

**Saint Joseph's University Sexual Misconduct Policy:
*Policy Regarding Sexual Assault, Sexual Harassment, Sexual
Exploitation, Domestic Violence, Dating Violence, or Stalking***

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If you believe you are the victim of Sexual Misconduct, please immediately go to Section III.E of this Policy for on- and off-campus resources and contact information.

I. Application and Purpose of This Policy

A. Application

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

B. Purpose

Saint Joseph's University ("Saint Joseph's" or "University") is committed to providing an institutional environment where all persons may pursue their studies, careers, duties, and activities in an atmosphere free of the threat of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, and stalking (for purposes of this Policy, this conduct may be referred to, collectively, as "Sexual Misconduct"). Sexual Misconduct directed toward students, employees or any member of the University community, including third parties, regardless of sexual orientation or gender identity, interferes with the expectation that all individuals at the University will learn and work in an environment that is free from discrimination. Sexual Misconduct, as defined by the University, may also constitute a crime.

The purpose of this document is to:

- a) state the University's Policy on Sexual Misconduct ("Policy");
- b) identify and describe procedures and resources available to those who believe that they have experienced conduct that constitutes Sexual Misconduct;
- c) identify the possible sanctions for violations of this Policy and the appeal procedures; and
- d) highlight educational programs and resources addressing Sexual Misconduct.

C. Interaction of This Policy and the University's Policy Prohibiting Discrimination, Harassment and Retaliation

The University also has a [*Policy Prohibiting Discrimination, Harassment and Retaliation*](#) ("PPDHR"). The PPDHR addresses sexual discrimination by Covered Individuals that does not constitute Sexual Misconduct as defined in Section III.D. of this Policy, and other forms of discrimination that are prohibited by the University but are not violations of this Policy. The PPDHR can be found by clicking on the policy title above.

If particular conduct would be prohibited by both the PPDHR and this Policy, this Policy controls.

D. Statement Regarding Allegations

This Policy applies to any allegation of Sexual Misconduct made against a Covered Individual (the alleged "Respondent"), whether that allegation is made by the alleged victim (the "Complainant") or a third party (the "Reporter"). Every allegation will be taken seriously, and the safety and security of all parties and the University community is of the utmost importance. At the same time, the mere fact that an allegation has been made or that a party has been named as an alleged Respondent does not itself mean that a Policy violation has occurred.

II. Role of the University Title IX Coordinator

Dr. Mary-Elaine Perry is the University's Title IX Coordinator. In her role as Title IX Coordinator, Dr. Perry coordinates the University's compliance with Title IX and oversees the University's investigation and resolution process for reports of Sexual Misconduct. Dr. Perry is supported by several University administrators who serve as Deputy Title IX Coordinators. Dr. Perry and the Deputy Title IX Coordinators are knowledgeable and trained in state and federal laws that apply to matters of Sexual Misconduct, as well as University policy and procedure.

The Title IX and Deputy Title IX Coordinators are as follows:

Dr. Mary-Elaine Perry
Title IX Coordinator
610-660-1145
mperry01@sju.edu
titleIX@sju.edu
Campion 239A

Ms. Nancy DuBoise
Deputy Title IX Coordinator
610-660-3313
nduboise@sju.edu
215 Merion Place

Mr. Tom Sheibley
Deputy Title IX Coordinator
610-660-3125
tsheible@sju.edu
Wolfington

Ms. Renie Shields
Deputy Title IX Coordinator
610-660-2584
shields@sju.edu
Barry Hall

III. Policy

A. Effective Date

While the behavior covered by this Policy has always been prohibited at the University, this specific Policy is effective June 15, 2015.

B. Statement of Scope and Jurisdiction

The University does not tolerate Sexual Misconduct on its campus, on non-campus property owned or controlled by the University, or at University-sponsored events or programs (occurring either on- or off-campus, including University-sponsored study-abroad programs), by any member of the Saint Joseph's community (faculty, students, administrators, staff including union members, independent contractors, trustees, and volunteers) or third parties, regardless of sexual orientation or gender identity. This Policy also applies to any off-campus behavior of students (even if unrelated to a University-sponsored event or program) that has an actual or potential adverse impact on the University or any member of the University community.

Conduct that is determined to constitute Sexual Misconduct is not only a violation of the Policy and reprehensible in any context, but it is also a matter of particular concern in an academic community where the University community is connected by strong bonds of dependence and trust. All members of the University community are expected to report acts of Sexual Misconduct under this Policy and/or the PPDHR, as appropriate. The University's procedure for addressing requests for confidentiality is outlined in Section III.E.4 of this Policy.

C. Prohibited Conduct

Conduct prohibited by the Policy includes:

1. **Sexual Misconduct**
 - a. Sexual Assault
 - b. Sexual Harassment
 - c. Domestic Violence
 - d. Dating Violence
 - e. Sexual Exploitation
 - f. Stalking
2. **Retaliation**
3. **Intimidation**

D. Definitions

Definitions of the conduct prohibited by the Policy are as follows:

1. **Sexual Misconduct:** Includes Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence, Sexual Exploitation, and Stalking (as each term is further defined below).
 - a. **Sexual Assault:** Having sexual intercourse or sexual physical contact with another individual by the use or threat of force or coercion, without consent, or where the individual is incapacitated.
 - (i) *Sexual Assault is also prohibited by federal and Pennsylvania law. For purposes of this Policy, prohibited Sexual Assault includes: Rape, Statutory Sexual Assault, Sexual Assault, Indecent Assault, Fondling, and Incest, as defined by the FBI's Uniform Crime Reporting Program (available at <http://www.fbi.gov/about-us/cjis/ucr/nibrs/nibrs-user-manual>), or the Pennsylvania Criminal Code. Applicable definitions from the Pennsylvania Criminal Code are provided in **Appendix A.***
 - (ii) *For purposes of this Policy, Sexual Assault also includes: 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 you or his/her 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. It also includes the non-consensual removal of another's clothing, indecent contact (i.e., the unwanted touching of intimate body parts including, but not limited to, genitals, buttocks, groin, or breasts), or causing another to have indecent contact with those intimate body parts.

- (iii) *For purposes of this Policy, Sexual Assault also includes: Non-consensual sexual intercourse.* Non-consensual sexual intercourse means any sexual intercourse (anal, oral or vaginal), with any object, by a person upon another person without that person's consent. Non-consensual intercourse may be accomplished by expressly or implicitly forcing or coercing another person to have intercourse against that person's will, including the use or threat of physical force, or any behavior that is designed to intimidate and induce fear in another person. Non-consensual sexual intercourse can also occur when another person is incapable of denying or giving consent.

b. 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

performance, or creates an intimidating, hostile, or offensive environment. In determining whether harassment has created a hostile environment, consideration will be given 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).

