

## Saint Joseph's University Policy Prohibiting Discrimination, Harassment and Retaliation

### I. Preface

In keeping with Saint Joseph's University's ("Saint Joseph's" or "University") mission as a Catholic, Jesuit University and a formal and informal community of faith, we must hold ourselves to a high standard of respect and fairness in our personal conduct and interactions. As such a community, we espouse that each individual is entitled to certain basic protections. These protections include, but are not limited to:

- Freedom from unlawful Discrimination, Harassment, and Retaliation of any type.
- Freedom to be heard without fear of reprisal.
- The expectation of confidentiality to the extent that is possible.
- The assurance of a prompt and equitable investigation and resolution of all allegations of Discrimination, Harassment or Retaliation.
- During a formal process, the opportunity of the Respondent and Complainant to be presented with all relevant information in a timely manner, and to respond.

At the same time, the University is committed to the principles of academic freedom. Vigorous discussion and debate, even of controversial matters, are an integral part of the educational enterprise.

### II. Purpose

As a Catholic, Jesuit University, Saint Joseph's is committed to the just and respectful treatment of students, faculty, and staff. To this end, Saint Joseph's prohibits unlawful discrimination against, and harassment of, its employees, students, or applicants for employment or admission on the basis of any characteristic protected by state or federal law. The prohibition extends to discrimination, harassment and retaliation by third parties visiting campus or participating in University-sponsored activities.

The University's Policy *Prohibiting Discrimination, Harassment and Retaliation* ("Policy") is designed to educate members of the University community about discrimination, harassment and retaliation and provide clear procedures when a violation of this Policy occurs. It is the University's hope that through continued education, and appropriate action upon receipt of

reports and complaints of conduct that may be a violation of the Policy, the University can eliminate discrimination, harassment and retaliation within the Saint Joseph's community.

This Policy applies to alleged conduct by Saint Joseph's University students, faculty, staff (union and non-union employees), volunteers, administrators, independent contractors, Trustees or third parties ("Covered Individuals").

### **III. Interaction of This Policy and the University's [Sexual Misconduct Policy Policy Regarding Sexual Assault, Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence or Stalking](#)**

The University also has a Sexual Misconduct Policy: Policy Regarding Sexual Assault, Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, or Stalking (the "Sexual Misconduct Policy"). The Sexual Misconduct Policy can be found by clicking on the policy title above. If particular conduct by a Covered Individual would be prohibited by both the Sexual Misconduct Policy and this Policy, then the Sexual Misconduct Policy controls for all Covered Individuals, with one exception. Sexual Harassment (as defined below) falls into conduct prohibited by both this Policy and the Sexual Misconduct Policy. For incidents of alleged Sexual Harassment, the Sexual Misconduct Policy's protections and procedures with regard to on- and off-campus reporting resources, information on medical and psychological resources, and the availability of interim and remedial measures shall apply. Discipline/resolution of that conduct, however, is addressed as follows:

- A.** If the alleged conduct meets the definition of Sexual Harassment **and** the definition of other conduct defined under the Sexual Misconduct Policy, then (for all Respondents) any discipline/resolution of that conduct is controlled by Section V.B. of the Sexual Misconduct Policy.
- B.** If the alleged conduct is limited to Sexual Harassment only, then:
  - 1. *For student Respondents:* Any discipline/resolution of that conduct is controlled by the Community Standards process.
  - 2. *For non-student Respondents:* Any discipline/resolution of that conduct is controlled by Sections VII-IX of this Policy.

### **IV. Definitions**

- A. Protected Category(ies):** The law prohibits Discrimination and Harassment on the basis of sex/gender, race, age, color, religion, national origin, ethnic origin,

sexual orientation, gender identity, disability, genetic information, marital status, and military and military veteran status. These are Protected Categories under the law.

- B. Discrimination:** Any unlawful distinction, preference, or detriment to an individual as compared to others in the terms or conditions of his or her employment or education on the basis of his or her Protected Category status. To request a reasonable accommodation for a disability(ies), students should contact Office of Student Disabilities Services (Dr. Christine Mecke) at 610-660-1774 and non-students should contact the EEO Officer (Sharon Eisemann at 610-660-3336.
- C. Harassment:** Verbal, written, visual, or physical conduct directed toward an individual due to that individual's Protected Category status that has the purpose or effect of unreasonably interfering with the individual's work or academic performance, or otherwise creating an intimidating, hostile, or offensive working or learning environment.<sup>1</sup>
- D. Sexual Harassment:** 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: (1) 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 (2) such conduct creates a hostile environment (defined below). This Policy shall not be construed or applied to restrict academic freedom at the University, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.

