

# Sexual Misconduct Complaint Procedures

## College of Saint Benedict and Saint John's University

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#### **I. INTRODUCTION**

It is the policy of the College of Saint Benedict (CSB) and Saint John's University (SJU) to investigate and promptly seek the equitable resolution of allegations of sexual misconduct in violation of the Sexual Misconduct Policy.

The Sexual Misconduct Complaint Procedures shall be the exclusive process for handling sexual assault and other sexual misconduct complaints and supersedes all other processes. If a complaint implicates the Sexual Misconduct Policy and another CSB and/or SJU policy, the complaint of a violation of the Sexual Misconduct Policy will be handled under the Sexual Misconduct Complaint Procedures and the institutions may, at their discretion and unless an applicable handbook provision states otherwise, consider the other alleged policy violations under the Sexual Misconduct Complaint Procedures or conduct separate proceedings.

#### **II. RESPONSIBILITY**

At CSB and SJU, the Chief of Staff to the President of each institution serves as the Lead Title IX Coordinator. The Lead Title IX Coordinator(s) shall exercise oversight for issues related to sexual misconduct and sexual discrimination, the Sexual Misconduct Policy and Sexual Misconduct Complaint Procedures, and maintain institutional records of reports. The Deputy Title IX Coordinator(s) or others designated by the Lead Title IX Coordinators are responsible for the implementation of the Sexual Misconduct Complaint Procedures and case management.

- The Dean(s) of Students, who serve(s) as Deputy Title IX Coordinators for sexual misconduct complaints involving students, are responsible for the implementation of the Sexual Misconduct Complaint Procedures in cases involving a student.
- The Associate HR Director, who serves as a Deputy Title IX Coordinator for sexual misconduct complaints involving faculty and staff, is responsible for implementation of the Sexual Misconduct Complaint Procedures in cases involving a faculty or staff member.
- If a complaint involves both a student and a faculty or staff member, the Dean(s) of Students and Associate HR Director shall share responsibility for implementing the Sexual Misconduct Complaint Procedures.
- If a complaint involves an associate or third party, the Dean(s) of Students and Associate HR Director will determine who should be responsible for implementing the Sexual Misconduct Complaint Procedures.
- The Vice President(s) for Student Development, who serve as Deputy Title IX Coordinators, normally receive appeals from determinations involving student respondents.
- The Lead Title IX Coordinators are responsible for implementation of the Sexual Misconduct Complaint Procedures regarding student appeals. The Lead Title IX Coordinators review appeals in faculty/staff cases and are responsible for appointing an appropriate institutional official to oversee the appeal.

In all cases, the Title IX Coordinator(s) will function as (a) neutral party (parties) in implementing the Sexual Misconduct Complaint Procedures.

### **III. POLICY STATEMENT**

CSB and SJU are committed to maintaining an environment that is free from the physical and emotional threat of sexual misconduct, including sexual harassment, sexual assault, and other forms of sexual violence. CSB and SJU have zero tolerance for sexual misconduct in any form. As institutions which espouse Catholic and Benedictine values, every community member's awareness of and respect for the rights and human dignity of all persons undergirds community life. These values demand that we strive to create an environment where the sacredness of each person is honored. Sexual assault, sexual harassment and other sexual misconduct violate the sacredness of the person, weaken the health of the community, and are antithetical to the missions of our institutions.

CSB and SJU will strive to treat parties involved in a sexual misconduct report with dignity and will provide nonjudgmental assistance. Complainants will be treated in a manner that does not suggest that they are at fault for sexual assault or that they should have done something differently to avoid becoming a victim. This applies to all campus authorities and all those involved in complaint procedures, and applies during the complaint process and thereafter.

Sexual harassment, sexual assault, and other forms of sexual misconduct are forms of sex discrimination. Not only are they prohibited by the Sexual Misconduct Policy and the Human Rights Policy, but they are also prohibited by various laws, including Title IX of the Educational Amendments of 1972 and the Minnesota Human Rights Act. CSB and SJU will investigate and promptly seek the equitable resolution of allegations of sexual misconduct, take steps to prevent the recurrence of sexual misconduct, and seek to correct its effects on complainants and others. CSB and SJU will strive to resolve all complaints within 60 calendar days. See the **Sexual Misconduct Policy** (<http://www.csbsju.edu/sexualmisconductpolicy>) for more information.

#### IV. DEFINITIONS

- A. **Adjudication Panel** refers to the three-person panel appointed by the institution(s) to determine whether the Policy was violated by a student.
- B. **Adjudicator(s)** refers to the individual(s) selected by the institution(s) to determine whether the Policy was violated by a faculty or staff member.
- C. **Advisor** refers to the individual chosen by a party to provide support, guidance and/or advice to the party during the course of the complaint process. **Sexual Misconduct Complaint Procedures, Part V– General Provisions** (<http://www.csbsju.edu/sexualmisconductprocedure>).
- D. **Associate** refers to any individual or organization engaging in or conducting activities associated with CSB and/or SJU or doing business at or with CSB and/or SJU, including members of Saint John’s Abbey and Saint Benedict’s Monastery.
- E. **Campus** refers to the entire physical grounds of CSB and SJU.
- F. **Campus authorities** refer to the Department of Security at the College of Saint Benedict, Life Safety Services at Saint John’s University, and/or the Dean(s) of Students, or Lead or Deputy Title IX Coordinators.
- G. **Community** and **institutions** refer to CSB and SJU and in the case of community, all of their students, faculty and staff, and associates.
- H. **Complainant** means a person alleged to have been subjected to a Policy violation, but need not be the person who initiates the complaint.
- I. **Complaint** refers to an alleged Policy violation that initiates a complaint process as set forth in the Procedures.