- c. **Domestic Violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or who has cohabitated with the alleged victim as a spouse, by a person similarly situated to a spouse of the alleged victim under the domestic or family laws of the Commonwealth of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Pennsylvania.
 - (i) While there is no distinct definition of "Domestic Violence" under the Pennsylvania Crimes Code, it should be noted that if a criminal complaint is made to law enforcement outside of the University, the standard of probable cause set forth in **Appendix B** will apply to that criminal complaint.
 - (ii) The Pennsylvania standard is different from the procedures that apply to on-campus disciplinary matters, as set forth later in the Policy.
- d. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship will be determined based on the reporting party's statement, taking into consideration the following factors: a) the length of the relationship, b) the type of relationship, and c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical

abuse or the threat of such abuse. Dating violence, for purposes of this Policy, does not include emotional abuse.

- e. **Sexual Exploitation:** Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage 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 of individuals who are undressed or engaging in sexual acts; non-consensual video or audio-taping of sexual activity; prostituting another person; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); using technology such as Google Glass in a way as to sexually exploit another or engage in voyeurism; and knowingly transmitting an STD or HIV to another.
 - f. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her/his safety or the safety of others; or suffer severe emotional distress. One engages in an impermissible course of conduct if one engages in two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person in a way prohibited as described above or interferes with a person's property.
 - (i) Although the focus of this Policy is on gender-based stalking, the Policy prohibits stalking of any type.
 - (ii) *Stalking is also prohibited by Pennsylvania law. The applicable definition from the Pennsylvania Criminal Code, Title 18, is provided in Appendix C.*
2. **Retaliation:** 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.
 3. **Intimidation:** 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.

4. **Complainant:** The person alleged to have been subjected to conduct in violation of this Policy.
5. **Consent:** Consent means words or actions that reasonably demonstrate to another a knowing and voluntary agreement to engage in mutually agreed sexual activity.
 - a. Consent is active, not passive.
 - b. An affirmative statement or action does not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because:
 - (i) incapacitation,
 - (ii) unconsciousness,
 - (iii) mental disability or incapacity, or
 - (iv) if the consent is the product of threat or coercion.
 - c. In whatever way consent is communicated, it must be mutually understandable.
 - d. Silence, in and of itself, or the absence of resistance, cannot be interpreted as consent.
 - e. It is the responsibility of the initiator of sexual contact to make sure that she/he understands fully what the person with whom she/he is involved wants and does not want sexually.
 - f. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
 - g. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
 - h. A previous relationship or prior consent does not imply consent to future sexual acts.
 - i. Consent can be withdrawn through action or words at any time.
6. **Incapacitation:** 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 other drugs varies from person to person; however, warning signs that a person may be 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. Evaluating incapacitation also requires an assessment of 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.

7. **Reporter:** An individual reporting alleged conduct prohibited by this Policy. The Reporter may be the Complainant or any other person (but not a responsible employee).
8. **Respondent:** An individual accused of conduct that might be a violation of this Policy.
9. **Responsible Employee:** With limited exceptions indicated below, the University has designated all employees, including faculty, adjunct and visiting faculty, administrators, and staff, as Responsible Employees.¹ This includes student employees as well. If a Responsible Employee becomes aware of an alleged act of Sexual Misconduct (including Sexual Harassment) that could violate this Policy, then she or he must promptly contact the Title IX Coordinator and report what she or he knows. The Responsible Employee should use the [Sexual Misconduct Reporting Form](#). Alternatively, the Responsible Employee may call the Title IX Coordinator, at 610-660-1145, and then follow-up by completing the form.

Exceptions to Responsible Employee:

First, there is an exception for employees who are professional and/or licensed counselors and pastoral counselors, (including clergy), meaning those who have been appointed to serve at the University or were hired to and are acting in the role of providing mental health counseling or pastoral/spiritual care to members of the University community. These employees will not report any information about an incident reported to them *in these capacities* (as opposed to reports that may be made to them

¹ Responsible Employees may also be Campus Security Authorities and therefore may have a concurrent duty to report this information to the Office of Public Safety for statistical purposes under the Clery Act.

in their roles as administrators, faculty, or otherwise) to the Title IX Coordinator, or any other party, without the Complainant's permission. These positions are known as Confidential Reporting Locations. See the chart contained in Section III.E.3.b. of this Policy.

A second, more narrow exception to the definition of Responsible Employee is for the REPP Faculty Advisor (Rape Education and Prevention Program). The REPP Faculty Advisor when acting in this capacity is not required to report personally identifiable information about the reporter/complainant to the Title IX Coordinator. Instead, the REPP Faculty Advisor need only report general information about the incident such as the nature, date, time, and general location of the incident and, if it can be done without disclosing information about the reporter/complainant, information about the perpetrator, if known.

A third exception to the definition of Responsible Employee is when faculty members conducting research or their research personnel learn of sexual misconduct through the course of their Institutional Research Board (IRB) approved research data collection. Confidentiality guidelines for conducting research are governed by the Office of Human Research Protection, and research investigators conducting Human Subjects Research approved by IRB are not considered Responsible Employees in this Policy.

Responsibilities of Responsible Employees: Responsible Employees are not "intake officers" and should not investigate the report. In other words, their role is to report that matter to the Title IX Coordinator, not to try to "solve" the matter themselves.

When a Responsible Employee believes that an individual may be about to report an alleged act of Sexual Misconduct (including Sexual Harassment), or an individual already has done so, the Responsible Employee should take prompt steps to advise the individual that the University will maintain the privacy of the information, but the Responsible Employee cannot maintain complete confidentiality and is required to report the alleged conduct to the Title IX Coordinator and to communicate the names of the parties involved, if revealed.

If the individual wishes to reveal information, or already has done so, but would like to remain anonymous, the Responsible Employee should inform the individual that his/her name will be shared with the Title IX Coordinator but that it may not automatically initiate a University investigation against the individual's wishes. Please refer to Section III.E.4 of this Policy for how the University will weigh, and respond to, that request.

If the individual wishes not to reveal any information, the Responsible Employee should offer to refer or accompany the student to a confidential reporting resource, the Counseling and Psychological Services (CAPS) Office (Merion Gardens A504; 610-660-1090). In the evening a counselor on call may be contacted through the Office of Public Safety and Security (610-660-1111)

The Title IX Coordinator is available to provide guidance to Responsible Employees on how to handle a particular situation or make a report.

E. Reporting and Responding to a Violation of this Policy

The University encourages all members of the University community who believe that they have witnessed, experienced, or are aware of conduct that constitutes Sexual Misconduct in violation of this Policy to report the violation, seek immediate medical attention, and take steps to preserve pertinent information and tangible materials. If you wish to speak with someone for confidential support, please see the *Confidential Reporting Locations* referenced in the chart in Section III.E.3.b, below.

1. Getting Medical Attention

The Complainant is urged to be medically examined as soon as possible following an assault. Treatment for injuries, and medication for sexually transmitted infections (STI) and HIV are all options, in addition to a forensic exam. A forensic exam, completed by a medical practitioner, is the process through which physical evidence is collected and may include a rape kit. Physical evidence can include photo documentation of injuries, collection of fluids (blood, semen, urine, saliva) and other identifiable objects (hair, clothing with potential DNA). If evidence is to be collected, the Complainant is encouraged to not eat, drink, smoke, shower, or change clothes, if possible.