*Unwelcome verbal or physical conduct of a sexual nature creates a Hostile Environment* when it (a) is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an education program or creates a hostile or abusive educational environment, or (b) explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work

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performance, or creates an intimidating, hostile, or offensive environment. In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

Individuals who experience unwelcome conduct of a sexual nature that they reasonably perceive to be harassing, but may or may not meet the Sexual Harassment definition outlined in this Policy, are encouraged to report the behaviors so that the University can take proactive steps to prevent the behaviors from continuing and perhaps escalating and to protect or otherwise assist the Complainant(s).

**Sexual Assault is a form of Sexual Harassment, but such conduct is defined by and covered under the [Sexual Misconduct Policy](#). Any reference in this Policy to “Sexual Harassment” excludes Sexual Assault.**

- E. Retaliation:** Any act(s) or attempted act(s) 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, or discrimination.
- F. Complainant:** The person alleged to have been subjected to conduct in violation of this Policy.
- G. Respondent:** An individual accused of conduct that might be a violation of this Policy.
- H. Examples of Conduct That Can Constitute Discrimination or Harassment**
  - 1. Examples of discriminatory conduct include decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals because of their Protected Category status listed in Section III, A, above.
  - 2. Conduct that can constitute Harassment includes, but is not limited to:
    - a. Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to the Protected Categories,

- b. Placing on walls, bulletin boards, email, or elsewhere on the University's premises graphic material that shows hostility or aversion to an individual or group that relate to the Protected Categories,
- c. Sexually explicit, graphic, abusive, degrading, intimidating, or offensive jokes, comments, remarks or gestures;
- d. Sexual advances, propositions, flirtations, requests or pressure of any kind for sexual favors;
- e. Physical contact or intimidation.

#### **V. Consensual Romantic and/or Sexual Relationships**

Romantic/sexual relationships between employees (including faculty and athletic staff) and students with whom they also have an academic, supervisory or evaluative relationship, or between an employee and his or her subordinate, are fraught with the potential for exploitation and may compromise the University's ability to enforce its policy against sexual harassment. Employees must be mindful that the authority that they exercise in their interactions with students and subordinates may affect the decision of a student or a subordinate to enter into or end a romantic or sexual relationship. Even when both parties have initially consented, the development of a sexual relationship renders both the employee and the institution vulnerable to possible later allegations of sexual harassment, in light of the significant power differential that exists between faculty members and students, athletic staff members and student athletes, or supervisors and subordinates. Such relationships can also become the basis for a complaint of harassment or discrimination by a colleague who is adversely affected by them.

As a result, the University prohibits all faculty and staff from engaging in or pursuing romantic/sexual relationships with students whom they are currently supervising, teaching, advising, or providing services to. Moreover, anyone involved in such a relationship with someone – other than a student -- over whom he or she has supervisory power must recuse himself or herself from decisions that affect the compensation, evaluation, employment conditions, instruction and/or academic status of the subordinate involved. Such relationships should be reported to both persons' immediate supervisors in a timely fashion.

## VI. Academic Freedom

The American Association of University Professors Joint Statement on the Freedoms and Rights of Students (1967, revised in 1990, 91, and 92) articulates that: “The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the academic community.” Saint Joseph's strongly supports and protects the principle of academic freedom. All members of the University community have a right to use the academic forum, provided by the University, to discuss controversial subjects and to express ideas that some or most of the members of the community strongly oppose. Harassment is not about voicing unpopular ideas. It is one form of intimidation.

In its 1940 Statement on Tenure AAUP states that “Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning”. In an instructional context, wide latitude is required for professional judgment in determining appropriate content and presentation of academic material, provided this material is germane to the subject matter of the course. In its policy statement on sexual harassment, the AAUP further states: “Intimidation and harassment are inconsistent with the maintenance of academic freedom on campus. This statement is no less germane if one is being made unwelcome because of sex, rather than unwelcome because of race, religion, politics, or professional interests.” *Academe*, September-October 1990, pp. 42-43.

