Bookstore Director

* Non-exhaustive list, and may be modified from time to time. For the current list, please contact a Title IX Coordinator

B. Sexual Misconduct Review Panels*

1. Annapolis

Members

Ben Baum, Director of Admissions
Molly Burnett, Director of Events and Community Outreach
Catherine Dixon, Director of Library Services
Jaime Dunn, Director of Career Service
Emily Langston, Associate Dean of the Graduate Program
Susan Jenkins, Director of Web Initiatives and Social Media
Chris Krueger, Athletics and Recreation Coordinator

Alternate Members

Director of Personnel
Director of Student Services
Former Assistant Deans and Deans, provided each remains employed by the College

2. Santa Fe

Members

Jennifer Sprague, Library Director

Alternate Members

Associate Dean of the Graduate Programs
Director of Human Resources
Director of Residential Life
Former Assistant Deans and Deans, provided each remains employed by the College

* Non-exhaustive list, and may be modified from time to time. For the current list, please contact a Title IX Coordinator.

C. On-Campus and Community Resources

1. Annapolis:

Harrison Health Center at x2553 from a campus phone or 410-626-2553

Counseling Services at x2552 from a campus phone or 410-626-2552

Community services listed in the front of the Handbook, including,
Anne Arundel County sexual assault hot line at 410-222-7273
Anne Arundel Medical Center at 443-481-1000

The nearest community resources equipped with the Maryland State Police sexual assault evidence collection kits is
Anne Arundel Medical Center (Emergency Room) located at 2001
Medical Parkway, Annapolis, MD

2. Santa Fe:

Student Health Office at x6418 from a campus phone or 505-984-6418

Therapy Services at x6419 from a campus phone or 505-984-6419; or at
x6421 from a campus phone or 505-984-6421

Community services:

Solace Crisis Treatment Center at 505-986-9111

Christus St. Vincent Regional Medical Center at 505-913-3361

The nearest community resources equipped with sexual assault evidence collection kits are:

Solace Crisis Treatment Center at 505-986-9111

Christus St. Vincent Regional Medical Center at 505-913-3361

Non-Discrimination and Anti-Harassment Policy

St. John's College is deeply concerned about discrimination and harassment. In a small and intimate community such as ours, such misconduct is even more destructive of trust and amity than it would be in a larger setting. The College will not tolerate discrimination or harassment of, or by, any member of the College community, and will provide resources and programs to educate the College community about these issues. This Policy is itself an instance of that educational effort and is designed to ensure the prompt and equitable resolution of student and employee complaints of discrimination and harassment.¹

I. STATEMENT OF POLICY

The College supports and will comply with the provisions of applicable Federal, State, and local laws (including Title VII, Title IX, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act) that prohibit discrimination against and harassment of any member of the College community (student, faculty, or staff) on the basis of race, color, sex, religion, national origin, age, disability or handicap, sexual orientation, gender identity or expression, genetic information, marital status, protected activity (*i.e.*, opposition to prohibited discrimination or participation in the complaint process), or any other classification protected by law.

II. DEFINITIONS

- A. **Complainant** is an individual(s) affected by a violation of this Policy.
- B. **Discrimination** means to treat a person (or category of persons) less favorably in admissions, educational programs, or employment, or to otherwise fail to comply with the College's policies or procedures, on the basis of the person's race, color, sex, religion, national origin, age, disability or handicap, sexual orientation, gender identity or expression, genetic information, marital status, protected activity (*i.e.*, opposition to prohibited discrimination or participation in an authorized complaint process), or any other classification protected by law.
- C. **Harassment** means verbal or physical conduct that denigrates or shows hostility or aversion toward a person because of the person's race, color, sex, religion, national origin, age, disability or handicap, sexual orientation, gender identity or expression, genetic information, marital status, protected activity (*i.e.*, opposition to prohibited discrimination or participation in the complaint process), or any other classification protected by law, that: (i) has the purpose or effect of creating an intimidating, hostile, or offensive working or learning environment; (ii) has the purpose or effect of unreasonably interfering with a person's job or academic performance; or (iii) otherwise adversely affects a person's employment or educational opportunities.

“Harassing conduct” includes but is not limited to epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to race, color, sex, religion, national origin, age, disability or handicap, sexual orientation, gender

¹ The policies and procedures set forth in the College's Sexual Misconduct Policy shall constitute the College's grievance procedures for investigating and responding to matters involving allegations of Sexual Misconduct, including Sexual Harassment. Accordingly, the procedures set forth in this Discrimination and Harassment Policy shall not be used in such cases.

identity or expression, genetic information, marital status, protected activity (*i.e.*, opposition to prohibited discrimination or participation in the complaint process), or any other classification protected by law.