The following locations provide such care:

- a. Philadelphia County
Philadelphia Sexual Assault Response Center
300 E. Hunting Park Avenue, Philadelphia, PA 19124
(forensic evidence collection available)
215-685-3251

- b. Montgomery County
Lankenau Hospital
100 E. Lancaster Avenue, Wynnewood, PA 19096
(forensic evidence collection available)
484-476-2000

Bryn Mawr Hospital
130 S. Bryn Mawr Avenue, Bryn Mawr, PA 19010
(forensic evidence collection available)
484-337-3000

- c. On Campus
Student Health Center (*For Students Only*)
Sourin Hall (ground floor)
610-660-1175

Note: The Saint Joseph's University Student Health Center can provide follow-up care, STI testing, and other ongoing care, but does not conduct forensic evidence collection.

2. **Preservation of Information and Tangible Materials**

Preservation of information and tangible material is essential for both law enforcement investigations and campus disciplinary processes. Therefore, potential information and materials, including, but not limited to, clothing, drinks, glasses, bed linens, electronic communications (e.g., emails and text messages), and photographs should be preserved. *See also* Saint Joseph's University Records Management and Retention Policy, <http://www.sju.edu/int/resources/humanresources/recordsretention.html>

3. **Reporting Resources and Locations**

One who wishes to report an alleged violation of this Policy has multiple options. Reports may be made to law enforcement. Reports may be made to certain persons and locations on campus. If a report is made on campus, it can be made to a confidential location or a non-confidential location. Reporting to law enforcement does not preclude making a report on-campus, nor does making a report on-campus preclude making a report to law enforcement.

Please be advised that while off-campus counselors and advocates may maintain confidentiality vis-à-vis the University, they may have reporting or other obligations under state or federal law. Additionally, as noted above, professional and/or licensed counselors and pastoral counselors, including clergy who were appointed to serve at the University or were hired to and are acting in the role of providing mental health counseling or pastoral/spiritual care to members of the University community, will not report any information about an incident reported to them in *these* capacities (as opposed to their roles as administrators, professors, or

otherwise) to the Title IX Coordinator, or any other party, without the Complainant's permission.

More detail on reporting is provided below.

- a. *Law Enforcement:* Any individual who believes that he/she has been subjected to Sexual Misconduct is strongly urged to (but not required to) report such conduct immediately to the Office of Public Safety & Security (610-660-1111) and/or the local police (911). Nine-one-one (911) may be called for both the Philadelphia and Lower Merion police. If the Complainant so desires, the Office of Public Safety & Security will assist him/her in contacting the local police.
- b. *On-Campus Reporting Resources/Locations*

In addition to specifically designated locations below, you may always report conduct that allegedly violates this Policy to a Responsible Employee.

<i>Respondent Is:</i>	<i>Confidential Reporting Locations/Resources</i>	<i>Non-Confidential Intake Officers</i>
Student	<p><u>Student Reporters</u> Counseling and Psychological Services 610-660-1090 Merion Gardens A-504</p> <p>Professional and/or licensed counselors practicing at CAPS and pastoral counselors (including clergy) when advised in that capacity.</p> <p><u>Non-Student Reporters</u> are directed to the Off-Campus Resources identified in Section III.E.3.c,</p>	<p>Title IX Coordinator Dr. Mary Elaine Perry 610-660-1145 mperry01@sju.edu Champion 239A</p> <p>Deputy Title IX Coordinators Mr. Tom Sheibley 610-660-3125 tsheible@sju.edu Wolfington</p> <p>Ms. Renie Shields 610-660-2584 shields@sju.edu Barry Hall</p> <p>Ms. Nancy DuBoise 610-660-3313 nduboise@sju.edu 215 Merion Place</p>

<i>Respondent Is:</i>	<i>Confidential Reporting Locations/ Resources</i>	<i>Non-Confidential Intake Officers</i>
	which <i>may</i> be able to offer confidential services. Pastoral counselors (including clergy) when advised in that capacity.	

<i>Respondent Is:</i>	<i>Confidential Reporting Locations/Resources</i>	<i>Non-Confidential Intake Officers</i>
<p>Faculty Member</p> <p>Staff or Administrator</p> <p>Volunteer or Independent Contractor</p> <p>Third Party</p>	<p><u>Student Reporters</u> Counseling and Psychological Services 610-660-1090 Merion Gardens A-504</p> <p>Professional and/or licensed counselors practicing at CAPS and pastoral counselors (including clergy) when advised in that capacity.</p> <p><u>Non-Student Reporters</u> are directed to the Off-Campus Resources identified in Section III.E.3.c, which <i>may</i> be able to offer confidential services.</p> <p>Pastoral counselors (including clergy) when advised in that capacity.</p>	<p>Deputy Title IX Coordinator & EEO Officer in Human Resources Ms. Nancy DuBoise 610-660-3313 nduboise@sju.edu 215 Merion Place</p>

Respondent Is:	Confidential Reporting Locations/ Resources	Non-Confidential Intake Officers
Unknown	<p><u>Student Reporters</u> Counseling and Psychological Services 610-660-1090 Merion Gardens A-504</p> <p>Professional and/or licensed counselors practicing at CAPS and pastoral counselors (including clergy) when advised in that capacity.</p> <p><u>Non-Student Reporters</u> are directed to the Off-Campus Resources identified in Section III.E.3.c, which <i>may</i> be able to offer confidential service.</p> <p>Pastoral counselors (including clergy) when advised in that capacity.</p>	<p>Office of Public Safety & Security 610-660-1111</p> <p>Title IX Coordinator Dr. Mary-Elaine Perry 610-660-1145 mperry01@sju.edu Campion 239A</p> <p>Deputy Title IX Coordinators Mr. Tom Sheibley 610-660-3125 tsheible@sju.edu Wolfington</p> <p>Ms. Renie Shields 610-660-2584 shields@sju.edu Barry Hall</p> <p>Ms. Nancy DuBoise 610-660-3313 nduboise@sju.edu 215 Merion Place</p>

c. *Off-Campus Resources*

The following are off-campus resources. While off-campus counselors and advocates may maintain confidentiality vis-à-vis the University, they may have reporting or other obligations under state or federal law. You should inquire of each as to the level of confidentiality they can provide. These resources may also provide other advocacy, legal, or counseling assistance.

- (i) *Faculty, Staff, or Administrators*: Employee Assistance Program. Phone: 888-293-6948 or 800-327-1833. Available 24 hours a day, 365 days a year.
- (ii) National Sexual Violence Resource Center
<http://www.nsvrc.org/>
Phone: 717-909-0710
Toll Free: 877-739-3895
- (iii) Pennsylvania Coalition Against Rape
<http://www.pcar.org/>
Toll Free Hotline: 888-772-7227
- (iv) Women Organized Against Rape
<http://www.woar.org/>
Phone: 215-985-3315
Hotline: 215-985-3333
- (v) Pennsylvania Coalition Against Domestic Violence
<http://www.pcadv.org/>
Phone: 717-545-6400
Toll Free: 800-932-4632
- (vi) Women Against Abuse
<http://www.womenagainstabuse.org/>
Hotline: 866-723-3014
- (vii) Victim Services Center (Montgomery Co.)
<http://www.victimservicescenter.org/>
24 Hour Crisis Hotline: 888-521-0983
Sexual Violence Hotline: 610-277-5200
Other Crimes: 610-ASSIST-1
- (viii) Family Law Unit of Philadelphia Legal Aid
<http://www.philalegal.org/> and
<http://www.philalegal.org/node/149>
Phone: 215-981-3800
- (ix) The U.S. Department of Education, Office for Civil Rights
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
Facsimile: 215-656-8605
Email: OCR.Philadelphia@ed.gov

4. Requesting Confidentiality from the University When a Report Is Made to a Non-Confidential Source: How the University Will Weigh the Request and Respond

If a Reporter discloses an incident to a non-confidential reporting source but wishes to maintain confidentiality, or a Reporter or Complainant (if different) requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all members of the SJU community, including the Complainant and Respondent.