## VII. Processing Discrimination, Harassment and Retaliation Reports and Complaints

### A. General Provisions

1. The procedures set forth below are internal administrative procedures of the University. As to those forms of Discrimination or Harassment that also violate state or federal law, an aggrieved party may also file a complaint with the appropriate local, state, or federal agency, and in a court with jurisdiction. Both the Complainant and the Respondent may have an advisor from the Saint Joseph's University community, who is not a family member or attorney<sup>2</sup>, accompany them during any of the procedures in this section. The advisor acts in a support role only, and not

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<sup>2</sup> The advisor may be someone who holds a J.D., so long as the person holding the J.D. is not then engaged in the active practice of law *and* discloses and affirms these circumstances to the Intake Officer *prior to* attending any meetings in this capacity with the advisee party.

as an advocate or spokesperson. The advisor has the same obligations of confidentiality as all other participants in the proceedings.

2. Reports and complaints of Discrimination and Harassment should be made as soon as possible after the incident(s) occurs. All reports and complaints will be investigated promptly and appropriate action will be taken as expeditiously as possible under the circumstances presented. The University will respect the privacy of the Complainant, the Respondent, and the witnesses, if any, in a manner consistent with the University's obligations (legal or under this Policy) to investigate the matter, protect the individuals involved, take appropriate remedial action, and comply with any discovery or disclosure obligations required by law. This means that, although confidentiality will be respected, it cannot be guaranteed.
3. The University may investigate a report or complaint of Discrimination or Harassment regardless of whether the Complainant desires the University to pursue the report or complaint, if the University has cause to believe that the action reported or complained of constitutes a violation of this Policy, breach of applicable law or a threat to the University community.
4. All students and employees should report any Discrimination or Harassment, experienced by themselves or another, to the appropriate University officer described in Section VII.B below. No student or employee should assume that the University already knows about a particular situation or event.
5. **Non-Retaliation Statement:** The University prohibits Retaliation against any individual who complains of a violation of this Policy or assists in providing information about a complaint of a violation of this Policy. Anyone who believes s/he has been retaliated against for participating in this process in any capacity should report the matter promptly. Reports and complaints of Retaliation will be investigated and dealt with as any other report and complaint brought under this Policy.

**B. Where to Report Alleged Discrimination, Harassment or Retaliation**

1. Reports of Discrimination, Harassment or Retaliation should be made to the Intake Officer identified below:
  - a. **Student Respondents:** Complaints of Discrimination, Harassment or Retaliation where the Respondent is a student shall be reported to the Title IX/Bias Response Coordinator (Mary-Elaine Perry; 610/660-1145; [mperry01@sju.edu](mailto:mperry01@sju.edu); [TitleIX@sju.edu](mailto:TitleIX@sju.edu); Campion 243)
  - b. **Staff and Administrator Respondents:** Complaints of Discrimination, Harassment or Retaliation where the Respondent is a staff member or administrator, shall be reported to the Title IX/Bias Response Coordinator (Mary-Elaine Perry; 610/660-1145; [mperry01@sju.edu](mailto:mperry01@sju.edu); [TitleIX@sju.edu](mailto:TitleIX@sju.edu); Campion 243)
  - c. **Faculty Respondents:** Complaints of Discrimination, Harassment or Retaliation where the Respondent is a faculty member shall be reported to the Title IX/Bias Response Coordinator (Mary-Elaine Perry; 610/660-1145; [mperry01@sju.edu](mailto:mperry01@sju.edu); [TitleIX@sju.edu](mailto:TitleIX@sju.edu); Campion 243)
  - d. **Independent Contractors, Volunteers, Trustees and Visitors Respondents:** Complaints of Discrimination, Harassment or Retaliation where the Respondent is an independent contractor, volunteer, trustee and visitor<sup>3</sup> shall be reported to the Title IX/Bias Response Coordinator (Mary-Elaine Perry; 610/660-1145; [mperry01@sju.edu](mailto:mperry01@sju.edu); [TitleIX@sju.edu](mailto:TitleIX@sju.edu); Campion 243)
2. In the event that the Complainant does not wish to report incidents or concerns to the designated Intake Officer, they may report to another Intake Officer listed above, or their designee.