- J. **Complaint process** refers to the process used to investigate and adjudicate complaints made under the Procedures, from initiation of complaint through determination and appeal, if any.
- K. **Faculty** refers to a person employed by CSB or SJU in a faculty appointment.
- L. **Investigator** refers to the individual selected by the institution(s) to investigate complaints of violation(s) of the Policy made pursuant these Procedures.
- M. **Policy** refers to the Sexual Misconduct Policy for the College of Saint Benedict and Saint John's University.
- N. **Procedures** refer to the **Sexual Misconduct Complaint Procedures** for the College of Saint Benedict and Saint John's University. The procedures can be found at [www.csbsju.edu/sexualmisconductprocedure](http://www.csbsju.edu/sexualmisconductprocedure).
- O. **Report** refers to the providing of any information to the institution(s) regarding conduct that may violate the Policy.
- P. **Respondent** refers to a person alleged to have violated the Policy.
- Q. **Sanctions for students:** The purpose of sanctions is to ensure the health and safety of our campus communities by preventing the recurrence of problematic behavior and addressing its effects including the effects of the violation on the complainant. In determining sanction(s), the Deans of Students (or their designees) may consider a variety of factors, including but not limited to, the type and severity of misconduct, the weight of the evidence, and the respondent's complete disciplinary record. Possible sanctions can include any one or more of the following:
1. **Expulsion:** the permanent disenrollment of the student from the institution.
  2. **Suspension:** the disenrollment of a student for a specific period of time. Students who are suspended from the institution(s) generally may not be present on the premises of the College of Saint Benedict or Saint John's University for the period of the suspension or leave and may be subject to other conditions as well. Suspension is also an interim measure that may be taken while an investigation is being conducted.
  3. **Other sanctions include:** Disciplinary probation, no contact or limited contact directive, required assessment and/or counseling, required attendance at educational programs, restitution, community service hours, restriction of privileges, administrative referrals, behavioral contracts, reflection paper, written warning.
- R. **Sanctions for faculty and staff**

1. **Suspension** is a sanction that may be used for faculty or staff. Suspension (or involuntary leave of absence for a staff member) is also an interim measure that may be taken while an investigation is being conducted.
  - a. For a faculty member, suspension as an interim measure refers to a temporary suspension of work duties and will be implemented in accordance with Section 2.13.6.4 of the Faculty Handbook. In accord with 2.13.6.4, and pending the results of the investigation, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the college [university], to its students, or to other individual members of the college [university] community is threatened by continuance. Before implementing 2.13.6.4, the president will consult with the Provost as to the length, and the other conditions of the suspension. Salary and benefits will continue during the period of the suspension.
  - b. For a faculty member, suspension as a sanction will be implemented in accord with section 2.13.6.3 of the Faculty Handbook. The president will consult with the Provost as to the length, and the other conditions of the suspension.
  - c. For a staff member, suspension as an interim measure refers to a temporary suspension of work duties when the staff member is the subject of an investigation or when the staff member's presence poses an immediate threat of harm within the institution. This interim measure will be implemented in accordance with the Involuntary Leave of Absence section of the appropriate Administrative and Support Staff Handbook. Before imposing the involuntary leave, the employee's supervisor will consult with the Human Resources department and the appropriate Vice President as to the length, and the other conditions of the suspension. Salary and benefits will continue during the period of the suspension.
  - d. For a staff member, suspension as a sanction will be implemented in accord with the Disciplinary Action section of the Administrative and Support Staff Handbook. Before imposing the suspension as a sanction, the employee's supervisor will consult with the Human Resources department and the appropriate Vice President as to the length, and the other conditions of the suspension.
  
- S. **Staff** refers to a person employed by CSB or SJU in an administrative or support staff appointment.
- T. **Student** refers to any person enrolled in CSB or SJU, undergraduate or graduate.
  
- U. **Supervisor** refers to administrators, department chairs, faculty, residence directors, faculty residents, residence assistants, staff persons, and others who have the responsibility for

faculty, staff, or students' terms and/or conditions of employment, educational and academic opportunities, and living situations.

- V. **Third Party** refers to an individual or entity who is not a member of the campus community but whose activities bring them into contact with members of the campus community, including, but not limited to, visitors to campus, alums, prospective students, and prospective employees.
- W. **Title IX Coordinators** are officials of CSB and SJU who have been appointed by their respective institutions to address issues of gender-based discrimination and/or sexual misconduct, including overseeing Title IX complaints, identifying and addressing any patterns or systemic problems that arise during the review of such complaints, and assisting in answering any questions related to the Policy and Procedures. The Title IX Coordinators for each institution who have responsibility for sexual misconduct complaints are listed in the contact information at the end of this Policy and at the end of the Sexual Misconduct Complaint Procedures. See the **Sexual Misconduct Complaint Procedures, Part I – Responsibility** (<http://www.csbsju.edu/sexualmisconductcomplaintprocedure>).