If the University is able to honor the request for confidentiality, a Reporter (and Complainant, if different) must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged Respondent(s) may be limited.

There are times when the University may not be able to honor a request for confidentiality in order to provide a safe, non-discriminatory environment for all members of the SJU community. The University has designated the following individual(s) to evaluate requests for confidentiality once a Responsible Employee is on notice of alleged Sexual Misconduct:

Dr. Mary-Elaine Perry
Title IX Coordinator
610-660-1145
mperry01@sju.edu
titleIX@sju.edu
Campion 239A

Mr. Tom Sheibley
Deputy Title IX Coordinator
610-660-3125
tsheible@sju.edu
Wolfington

When weighing a request for confidentiality or a request that no investigation or discipline be pursued, the Title IX Coordinator/Deputy Title IX Coordinator will consider a range of factors, including, but not limited to, the increased risk that the alleged Respondent will commit additional acts of sexual or other violence, as well as:

- a. whether there have been other sexual violence complaints about the same Respondent;

- b. whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- c. whether the Respondent threatened further sexual violence or other violence against the Complainant or others;
- d. whether the incident was committed by multiple perpetrators;
- e. whether the incident was perpetrated with a weapon;
- f. whether the Complainant is a minor;
- g. whether the University possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g., security cameras or personnel, physical evidence);
- h. whether the information provided reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

After weighing these factors, it is possible that the University may determine that it cannot maintain confidentiality after a report has been made to a non-confidential source. The University will, however, respect the privacy of those involved to the greatest extent possible.

In this circumstance, the University will inform the party requesting confidentiality (the Complainant, and, when appropriate, also the Reporter) prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The University will also take immediate action as necessary to protect and assist the Complainant (and, in appropriate circumstances, the Reporter).

5. Anonymous Reporting

Although the University encourages Reporters to talk to someone, the University provides three options for non-emergency anonymous reporting. **Note, providing personally identifying information may serve as notice to the University for the purpose of triggering an investigation.** Options are as follows:

- a. calling the Public Safety & Security Tip Line at 610-660-1114;
- b. placing a message into a "tip drop box" located in the Drexel Library on the first floor level;

- c. completing the online form at www.sju.edu/int/resources/security/tipbox.html.

6. Timeframe for Reporting

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. While prompt reporting is important, reports may be made to the University at any time. It is important, however, to understand that the ability to investigate a report and take action against a Respondent becomes more limited as time goes on.

Reports may be made to external law enforcement at any time.

7. Amnesty for Students who Report Sexual Misconduct

The University encourages reporting. The University recognizes, however, 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 his/her own conduct. A student who reports Sexual Misconduct will not be subject to disciplinary action by the University for his/her own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

8. Coordination with Law Enforcement

The University encourages (but does not require) Complainants to pursue criminal action for incidents of Sexual Misconduct that may also be crimes under Pennsylvania law. In certain circumstances, the University may report a Sexual Misconduct allegation to the appropriate law enforcement agency (in most cases, the police department) depending on the circumstances presented (including any discernible threat to the safety of others).

However, it is important to emphasize that neither law enforcement's decision of whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, is determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

In certain circumstances, the University may need to delay temporarily the fact-finding portion of its internal disciplinary process while the police are gathering evidence, but, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the University will promptly resume and complete its internal disciplinary process.

Regardless of whether a criminal complaint is filed, the University 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, Reporter, Respondent and/or witness) refuses to participate in the University process does not mean that the disciplinary process will not take place if the University deems it appropriate to move forward with that process.. .

9. Non-Retaliation Statement

The University prohibits Retaliation against those who make a complaint or third-party report of Sexual Misconduct or participate in the investigation or disciplinary/resolution process (e.g., as a witness) of such a complaint. Complaints of Retaliation will be investigated and dealt with as any other complaint brought under this Policy.

Reports made in good faith under this Policy will not result in any adverse action against the Reporter, and no other person who participates in good faith in the disciplinary/resolution process will be treated adversely because of that participation. However, if an investigation results in a finding that the Reporter knowingly accused another falsely of an act of Sexual Misconduct, then the Reporter will be subject to appropriate sanctions, up to and including permanent separation from the University (i.e., expulsion).

F. Additional Resources

The goal of the University's response is to offer support services to the Complainant and Respondent, while seeking to provide a safe educational and working environment. To this end, regardless of the identity of the Respondent, the University will take steps to prevent Sexual Misconduct from occurring through prevention and education. However, when such conduct occurs, the University will take all necessary and reasonable steps to stop the alleged conduct and provide support to the Complainant and the Respondent, and, as necessary, to other members of the University community, at the time the conduct is reported, during the disciplinary process, and afterward.

1. **Medical and Psychological Assistance:** Immediate medical and/or psychological assistance will be made available, whether or not a Complainant chooses to make an official report or participate in the institutional disciplinary or criminal process. For example:
 - a. The Office of Public Safety & Security (610-660-1111) will provide the Complainant transportation to a local hospital that specializes in sexual assault examination and care, if appropriate (i.e., treatment for injuries, preventative treatments for sexually transmitted diseases). For a detailed listing of local hospitals, see Section III.E.1 of this Policy.
 - b. The Office of Public Safety & Security and/or the Office of Student Life or Human Resources, in consultation with other offices, as necessary, will inform the Complainant where/how to get a rape kit or find a Sexual Assault Nurse Examiner (SANE).
 - c. *For Student Complainants:*
 - (i) The University's Student Health Center, located in Sourin Hall at 5600 City Avenue, Philadelphia, PA 19131 (610-660-1175), is also available for non-urgent care.
 - (ii) The Complainant *and* Respondent will be offered confidential support from the University Counseling and Psychological Services (CAPS) staff.

The Complainant will be offered support from the Rape Education Prevention Program (REPP) or victim services agencies throughout the process, who can accompany a Complainant to the hospital or health provider. (For Information on REPP, see <http://www.sju.edu/int/academics/cas/sociology/rapeeducation/>).

- d. *Faculty, Staff, or Administrator Complainants:* Employee Assistance Program. Phone: 888-293-6948 or 800-327-1833. Available 24 hours a day, 365 days a year.

A list of additional on-campus and off-campus resources is available on the University's website at <http://www.sju.edu/int/studentlife/support/resources.html>. (Although the on-campus resources identified at this link are student-focused, this link also provides National and Community Resources, which are available to students and non-students).

Detailed information about confidential reporting resources is provided in Section III.E.3-4 of this Policy.