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<sup>3</sup> A visitor, or non-University affiliated individual, may not use the University process to pursue a complaint against a University-affiliated Respondent.



### C. Who May Serve as a Consultant

The following individual will serve as a consultant (i.e., a person who can explain options to the complainant without it becoming a formal complaint) during the Procedures set forth in Section VIII:

1. With regard to reporting, where the Complainant or Respondent are faculty, staff members, and/or administrators, the Title IX/Bias Coordinator, or their designee will serve as a consultant during the Procedures outlined in Section V. The Intake Officer and the consultant can be the same individual. When the complaint meets the definition of prohibited behaviors under this Policy, the complainant has the choice to not file a formal complaint and instead choose to seek consultation and mediation. If the alleged conduct meets the definition of Sexual Harassment and the definition of other conduct defined under the Sexual Misconduct Policy, then (for all Respondents) any discipline/resolution of that conduct is controlled by Section V.B. of the Sexual Misconduct Policy.
2. With regard to reporting, where Complainant is student, the Title IX/Bias Response Coordinator will serve as a consultant during the Procedures outlined in Section VIII.

***Notice for Student Respondents:*** Where the Respondent is a student (regardless of the Complainant's status), an alleged violation of this Policy shall be resolved under the [Community Standards process](#) along with any other alleged violations of the Community Standards in connection with the incident(s). This includes the Community Standards appeal process.

If the alleged conduct meets the definition of Sexual Harassment and the definition of other conduct defined under the Sexual Misconduct Policy, then (for all Respondents) any discipline/resolution of that conduct is controlled by Section V.B. of the Sexual Misconduct Policy.

## VIII. Procedures

The below-described procedures may be followed in sequence, if the content of the complaint makes it appropriate for consultation or mediation and if the Complainant so requests. Alternatively, a complaint may be filed immediately, without prior consultation or attempt at mediation. In the case of a sufficiently serious allegation, in the judgment of the Intake Officer, immediate filing will take place independent of the wishes of the Complainant. Interim Measures are also noted below in Section IX. For Sexual Harassment (not Discrimination), Interim Measures are found in the [Sexual Misconduct Policy](#)

### A. Consulting Procedure

Members of the Saint Joseph's community who wish to discuss questions or concerns about conduct that may be in violation of the Policy may contact the Intake Officer identified in Section VII.B.1, above. The Intake Officer, or their designee, shall provide information to the inquirer concerning available support services and how the process works, including the possibility of initiating a mediation procedure if appropriate.

1. Once a complaint is filed (Section VIII.C), the Intake Officer is required to initiate an investigation. The scope and extent of the investigation will depend on the severity of the conduct complained of.
2. If requested by the Complainant, and judged appropriate under the circumstances, the Intake Officer or their designee, serving as a consultant, will assist in attempting to resolve the complaint informally. Such assistance may involve, for example, assisting the Complainant in writing a letter to that person asking that the conduct experienced by the Complainant as discriminatory or harassing cease immediately. Alternatively, the Complainant may ask the consultant to meet with the Respondent, or explore other possible resolutions. Any resolution must be acceptable to all parties involved in the matter including the University.
3. During the consulting procedure, all reasonable efforts will be made to ensure the confidentiality of information received, to the extent permitted by law, including the identities of the parties. **For allegations of Sexual Harassment, the University's procedure for addressing requests for**

**confidentiality is outlined in Section III.E.4 of the Sexual Misconduct Policy.** For all other allegations:

- a. The identity of the Complainant will be disclosed to the Respondent during the consulting procedure only if the Complainant gives permission.
  - b. If, due to the circumstances of the alleged Discrimination or Harassment, it is not possible to resolve the complaint and yet maintain confidentiality, the Complainant will be informed and be given the options of proceeding (with disclosure of identity) or withdrawing from the consulting process. However, the University may still proceed with the investigation.
  - c. The determination about proceeding with an investigation is made by the Intake Officer, independent of the wishes of the Complainant, based on the nature of the conduct alleged. If the alleged conduct involves Sexual Assault, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking, then the University will pursue the matter based on the [Sexual Misconduct Policy](#)
4. When the consultant is not the Intake Officer but their designee, the consultant is required to report the conduct to the Intake Officer, if the conduct poses a threat to the University community. If the matter is so reported, the consultant will notify the Complainant and the Respondent of the nature of the report.