- D. Intimidation** is any act to deter an individual from making a report of an alleged violation of this Policy or participating in an investigation or related proceeding under this Policy by imposing fear through threats of physical or emotional harm to anyone.
- E. Reporting Party** is an individual(s) making a report that this Policy has been violated. The Reporting Party and the Complainant may or may not be the same individual(s).
- F. Respondent** is an individual(s) accused of violating this Policy.
- G. Retaliation** is any act or attempted act to seek retribution against anyone who has reported an alleged violation of this Policy or against anyone who has participated in an investigation or related proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, and discrimination.

III. PROCEDURES

A. Students and faculty members should report discrimination and harassment to the Dean of the College or the Assistant Dean.

Joseph Macfarland
Dean of the College in Annapolis
410-626-2511
Joseph.Macfarland@sjc.edu

J. Walter Sterling
Dean of the College in Santa Fe
505-984-6070
jwsterling@sjc.edu

Nathan Dugan
Assistant Dean for the Undergraduate Program
410-626-2512
Nathan.Dugan@sjc.edu

Michael Golluber
Assistant Dean for the Undergraduate Program
505-984-6925
Michael.Golluber@sjc.edu

Other employees should report to their supervisor, the Treasurer, or the Director of Personnel / Director of Human Resources.

Ally Gontang
Treasurer in Annapolis
410-626-2516
agontang@sjc.edu

Michael S. Duran
Treasurer/CFO in Santa Fe
505-984-6096
msduran@sjc.edu

Lynn Hobbs
Director of Personnel
410-626-2504

Aaron Young
Director of Human Resources
505-984-6925

B. Individuals are encouraged to report Discrimination and Harassment early, before it becomes severe or pervasive or impacts educational or work environments, so that corrective action can be taken.

C. A Complainant may file a complaint or charge with an external agency simultaneously to making a complaint under this Policy, where permitted by such agency.

D. Where appropriate, reports of Discrimination or Harassment may be resolved through informal intervention prior to initiating an investigation. Informal interventions include, but are not limited to: a College administrator speaking with the Respondent to remind them of this Policy and that disciplinary action may result for conduct which violates this Policy; instituting no-contact orders; changing work, educational, or living situations; and such other informal interventions as the College deems appropriate. The Complainant may choose not to participate in informal intervention and may ask that the College institute an investigation.

E. All complaints that cannot be resolved through informal intervention will be investigated promptly, thoroughly, and impartially. For complaints involving a student as the Respondent, the Assistant Dean will ordinarily serve as investigator. For complaints involving a faculty member as the Respondent, the Dean of the College will ordinarily serve as investigator. For complaints involving a staff member as the Respondent, the Director of Personnel will ordinarily serve as investigator. If, due to a conflict of interest, scheduling conflicts, or any other reason, the foregoing individuals are unavailable, the Dean may select another College employee or an appropriately trained investigator from outside the College to serve as investigator, provided that any person selected to serve as investigator shall receive appropriate training on investigating complaints of discrimination and harassment. In the case of complaints involving members of the community from different constituencies (for instance, a complaint by a student against a faculty member or a faculty member against a staff member), the College may determine that it is appropriate to assign more than one investigator.

F. The investigator will inform the Respondent of the complaint and both parties will be provided an opportunity to address the allegations in the complaint. Either party may request that the investigator interview witnesses possessing relevant information. The investigator will make a reasonable effort to do so, but reserves the right to decline to interview a witness when the investigator concludes that a witness does not possess relevant information, that the witness's evidence would be redundant, or when the witness is unavailable. Parties may, if they wish, be accompanied to meetings with the investigator by a support advisor who is another member of the College community (provided such person is not a witness to the alleged discrimination or harassment). Parties may not select an attorney to serve as their support advisor.

G. The investigator shall use a preponderance of the evidence standard in determining whether a violation of this Policy occurred (*i.e.*, whether it is more likely than not that the discrimination or harassment occurred).

H. At the conclusion of the investigation, the investigator will make a determination of whether a violation of this Policy occurred. Then, in consultation with the appropriate authority

(the Dean of the College, a supervisor, the Treasurer, or the Director of Personnel, as appropriate depending on a Complainant's status), the investigator will determine how to address any violation found, keeping in mind the College's duty to take immediate and appropriate corrective action to address Discrimination and Harassment. Members of the College who have violated the policy are subject to sanctions depending on the nature and severity of the offense and the individual's disciplinary record.