2. **Interim and Remedial Measures:** Interim relief and remedial measures may be requested and/or offered and instituted at any time following the report in order to ensure the safety and well-being of members of the University community.
 - a. Examples of interim relief measures may include:
 - (i) ***For students:*** the ability to move residences, change work schedules, alter academic schedules, withdraw from/retake a class without penalty, access academic support, obtain modification or relief regarding financial aid, obtain on-campus escort services from the Office of Public Safety & Security, etc.
 - (ii) ***For faculty, staff, administrators, volunteers, or independent contractors:*** transfer, suspension (full or partial), an order to avoid or restrict contact, a change in work schedules, administrative leave with or without pay.
 - b. Long-term remedial measures may be implemented in order to remedy the effects of Sexual Misconduct. Such remedial measures may require changes in, or exceptions to, University services or policies.
 - c. Interim relief and remedial measures will be considered in every case and may be instituted if the University administrator(s) identified below determines such measure(s) to be necessary or if requested by the Complainant and reasonably available:
 - (i) ***Students:*** Vice President for Student Life or designee;
 - (ii) ***Faculty:*** The Provost;
 - (iii) ***Staff, Administrator, Volunteer, or Independent Contractor:*** The Vice President for Human Resources or designee, in consultation with Divisional Vice President or Dean.
3. **Additional Law Enforcement Support:** The Office of Public Safety & Security and/or the Office of Student Life, in consultation with other offices, as necessary, will provide guidance to Complainants, Reporters, Respondents, and third-party witnesses concerning the preservation of relevant evidence; provide options for notifying law enforcement; and

assist Complainants with notifying law enforcement, if desired or otherwise deemed necessary.

The Office of Public Safety & Security and/or the Office of Student Life (for students) or Human Resources (for non-students), in consultation with other offices, as necessary, will also authorize contact restrictions between the Complainant and Respondent for the protection of either or both parties. The University contact restriction prevents the Respondent from contacting the Complainant in any way, including via third parties and vice versa. When appropriate, campus “area restrictions” may also be put in place.

In some cases, an individual may also wish to consider a Protection from Abuse Order from the local courts. This is a civil proceeding independent of the University. If a court order is issued the University will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order.

IV. Overview of University Disciplinary Process for Alleged Sexual Misconduct Policy Violations

A. Different Procedures That May Apply

Any individual who believes that he or she has been subjected to Sexual Misconduct by a Covered Individual may choose to (a) participate in both the University disciplinary process and an outside law enforcement process, (b) the University process only, (c) the outside law enforcement process only, or (d) none of the above.

For complaints of Sexual Misconduct where the Respondent is an individual unaffiliated with the University, although the University cannot pursue disciplinary action against the Respondent, the University can assist the Complainant in many ways, including, but not limited to, ensuring the Complainant receives appropriate medical care, interim and remedial measures; coordinating reporting and follow-up with local police; issuing campus bans, and providing support during off-campus procedures such as court appearances.

B. Evidentiary Standard

It is important to note that all allegations of Sexual Misconduct in violation of this Policy are decided under a standard referred to as a preponderance of information. That means the Investigator must find, in light of all the information made available and considered, that the violation is more likely to have occurred than not.

V. Specific University Disciplinary Process for Alleged Violations of This Sexual Misconduct Policy (Other than Sexual Harassment)

A. Initial Review

For every report of an alleged violation under this Policy, the Title IX Coordinator or Deputy Title IX Coordinator will make an initial review, in consultation with the below office and/or individual,:

1. Where the Respondent is a *University student*: The Office of Community Standards will consult on the initial review.
2. Where the Respondent is a *University faculty member*: The Provost and EEO Officer will consult on the initial review.
3. Where the Respondent is a *University staff, administrator, volunteer or independent contractor*: The Vice President for Human Resources and EEO Officer will consult on the initial review.

The initial review will consider the nature of the report, the safety of all parties and of the campus community, and the Complainant's expressed preference for resolution. A decision will be made about appropriate next steps. If deemed appropriate, the University Disciplinary Process will then commence. The Disciplinary Process ends when the outcome becomes final.

Important Note Regarding Sexual Harassment:

If the alleged conduct is limited to Sexual Harassment only (as defined in this Policy), then any discipline/resolution of that conduct is controlled by the PPDHR. The PPDHR can be found by going to this link:

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

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

B. The Disciplinary Process

1. The Investigation

The University may designate a qualified Investigator(s) of its choosing to conduct the investigation. The Investigator may be an external person who must be professionally trained to conduct Sexual Misconduct investigations, and his/her objectivity should not be compromised by a previously-existing relationship with the Reporter, Complainant, or Respondent. The Complainant or Respondent may object to an investigator for cause in writing no more than 24 hours after each party has been informed of the name of the Investigator. The Title IX Coordinator/designee shall decide on all objections and replace any disqualified Investigators.

Prior to commencement of the investigation and the Disciplinary Process, an individual, one-on-one pre-investigation meeting may be scheduled with the Complainant and, separately, with the Respondent to explain the Disciplinary Process. For matters involving non-student Respondents, the pre-investigation meeting with the Complainant, if conducted, may be covered *as part of* the complaint intake with the individual identified in the chart contained in Section III.E.3.b, whereas the pre-investigation meeting with the non-student Respondent, if conducted, will occur after the complaint intake meeting.

The Investigator(s) shall promptly conduct an investigation of the allegations against the Respondent. The investigation shall include interviews with the parties and witnesses and review any relevant documents or other evidence. The University will make its best effort to complete the Disciplinary Process within sixty (60) days of receipt of the initial complaint against the Respondent.

2. Advisors

The Complainant and Respondent both have the right to be assisted by an Advisor of her/his choosing during the Disciplinary Process, including being accompanied by an Advisor at any meeting within the Disciplinary Process under this Policy.

The choice whether or not to invite an Advisor is solely that of the Complainant or Respondent involved.

An Advisor serves to guide the individual through the Disciplinary Process. At any stage of the Disciplinary Process, the individual may seek advice from the Advisor, and the Advisor may give advice to the

individual whom he/she is assisting. However, the Advisor may not speak for that individual or otherwise direct questions to or address others present in any Disciplinary Process meeting (e.g., the opposing party, witnesses, and/or the person conducting the meeting (university official and/or investigator)). An Advisor cannot serve in a different role during the Disciplinary Process (e.g., witness).

The University may remove or dismiss an Advisor who becomes disruptive or who does not abide by the restrictions on her/his participation, as determined by the person conducting the meeting (university official and/or investigator).

For matters involving student Respondents: An Advisor may take notes, but is not permitted to inspect, read, copy, photograph, or transcribe any documents or data at any stage of the Disciplinary Process.

For matters involving faculty, staff, administrator, volunteer, or independent contractor Respondents: Except as limited by FERPA requirements when there a student is involved, the Advisor is permitted to inspect (with appropriate redactions made) the documents that the Complainant or Respondent is permitted to inspect with the permission of and in the presence of the Complainant or Respondent. Both parties may take notes, but neither is permitted to copy, photograph or transcribe any documents during the Disciplinary Process.