## **B. Mediation Procedure**

1. The Complainant may request mediation. The Intake Officer or their designee shall review the request to ensure that mediation is a proper resolution device under the circumstances and will not cause delays in resolving the issue.
2. The Intake Officer will designate the person who is to serve as mediator. Care should be taken that the mediator role not be compromised by existing relationships between the mediator and either of the parties and the mediator be trained in this role and its responsibilities. The

Respondent and Complainant may object to a mediator in writing at least 48 hours before the mediation.

3. If the Respondent agrees to participate in mediation, the mediator will contact each party for a pre-mediation meeting. These meetings are confidential and are designed to help clear the way for communication and resolution during mediation. Each party will be advised on the mediation process.
4. Mediation will be conducted in a neutral location. Each party and the mediator will discuss options and methods of resolution.
5. If the parties reach a settlement, then the mediator will write a Resolution Agreement, which both parties shall sign. Even when mediation has been successful, however, the University may still have an obligation to investigate and in cases involving a student Complainant, the Title IX/ Bias Response Coordinator will be apprised of the outcome.
6. If the parties cannot reach an agreement, or one or both parties refuse to sign the Resolution Agreement, then the Complainant can file a written complaint, as outlined below. However, failure to file a written complaint does not relieve the University of its obligation to investigate.

## **C. Complaint Procedure**

### **1. Filing a Complaint**

Any individual who believes that they have, or know someone who has, experienced conduct that may be a violation under this Policy can make a complaint with the appropriate Intake Officer at any time, or following the consultation and/or mediation process; but only members of the University community or the University itself may serve as the Complainant in any University conduct process under this Policy. The complaint should be in writing, but if the Complainant is unable or unwilling to submit a complaint in writing, then the Intake Officer shall prepare a report summarizing the Complainant's allegations. The failure of the Complainant to put the complaint in writing does not relieve the University of its obligation to act in accordance with legal/policy requirements in response to the information provided by the Complainant.

The Intake Officer shall promptly forward the written complaint or summary report of the Intake Officer to an appropriate Investigator. A person is not required to utilize the consultation or mediation procedure before filing a formal complaint.

## **2. Contents of the Complaint**

The complaint shall include the name of the Complainant, the name of the Respondent, a statement of alleged conduct (including dates, and the nature of the conduct), and the names of witnesses, if any. Copies of supporting materials, if any, shall be attached to the complaint.

## **3. Delivery of the Complaint and Response**

The Intake Officer will inform the Respondent that a complaint under this Policy has been filed against them. Absent other considerations, within five (5) business days of the filing of the complaint, the Investigator shall allow the Respondent to see the written complaint. If the Complainant declines to put the complaint in writing, the Investigator will prepare a summary and shall allow the Complainant and the Respondent to see the written summary.

- a. The Respondent shall have an opportunity to respond to the complaint/summary in writing; such response must be submitted within five (5) business days of delivery. If the Respondent waives their right to respond in writing, the Respondent shall be asked to sign a statement acknowledging that they declined to provide a written response. The Complainant shall have the opportunity to see the Respondent's response to the alleged conduct, or to be notified if no response is provided.
- b. The Complainant shall have an opportunity to respond to the summary in writing; such response must be submitted within five (5) business days of delivery. If the Complainant waives their right to respond in writing, the Complainant shall be asked to sign a statement acknowledging that they declined to provide a written response. The Respondent shall have the opportunity to see the Complainant's response to the summary, or to be notified if no response is provided.

- c. In no event will names of witnesses identified by either party be shared in the Investigation Report prepared by the Investigator(see Section VIII.C.5.).