Sanctions include, but are not limited to: formal reprimand (to be included in the permanent record of the student or employee); expulsion from the dormitories (if the person is a student residing on campus); suspension or expulsion from the College, with or without the refund of fees, in the case of students; suspension with or without pay or termination of employment, in the case of employees; commencement of procedures to terminate appointment by reason of "failure to perform teaching duties in a satisfactory manner" or for "moral turpitude," as provided in Polity Article IV (6) (a) (i) and (ii), in the case of tutors; disciplinary probation; no-contact orders or prohibitions from entering certain parts of campus or attending certain campus events; and mandatory education on issues related to Discrimination and Harassment, including, but not limited to, prevention and awareness, victims' rights, and appropriate behaviors.

I. The College also reserves the right to provide appropriate sanctions when the investigation reveals violations of other College policies and procedures, such as the College's civility policy.

J. Both the Complainant and the Respondent shall be notified in writing of the outcome of the investigation, which includes the rationale of the investigator in reaching the outcome, the determination, and any proposed sanctions or remedial measures. Investigations typically conclude within thirty (30) days of the time when the College becomes aware of the complaint (except that the College may need to delay temporarily the fact-finding portion of its investigation at the direction of the police or when witnesses are unavailable).

K. Consistent with applicable law, the College will take steps to prevent retaliation, and will take strong responsive action if retaliation occurs. Any Retaliation or Intimidation directed toward either party or any witness as a result of the filing or investigation of a complaint of Discrimination or Harassment is strictly prohibited and should be reported immediately to the investigator or the Dean of the College.

IV. APPEAL PANEL

A. If dissatisfied with the outcome of the investigation, either the Complainant or the Respondent may file a written appeal to a Title IX Coordinator within ten (10) days of being notified of the outcome of the complaint. Grounds for appeal shall be limited to claims: of procedural error; of the existence of new or additional evidence that was unavailable during the investigation; of disproportionate sanction; or that the finding was unsupported by the evidence. The non-appealing party will be provided a copy of the written appeal and may file a written response within ten (10) days of receiving the appeal. In the event new or additional information is accepted by the Panel for consideration, the information will be shared with both parties and each will be given an opportunity to address the new information in writing.

B. The Panel shall include three members and shall be composed of faculty and/or staff members of the College who shall receive appropriate training annually on this Policy, the appeal process, and issues related to discrimination and harassment. Campus-specific information regarding the current pool of personnel from each campus from which a Title IX Coordinator selects an Appeal Panel, and alternate personnel who may be chosen in the event of a conflict of interest, scheduling conflicts, or any other reason which prevents personnel from serving, is provided below. If, due to conflicts of interest, scheduling conflicts, or any other reason insufficient members of the Panel or alternate members are available for a Panel, the Title IX Coordinator may select additional College employees to serve on the Panel, provided such employees receive appropriate training before serving on a Panel.

C. The Panel may, in its sole discretion, provide both parties the opportunity to address the Panel and to respond to any questions the Panel may have. If the Panel requests that the parties appear before the Panel, each party will have the opportunity to hear the other party's statements to the Panel, but may request to address the Panel outside the presence of the other party. The parties shall address the Panel and may not address one another directly. However, a party may request that the Panel pose additional questions to the other party. The Panel shall determine, in its sole discretion, whether to ask the questions requested.

D. The Panel's review is based on the written record compiled by the investigator and the statements of the appealing and non-appealing parties. Other than the parties and absent extraordinary circumstances, the Panel shall not call witnesses to appear before it or otherwise hold a hearing. The deliberations of the Panel are private and closed to the parties and the public. The Panel may accept, reject, or modify the investigator's decision with respect to the finding and/or sanction or remand the matter for further investigation or consideration by the investigator. Both parties will be notified in writing of the outcome of the appeal. The Panel's decision is final, and no further appeal is permitted. The appeal process ordinarily concludes within thirty (30) days of the date the non-appealing party provides a written response to the appeal (or indicates that no response will be provided).

V. Appeal Panel Members*

A. Annapolis

Members

Ben Baum, Director of Admissions
Molly Burnett, Director of Events and Community Outreach
Catherine Dixon, Director of Library Services
Jaime Dunn, Director of Career Services
Susan Jenkins, Director of Web Initiatives and Social Media
Emily Langston, Associate Dean for the Graduate Program
Christopher Krueger, Athletics and Recreation Coordinator

Alternate Members

Assistant Dean
Director of Personnel
Director of Student Services

Former Assistant Deans and Deans, provided each remains employed by the College

B. Santa Fe

Members

Jennifer Sprague, Library Director

Alternate Members

Assistant Dean

Associate Dean for the Graduate Program

Director of Human Resources

Director of Residential Life

Former Assistant Deans and Deans, provided each remains employed by the College

* Non-exhaustive list, and may be modified from time to time.

Revised August 6, 2018