For matters involving student Respondents: Trained Advisors are listed on the Community Standards website (www.sju.edu/communitystandards), and a list of trained Advisors is available in the Office of Community Standards (Campion 239). A Complainant or Respondent may choose one of these Trained Advisors to serve as her/his advisor or may select any other person from inside or outside of the University community to serve as the Advisor.

An Advisor may not function as legal counsel or “represent” a Complainant or Respondent, for the purposes of the University conduct process. If an Advisor will be present, this must be disclosed to the appropriate office listed below (depending on the type of Respondent). Additionally, if an Advisor is an attorney (available at the party’s own expense), this must be disclosed to the appropriate office listed below (depending on the type of Respondent), and the University reserves the right to have its own legal counsel present for the meeting.

For matters involving student Respondents: The Office of Community Standards must be notified in writing that an Advisor will be present at least two (2) business days before any scheduled meeting or event during

the Disciplinary Process, unless circumstances call for an expedited meeting.

For matters involving faculty Respondents: The Provost must be notified in writing that an Advisor will be present at least two (2) business days before any scheduled meeting or event during the Disciplinary Process, unless circumstances call for an expedited meeting.

For matters involving staff, administrator, volunteer, or independent contractor Respondents: The Vice President for Human Resources must be notified in writing that an Advisor will be present at least two (2) business days before any scheduled meeting or event during the Disciplinary Process, unless circumstances call for an expedited meeting.

3. Scheduling

Determinative scheduling considerations are the involved Complainant's or Respondent's academic class or University work schedule and the University's (including the Investigator's) schedule. While an Advisor's schedule is not determinative, reasonable efforts will be made to accommodate him or her. Problems with an Advisor's schedule will not delay a meeting.

4. Reviewing Student Discipline Records

To the extent it is appropriate to review student discipline records during the Disciplinary Process, only the Complainant or Respondent (reviewing his/ her own record only), the appropriate University official, and the Investigator, may do so. Advisors may not review these records. Notes may be taken regarding the disciplinary records, but no copies may be made nor may any photographs of the records (whether via camera, iPhone, etc.) be taken.

5. Investigative Report

Upon completion of the investigation, the Investigator shall report to the appropriate University official(s). If during the course of the investigation other conduct that might be a violation of this or other University policies is discovered or identified, this additional conduct must be reported to the appropriate University official(s) and may be subject to a separate process.

The Investigator's report shall include, at a minimum, one of the following Outcomes applying the preponderance of the information standard described in Section IV.B:

- a. finding that, based on a preponderance of the information, it is more likely than not that the alleged Policy violation(s) occurred (“Responsible”);
- b. a finding that, based on a preponderance of the information, it is more likely than not that a Policy violation(s) did not occur (“Not Responsible”); or
- c. a conclusion that, based on the information compiled, and using a preponderance of the information standard, the Investigator is not able to determine whether or not a Policy violation(s) occurred (“Undetermined”).

For an Outcome of Responsible, the process will proceed to the Sanctioning Phase described in Section V.B.6 of this Policy, below.

For an Outcome of Not Responsible or Undetermined, the Respondent and the Complainant will be notified in writing of the outcome and the rationale.

Available appellate procedures are outlined in Section V.B.8 of this Policy.

6. Sanctioning Phase

After a sanction is determined, the Complainant and the Respondent will be notified in writing of the outcome, the sanction(s), and a rationale. Available appellate procedures are outlined in Section V.B.8 of this Policy.

- a. ***Student Respondents:*** For an outcome of Responsible, appropriate sanctions will be imposed by a representative from the Office of Community Standards (“Sanctioning Officer”). The potential sanctions for students are outlined in Section V.B.7 of this Policy, below. In determining the appropriate sanction(s), the Sanctioning Officer may consider a number of factors including: the egregiousness of the violation itself (which is predominate); motivation; present attitude; past record, both positive and negative; the severity of the damage, injury, harm, disruption, or the potential for such; honesty; maturity; cooperation; willingness to make amends; and compliance with previous sanctions.
- b. ***Faculty Respondents:*** For an outcome of Responsible, appropriate sanctions will be imposed by the Provost.

- c. ***Staff, Administrator, Volunteer, or Independent Contractor Respondents:*** For an outcome of Responsible, appropriate sanctions will be imposed by the Vice President for Human Resources or designee, in consultation with Divisional Vice President or Dean.

7. Potential Sanctions

- a. ***For student Respondents:*** Violations of this Policy by a student Respondent may subject that Respondent to sanctions, up to and including permanent separation from the University (i.e., expulsion). A comprehensive list of potential sanctions for student Respondents is provided in **Appendix D.I.**
- b. ***For faculty Respondents:*** Violations of this Policy by a faculty Respondent may subject that Respondent to sanctions, up to and including permanent separation from the University and University facilities (i.e., termination). A comprehensive list of potential sanctions for faculty Respondents is provided in **Appendix D.II**
- c. ***For staff or administrator Respondents:*** Violations of this Policy by a Staff or Administrator Respondent may subject that Respondent to sanctions, up to and including permanent separation from the University and University facilities (i.e., termination). A comprehensive list of potential sanctions for Staff or Administrator Respondents is provided in **Appendix D.III.**
- d. ***For volunteer or independent contractor Respondents:*** Violations of this Policy by a Volunteer or Independent Contractor Respondent may subject that Respondent to sanctions, up to and including permanent separation from the University and University facilities (i.e., termination). A comprehensive list of potential sanctions for Volunteer or Independent Contractor Respondents is provided in **Appendix D.IV.**

8. Appeal of Outcome

For all incidents, both the Complainant and/or the Respondent may appeal the Outcome.

a. Only One Appeal

During a particular Disciplinary Process, a party may file one appeal only.

b. **Timing of Appeal**

For an Outcome of Not Responsible or Undetermined, the Complainant or the Respondent may appeal the Outcome within five (5) business days after receiving notice of the Outcome.

For an Outcome of Responsible, the Complainant or the Respondent may appeal the Outcome within five (5) business days after receiving notice of the Outcome and sanctions.

c. **Bases for an Appeal of the Outcome**

Any appeal shall be in writing and state the grounds, and the facts supporting the grounds, for such appeal.

Grounds for appealing the Outcome are limited to:

- (i) Material procedural error that could have significantly impacted the outcome of the case, 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.

The appealing party shall bear the burden of establishing at least one of these grounds for appeal by a preponderance of the information. The appeal should be delivered to:

- (i) ***For matters involving a student Respondent:*** the Vice President for Student Life in Campion 238 or emailed to studentappeals@sju.edu.
- (ii) ***For matters involving a faculty, staff, administrator, volunteer, or independent contractor Respondent:***
 - 1. the EEO Officer in Human Resources located in 215 Merion Place or emailed to nduboise@sju.edu;
or
 - 2. the Title IX Coordinator located in Campion 239A or emailed to mperry01@sju.edu or titleIX@sju.edu.