4. **Investigation**

- a. Absent extraordinary circumstances (to be determined by the Intake Officer), the Investigator shall be chosen from a pool of three (3) individuals from the University community, who are recommended by the Executive Committee of University Council and appointed by the President for staggered terms of three (3) years. Each investigator shall be professionally trained to conduct investigations, and their objectivity should not be compromised by a previously-existing relationship with either the Complainant or the Respondent. The Intake Officer may also delegate the investigatory duties to a qualified external investigator if they determine that it is in the best interests of the parties and the University to do so. In coming to this decision, the Intake Officer may consult the University's Office of the General Counsel or other appropriate resources within the University.
- b. The Investigator shall promptly conduct an investigation of the complaint. The investigation shall include interviews with the parties and witnesses, and review of any relevant documents or other evidence. In most cases, the investigation shall be complete within sixty (60) days of receipt by the Investigator of the complaint. The Investigator may delegate any part of the investigation to an agent with specific expertise (e.g. Office of Public Safety). All who participate in conducting an investigation are obliged to keep confidential what they learn in the process, consistent with applicable legal requirements.
- c. The investigation shall address facts and issues relating to the complaint, which may include, but are not limited to:
  - i. The type of conduct complained of
  - ii. The frequency of the conduct
  - iii. The date and location of the conduct

- iv. The factual circumstances
  - v. The relationship between the parties
  - vi. The effect of the Respondent's conduct on the Complainant
  - vii. The awareness of the Respondent of the Complainant's concerns
  - viii. The awareness of the supervisor of the Complainant's concern
  - ix. The identity of witnesses
  - x. The statement of witnesses
  - xi. Prior steps taken to resolve the issue
  - xii. Additional resources available to resolve the issue
- d. During the investigation, every reasonable effort shall be made to protect the privacy rights of all parties; however confidentiality cannot be guaranteed.

**5. Investigation Report**

- a. Upon completion of the investigation, the Investigator shall report in writing to the Title IX/Bias Coordinator who shall share the outcome of the investigation with the Provost when the Respondent is a member of the faculty and with the Vice President for Human Resources when the Respondent is a member of the staff, administrator, independent contractor, volunteer, trustee or visitor.
- b. The report shall address the facts and issues that were investigated under section (4)(c), above.
- c. The report shall include an outcome (see 6(a) below).
- d. The Complainant and the Respondent shall have the opportunity to view a copy of a summary of the investigation, with information

redacted in compliance with FERPA and other legal considerations regarding privacy. This summary shall include the following: date of report, parties, witnesses, dates of investigation, summary of allegations, policy involved, determination of credibility, findings of fact, conclusions, and name of investigator.

**6. Outcomes and Recommendations**

- a. The outcomes of the investigation are:
  - i. a finding that it is more likely than not that the alleged violation occurred;
  - ii. a finding that it is more likely than not that a violation did not occur;
  - iii. a determination, one way or the other, could not be made.
- b. If other conduct that might be a violation of other University policies is discovered or identified during the course of the investigation, this conduct must be reported to the appropriate University official and shall be subject to a separate process.

**7. Sanctions:**

- a. If the Investigator has concluded, based on findings of fact and a determination of credibility, that a violation of this Policy has occurred, sanctions may be imposed by the following University administrator (depending on the status of the Respondent):
  - i. ***Faculty Respondents:*** The Provost.
  - ii. ***Staff, Administrator, Volunteer, or Independent Contractor Respondents:*** The Vice President for Human Resources, in consultation with Divisional Vice President or Dean.
- b. Sanctions include corrective and/or disciplinary action.



- c. Corrective action may include:
  - i. an order to avoid future contact with the Complainant
  - ii. a requirement for an apology
  - iii. a transfer (e.g., to another department, class, office, residence)
  - iv. participation in counseling and/or training
- d. Disciplinary action may include:
  - i. written reprimand
  - ii. suspension
  - iii. termination, discharge or dismissal from the University.
- e. The sanctions shall be communicated to the Respondent; any sanctions that impact the Complainant shall also be communicated to the Complainant.

**8. Appeal**

- a. Following the outcome of an investigation, the Respondent may appeal the outcome within five (5) business days of receipt of the outcome. Likewise the Complainant may appeal the outcome within five (5) business days of receipt.
- b. Such appeal shall be in writing to the Title IX/Bias Response Coordinator and state the grounds and the facts supporting the grounds for such appeal.
- c. Grounds for appeal are limited to:
  - i. Material procedural error that could have significantly impacted the outcome of case, or bias in the process or failure to disclose conflict of interest. Bias in the process is not a disagreement with the outcome of the investigation or the findings of the investigator.

- ii. The existence of previously unavailable or unknown relevant evidence that could have significantly impacted the outcome of the case.
  - iii. The sanction(s) is significantly disproportionate for the conduct that was found to have occurred
- d. The appellant(s) shall bear the burden of establishing one or more of these grounds for appeal. Appeals submitted for other reasons or past the five (5) business days shall not be considered.
- e. Appeals shall be considered by a panel of three (3) trained appeal board members drawn from a pool of five (5).
  - i. The five (5) appeal board members shall be recommended by the Executive Committee of University Council and appointed by the President for staggered terms of three (3) years.
  - ii. The Respondent and Complainant shall be informed of the three (3) panel members in advance of the appeal to allow for objection to a member of the appeals panel in writing at least 48 hours before the scheduled consideration of the appeal.
  - iii. Absent other considerations, the appeal panel shall make a decision within five (5) business days after the appeal period expires. The appeal panel may 1) recommend the sanction be changed or 2) remand the case for further investigation. If the appeals panel finds no merit to the appeal, the decision of the original investigation and sanction shall stand.
  - iv. During the appeal process, the sanctions are in effect.
  - v. Absent a remand for further investigation the outcome of the appeal process under this Policy is final. In the case of faculty, if after the appeal under this Policy is concluded, the sanction remains termination, discharge or dismissal from the University, the party to be terminated, discharged

or dismissed shall have the right to follow procedures regarding separation from the University as provided in the Faculty Handbook [Separation and Appeals Procedures].

## IX. Interim Measures

The following procedures for Interim Measures apply to all prohibited behaviors defined in this Policy, except for Sexual Harassment. **Procedures for Interim Measures for Sexual Harassment are found under the Sexual Misconduct Policy.**

- A. The Complainant or the Intake Officer may request interim measures from the appropriate University official who must have authority to impose the interim measure.
  - i. ***Faculty Respondents:*** The Provost.
  - ii. ***Staff, Administrator, Volunteer, Independent Contractor or Visitor:*** The Vice President for Human Resources, in consultation with Divisional Vice President or Dean.
- B. If the University official believes that interim measures are necessary, either for the sake of the Complainant or other parties, then the University official may impose the least restrictive action that will both protect the Complainant (or others) and preserve the interests of the Respondent given the circumstances presented.
- C. The University will impose interim measures immediately if the safety and security of either party or other members of the University community is threatened or when the ability of the complaining student, employee or others to participate and/or perform effectively in their respective University environments requires it. In these situations, the University official shall offer to meet with the parties within three (3) business days of the imposition of interim measures. In this case, the purpose of the meeting is not to determine responsibility of the parties, but to determine whether the interim measures should continue based on the nature of the allegations. In other situations, where interim measures have not immediately been imposed, but where some form of interim measures may need to be considered pending the outcome of the investigation, the University official shall offer to meet with the parties and/or other persons who may have relevant information prior to imposing interim measures. The purpose of this meeting is not to determine responsibility of the parties but to determine whether interim

measures should be imposed based on the nature of the allegations and other pertinent information.

- D. The University official may meet with the parties separately, or meet with them together, but in no event will either party be required to be present for the meeting with the other party without the full and informed consent of both parties to do so. In no event, will a party who has asserted a claim of Sexual Harassment be required to be present in such meeting with the person accused of engaging the conduct at issue.
- E. Examples of measures that interim measures may include:
  - 1. Transfer out of a class or work assignment
  - 2. Suspension (full or partial)
  - 3. An order to avoid or restrict contact
  - 4. Change in Housing
  - 5. Administrative leave with or without pay
- F. The University is also obliged to take effective corrective action promptly, when it appears that a Hostile Environment has been created by some form of Discrimination or Harassment. This corrective action may include changes to University policies and/or services.

## **X. Good Faith Complaints**

Complaints made in good faith under this Policy will not result in any adverse action against the Complainant. No other person who participates in a good faith investigation will be treated adversely because of that participation.

However, if an investigation results in a finding that the Complainant knowingly accused another falsely of Discrimination, Harassment or Retaliation, then the Complainant will be subject to appropriate sanctions, which may include termination of employment or, in the case of students, permanent separation from the University.