Appeals submitted for other reasons, or past the five (5) business day deadline articulated above, shall not be considered.

d. Responding to an Appeal

The non-appellant (or opposite appellant, if both the Respondent and Complainant appeal) shall be provided an opportunity to inspect and respond to the appeal request submitted by the appellant. The opportunity to inspect shall be scheduled within five (5) business days of the appeal request period expiring. A written response to the other party's appeal, if any, must be delivered, in writing, within 24 hours of the opportunity to inspect to:

- (i) ***For matters involving a student Respondent:*** the Vice President for Student Life/Associate Provost in Campion 238 or emailed to studentappeals@sju.edu.
- (ii) ***For matters involving a faculty, staff, administrator, volunteer, or independent contractor Respondent:*** the EEO Officer in Human Resources located in 215 Merion Place.

The appellant shall be provided an opportunity to inspect the other party's response. No additional responses are accepted as appeal documentation at that point from either party.

e. The University's Evaluation of An Appeal

Appeals will be considered by a panel of three trained Appeal Board members ("Panel")

- (i) ***For matters involving a student Respondent:*** The Panel is drawn from the Community Standards Board. The appointments and terms of membership of the Panel members are reflected through their Community Standards Board membership. The composition of each Panel shall consist of at least one faculty/administrator/staff member and one student. Panel members shall disqualify themselves from serving on an appeal panel if they believe in good faith that they cannot be objective in the matter.
- (ii) ***For matters involving a faculty, staff, administrator, volunteer, or independent contractor Respondent:*** The Panel is drawn from a pool of five (5) individuals, each of whom has been recommended by the Executive Committee

of University Council and appointed by the President for staggered terms of three years.

A Moderator/designee shall advise the Panel on matters such as the appeal process. The Moderator/designee shall also facilitate the appropriate paperwork and record keeping, as well as reserve meeting space, if the Panel determines that an additional meeting is required on Appeal. A Panel may determine that they can resolve the Appeal without a meeting or any additional fact-finding, and whether to have such meeting/fact-finding, or not, is within their sole discretion.

The Complainant and Respondent may object to a member of the Panel for cause in writing at least one (1) business day (but in no event, less than 24 hours) before the Panel meeting. The Moderator/designee shall rule on all objections and replace any disqualified members.

Absent other considerations, the Panel may review all available information pertaining directly to the appeal and in most cases shall make a decision within five (5) business days of the appeal documentation collection period expiring.

The Panel may affirm the Outcome reached by the Investigator, which means all sanctions imposed as a result of the Outcome also remain in place. In this circumstance, the matter is concluded. No further appeal is permitted.

The Panel may remand the case to the Investigator or, if deemed to be appropriate, to a new Investigator, for further investigation. In this circumstance, an Investigator may conduct additional investigation and may do one of the following: a) affirm the initial Outcome; b) modify the initial Outcome. The Investigator will then share his/her decision with the Sanctioning Officer (affirm or modify the initial Outcome) for the Sanctioning Officer to then do one of the following: a) affirm the initial sanctions; b) modify the initial sanctions. No appeal is permitted from the Investigator's and/or the Sanctioning Officer's decision on remand.

The Complainant and the Respondent will be notified in writing of the appeal outcome.

During the appeal process, all imposed sanctions are in effect.

VI. Understanding the University's Clery Act Timely Warning Obligations

In compliance with federal law, the University will provide timely notice to the campus community regarding certain crimes covered by the Clery Act considered to be a serious or on-going threat to the safety of or health of students and employees which are reported to "Campus Security Authorities" as defined under the Clery Act.

A list of designated Campus Security Authorities is available at: <http://www.sju.edu/int/resources/security/annualreport.html>.

The Director of Public Safety, or a designee, will make a determination if a timely warning is required and will draft the message for review and approval by the Vice President for Administrative Services, the Vice President for Student Life, and the Office of University Communications. The manner of notification depends upon the particular circumstances of the crime. The University will make every effort not to release personally identifying information while still providing enough detail for community members to make safety decisions in light of the danger.

VII. Education and Training

The University is dedicated to providing information and resources to educate the University community about Sexual Misconduct prevention and awareness. Education and prevention resources for students are available on the University website at the following locations:

1. Sexual Misconduct and Violence: Support and Resources (<http://www.sju.edu/support>)
2. Rape Education and Prevention (<http://www.sju.edu/int/academics/cas/sociology/rapeeducation/>)
3. [Student Outreach and Support: iCARE](http://www.sju.edu/int/studentlife/studentresources/sos/icare.html) (<http://www.sju.edu/int/studentlife/studentresources/sos/icare.html>)

A copy of this Policy is -- and as updated will continue to be -- included in the *Student Handbook*, which is distributed to all students. Additionally, New Student Orientation continues the University's educational effort. For example, all first year and transfer undergraduate day students are required to complete "Think About It," a program that prepares new college students for the unique challenges and responsibilities of college life. Focusing on minimizing risks associated with alcohol, drugs, and sexual violence, "Think About It" takes a harm-reduction approach that seeks to promote a healthy campus culture. Likewise, New Student Orientation includes "Break the Silence: Sexual Violence on Campus & What to Do About It" coordinated by Student Outreach & Support, which addresses, among other topics:

1. Sexual violence, dating and domestic violence, and stalking

2. Consent, including alcohol's role in consent
3. Strategies and options to safely intervene and help as a bystander if you see something that seems wrong
4. How to help and support a friend
5. Options to report sexual violence on and off campus
6. Resources for support, including confidential resources

Beyond New Student Orientation, additional Sexual Misconduct programming is provided each semester to various segments of the student population throughout the academic year by Student Life (as sponsors or co-sponsors); and targeted Sexual Misconduct programming is offered by various groups to certain populations (e.g. Athletes, First Year Students, Greeks, resident students, service and immersion trip leaders, and other groups as needed).

In addition to training its students, the University is dedicated to providing information and resources to educate its employees about Sexual Misconduct prevention and awareness. For example, like new students, all new employees are trained on, and receive copies of, the University's Sexual Misconduct policy. Additionally, supervisors undergo a tailored management training program, which includes a mandatory legal considerations module that covers, among other topics, Title IX considerations. The University also provides specific training to faculty and staff members who may be responsible for responding to, investigating, or adjudicating Sexual Misconduct.

The Office of Public Safety & Security produces an Annual Security Report, which includes statistics of on-campus, non-campus, and public property crimes and arrests for certain specified categories of offenses and describes policies related to campus security (as required by the Clery Act). The reports are distributed electronically to all current students and employees and, upon request, to applicants for enrollment or employment, and they are available on the University's web site at <http://www.sju.edu/int/resources/security/annualreport.html>. The student newspaper also regularly publishes "incidents of crime" on and around campus. These periodic reports are supplied by the Office of Public Safety & Security on a weekly basis during the fall and spring semesters.

VIII. Revisions

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

Approved June 15, 2015

Appendix A
Sexual Assault under Pennsylvania Crimes Code

In addition to the definitions identified above in Section III, the following definitions are applicable to this Policy. The conduct described in each definition below is prohibited by this Policy as a form of Sexual Assault.

Each definition is pulled directly from Title 18 of the Pennsylvania Crimes Code; the section number (e.g., § 3121, § 3122, etc.) is also pulled directly from the Pennsylvania Crimes Code. The pertinent definitions are:

§ 3121. Rape.

(a) Offense defined.--A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

(1) By forcible compulsion.