## **XI. Other Rights and Responsibilities**

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Updated, January, 2017  
Updated, September, 2018

This Policy shall not be deemed to take away any rights or responsibilities of faculty members under the Faculty Handbook, administrators and professionals under the Administrators and Professionals Handbook, staff members under the Staff Handbook, students under the Student Handbook, and union members under their collective bargaining agreements.

## **XII. Education**

This Policy reflects the University's commitment to educate all of the members of the University community about the nature of discrimination, harassment and retaliation, their impact on individuals and the University as a whole, the steps necessary to address it, and the protections available to all involved: Complainant, Respondent and others. Such education is essential to establishing and maintaining a campus environment in which the dignity of all persons is respected. It is the responsibility of every employee and student to become informed about these matters by participating in required educational sessions.

The Title IX/ Bias Response Coordinator (Mary-Elaine Perry; 610/660-1145; [mperry01@sju.edu](mailto:mperry01@sju.edu); [TitleIX@sju.edu](mailto:TitleIX@sju.edu); Campion 243E), and Deputy Title IX Coordinators (Renie Shields, 610/660-2584, [shields@sju.edu](mailto:shields@sju.edu), Barry Hall; Tom Sheibley, 610/660-3125, [tsheible@sju.edu](mailto:tsheible@sju.edu), Wolfington; and Sharon Eisenmann, EEO Officer 610/660/3336 [seisenma@sju.edu](mailto:seisenma@sju.edu)) are responsible for providing appropriate education for employees (faculty, administrators and staff) and students.

## **XIII. Records**

Records generated under this policy shall be maintained in confidence and consistent with applicable laws. Disposition of the case will become part of the record. The Title IX/ Bias Response Coordinator and the EEO Officer shall review these records and make such reports or recommendations as may be necessary to effectuate the purpose of this policy to the President.

### **Campus Resources**

- Title IX/ Bias Response Coordinator (Mary-Elaine Perry) (610)660-1145
- EEO Officer – Sharon Eisenmann(610) 660-3336
- Employee Assistance Program - 888-293-6948 or 800-327-1833 (employees)
- Counseling and Psychological Services Merion Gardens A504 – <http://www.sju.edu/int/studentlife/studentresources/counseling/> 610-660-1090 (students)

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## Saint Joseph's University

- Student Health Center – Sourin, ground floor -- 610-660-1175 (students) [www.sju.edu/studenthealth](http://www.sju.edu/studenthealth)
- Center for International Programs – 183 W. City Ave. - <http://internationalprograms.sju.edu/> - 610-660-1835 (students)
- Student Financial Services - <http://www.sju.edu/int/resources/srfs/index.html> - Barbelin 121 - 610-660-2000 (students)
- Public Safety and Security (610) 660-1111
- Office of Community Standards (students) (610) 660-1046

For further information or details of campus resources for faculty and staff, contact the Office of Human Resources at 610-660-3309 or visit the HR website at

<http://www.sju.edu/int/resources/humanresources/>.

### **Off-Campus Resources**

Complaints of discrimination or harassment may also be filed in a timely manner with the following government agencies:

#### **Equal Employment Opportunity Commission**

801 Market Street, Ste. 1300  
Philadelphia, PA 19107-3127  
800/669-4000

#### **Office of Civil Rights**

U.S. Department of Education  
100 Penn Square East, Ste. 515  
Philadelphia, PA 19107-3323

#### **Pennsylvania Human Relations Commission**

110 N. 8th Street, Ste. 501  
Philadelphia, PA 19107  
215/560-2496

#### **Philadelphia Commission on Human Relations**

601 Walnut Street, Ste. 300 South  
Philadelphia, PA 19106  
215/686-4670

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**Resources Cited in this Document**

<http://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>

<http://www.aaup.org/AAUP/pubsres/policydocs/contents/stud-rights.htm>

<http://www.aaup.org/AAUP/pubsres/policydocs/contents/statementonprofessionalethics.htm>

**Revisions**

The Title IX/ Bias Response Coordinator and EEO Officer will initiate an annual review of the policy. Additional review/revisions will be conducted as needed to comply with legal requirements.

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