(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.

(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.

(5) Who suffers from a mental disability which renders the complainant incapable of consent.

*(b) **Rape of a child.**--A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.*

*(c) **Rape of a child with serious bodily injury.**--A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.*

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=21&subctn=0>

§ 3122.1. Statutory sexual assault.

(a) *Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:*

(1) *four years older but less than eight years older than the complainant;*
or

(2) *eight years older but less than 11 years older than the complainant.*

(b) *Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.*

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=22&subctn=1>

§ 3123. Involuntary deviate sexual intercourse.

(a) *Offense defined.--A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:*

(1) *by forcible compulsion;*

(2) *by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;*

(3) *who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;*

(4) *where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;*

(5) *who suffers from a mental disability which renders him or her incapable of consent; or*

(6) *(Deleted by amendment).*

(7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

(b) Involuntary deviate sexual intercourse with a child.--A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.

(c) Involuntary deviate sexual intercourse with a child with serious bodily injury.--A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=23&subctn=0>

§ 3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=24&subctn=1>

§ 3125. Aggravated indecent assault.

(a) Offenses defined.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

- (1) the person does so without the complainant's consent;
- (2) the person does so by forcible compulsion;
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;

(5) *the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;*

(6) *the complainant suffers from a mental disability which renders him or her incapable of consent;*

(7) *the complainant is less than 13 years of age; or*

(8) *the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.*

(b) *Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.*

Link:

<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.031..HTM>

§ 3126. Indecent assault.

(a) *Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:*

(1) *the person does so without the complainant's consent;*

(2) *the person does so by forcible compulsion;*

(3) *the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;*

(4) *the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;*

(5) *the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;*

(6) *the complainant suffers from a mental disability which renders the complainant incapable of consent;*

(7) *the complainant is less than 13 years of age; or*

(8) *the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.*

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=26&subctn=0>

§ 4302. Incest.

(a) *General rule.*--Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood.

(b) *Incest of a minor.*--A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood and:

(1) is under the age of 13 years; or

(2) is 13 to 18 years of age and the person is four or more years older than the complainant.

(c) *Relationships.*--The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=43&sctn=2&subctn=0>

Appendix B

Standard for Probable Cause under Pennsylvania Crimes Code

While there is no distinct definition of “Domestic Violence” under the Pennsylvania Crimes Code, it should be noted that if a criminal complaint is made to law enforcement outside of the University, the following standard of probable cause will apply. NOTE: This is being provided for informational purposes only. This standard is different from the procedures that apply to on-campus disciplinary matters, as set forth in this Policy.

§ 2711. Probable cause arrests in domestic violence cases.

(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term "family or household member" has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=27&sctn=11&subsctn=0>

Appendix C
Stalking under Pennsylvania Crimes Code

In addition to the definitions identified above in Section III, the following definitions are applicable to this Policy. The conduct described below is prohibited by this Policy as a form of Stalking.

This definition is pulled directly from Title 18 of the Pennsylvania Crimes Code, section 2709.1.

§ 2709.1. Stalking.

(a) Offense defined.--A person commits the crime of stalking when the person either:

(1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

(2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

(b) Venue.—

(1) An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.

(2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Communicates." To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

"Course of conduct." A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term

includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

"Emotional distress." A temporary or permanent state of mental anguish.

"Family or household member." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&title=18&div=0&chpt=27&sctn=9&subsctn=1>

Appendix D
POTENTIAL UNIVERSITY SANCTIONS FOR COVERED INDIVIDUALS

A comprehensive list of potential sanctions for student Respondents (Section I), Faculty Member Respondents (Section II), Staff or Administrator Respondents (Section III), and Volunteer or Independent Contractor Respondents (Section IV) is provided below.

I. Student Respondents

A comprehensive list of potential sanctions for student Respondents is provided below:

1. Withholding Degree. The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Policy or the Community Standards, including the completion of all sanctions imposed, if any.
2. Revocation of Admission and/or Degree. Admission to or a degree awarded from the University may be revoked at any time for fraud, misrepresentation, or another violation of Community Standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
3. Expulsion. Permanent separation from the University and University facilities.
4. Suspension. Separation from the University for a specified period of time. The student or student organization shall not participate in any University-sponsored activity and may be banned from the University premises. The University will not accept any credits earned from another institution during this period toward a University degree. In the case of residence hall groups, this sanction may include the disbanding of a living unit, and in the case of a student organization, this may include the removal of recognition. Reinstatement shall require the approval of the Vice President for Student Life.
5. Removal from University Residence. Separation from the residence halls for a defined period of time. The student may be prohibited from participating in the University dining program. The student shall be barred from entering all residences within the University residential community during the time of removal from campus housing.
6. Deferred Suspension. A designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior articulated in the Community Standards. If the student is found in violation of any University standard during the time of deferred suspension, an outcome may include separation from the University community (i.e., suspension, expulsion).
7. Disciplinary Probation. A period of fixed duration, during which the status of a student or organization at the University may be evaluated. This includes the

possibility of more severe sanctions if the student or organization is found responsible for violating the Community Standards during the probationary period.

8. Administrative Relocation in University Housing. Requirement to be placed in an assigned or relocated space in University housing.
9. Restitution. Requirement to make payment to the University, other persons, groups, or organizations for damages.
10. Fines. Requirement to pay a specified monetary fee to the University. Fine money shall be used for educational and nonalcoholic alternative programs.
11. Counseling Assessments/Meetings. Assignment to complete a number of counseling sessions including but not limited to anger management, alcohol or drug assessments, and alcohol education classes.
12. Loss of Privileges. Denial of specific privileges for a defined period of time (e.g., guest, computer, housing selection, visitation, dining services, University representation, cocurricular activities, athletic participation, work study position, leadership role).
13. Discretionary Sanctions. Requirement to complete and/or participate in work assignments, community service, University services or programs, or other related discretionary assignments.
14. Writing Assignment. Requirement to complete a relevant research and/or reflection paper.
15. Program Attendance or Facilitation. Expectation to attend or facilitate an educational program(s).
16. Warning. Written notice given and kept on file.

II. Faculty Member

Sanctions include corrective and/or disciplinary action.

1. Corrective action may include:
 - a. an order to avoid future contact with the Complainant
 - b. a requirement for an apology
 - c. a transfer (e.g., to another department, class, office, residence)

- d. participation in counseling and/or training
- 2. Disciplinary action may include:
 - a. written reprimand
 - b. suspension
 - c. termination, discharge, or dismissal from the University.

III. Staff and Administrator

Sanctions include corrective and/or disciplinary action.

- 1. Corrective action may include:
 - a. an order to avoid future contact with the Complainant
 - b. a requirement for an apology
 - c. a transfer (e.g., to another department, class, office, residence)
 - d. participation in counseling and/or training
- 2. Disciplinary action may include:
 - a. written reprimand
 - b. suspension
 - c. termination, discharge, or dismissal from the University.

IV. Volunteer or Independent Contractor

- 1. Volunteers (Including Trustees)
 - a. Suspension from duties
 - b. Removal from duties
- 2. Independent Contractors
 - a. Contract suspension
 - b. Contract termination