## V. INSTITUTIONAL RESPONSE

CSB and SJU have a moral imperative and legal obligation to take prompt and appropriate action in response to information received regarding an alleged violation of the Sexual Misconduct Policy. The institutions will conduct an investigation of reports alleging sexual misconduct. Making a report to a Title IX Coordinator, the CSB Department of Security or SJU Life Safety Services does not require a reporting party to initiate or participate in a complaint proceeding. However, based on information gathered, one or both institutions may determine that the institution(s) have a responsibility to initiate a complaint proceeding (even without the participation of the reporting party). See Sexual Misconduct Policy, Section III.A.6 - Response of CSB/SJU to Reports.

When a complaint involves parties from only one of the institutions, the procedures outlined herein will be addressed by the institution where the parties are students, staff and/or faculty. While the other institution will not be directly involved in responding to the complaint in such matters, in keeping with both institutions' goals under the Policy, the Lead Title IX Coordinator of the institution addressing the complaint will apprise the Lead Title IX Coordinator of the other institution of the existence and outcome of all such complaints, while respecting privacy of the parties.

## VI. GENERAL PROVISIONS

- A. **Right to an Advisor.** The complainant(s) and respondent(s) involved in a complaint proceeding under Section VII.A (Complaint Procedure for Complaints in which the Respondent is a Student) and Section VII.B.1 (Complaint Procedure for Complaints in which

the Respondent is a Faculty or Staff Member, for Complaints of Sexual Assault, Dating Violence, Domestic Violence, and Stalking) below each have the right to an advisor of their own choosing.

The role of the advisor is to support, guide, and/or advise a party during the course of the complaint proceeding. The advisor may accompany the complainant or respondent to in-person interviews or other meetings relating to the complaint proceeding. In selecting an advisor, each party should consider the potential advisor's availability to attend in-person interviews and meetings. The procedure provides the parties with the right to an advisor of their choice, but does not contemplate or require an adjustment of any deadlines based on a chosen advisor's schedule. As a general matter, the institution(s) will not unnecessarily delay their processes to accommodate the schedules of advisors.

An advisor may have access to in-person review of information concerning a complaint proceeding only when accompanying his or her advisee and may have access to written communications (i.e., emails and other correspondence) only when the advisee has given written authorization for the advisor to be copied on such correspondence. Exceptions to this may be made in the rare circumstance that an advisor absolutely cannot be present with his or her advisee on campus. An advisor's access to such information shall be subject to the same limitations as those placed upon the parties and conditioned upon the advisor's agreement to maintain the confidentiality of student education records and other confidential information. The advisor may not appear in lieu of the complainant or respondent or speak on his or her behalf in either in-person or written communications to CSB or SJU. The advisor may take written notes, but may not record any meetings. The advisor may not address, either orally or in writing, any CSB or SJU official including, but not limited to, Deans, the Title IX Coordinators, the investigator, members of the adjudication panel or appeal officials. The advisor also may not address the other party. The advisor may not interrupt or otherwise delay the complaint proceeding. Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint proceeding by the advisor may result in the immediate disqualification of the advisor and the institution(s) reserve the right to dismiss the advisor.

- B. Timing. CSB and SJU are committed to the prompt and equitable resolution of sexual misconduct complaints and strive to meet the timing requirements set forth in these Procedures. However, in some cases, extensions to the timing requirements may be necessary. The Deputy Title IX Coordinator(s) may grant reasonable extensions to timing requirements in these Procedures when warranted by the circumstances. For example, extensions of timing requirements may be granted if the institution(s) have been asked to delay its Procedures during the evidence gathering stage of a criminal investigation, if the allegations of sexual misconduct are particularly complex (including, without limitation,

allegations that involve multiple incidents and/or multiple individuals), or if witnesses are not on campus due to a scheduled break or for another reason. Extensions will be no longer than necessary. The complainant and respondent shall receive written notice of any extensions and the reason for the extension.

Where the Procedures indicate that an action will be completed within a specified period of days, "day" generally means business days, unless otherwise specified. Adjustments to the time frames will be made when school breaks, holidays, or exigent circumstances require. As a general rule, CSB and SJU strive to complete their investigation and related procedure within 60 (sixty) calendar days or less, recognizing that certain complaints may take longer to process depending on the circumstances.

Complainants are encouraged to begin the complaint proceeding as soon as possible following an alleged incident. If a complaint is brought forward more than three (3) calendar years after an alleged incident, the Lead Title IX Coordinator(s) or their designee(s), in their discretion, may decline to process a complaint under these Procedures, but reserve the right to take other administrative action as appropriate depending on the specific circumstances of the complaint. Complaints brought forward more than three (3) calendar years after the alleged incident will generally be addressed pursuant to these Procedures if the complaint involves a party who is still a member of our community.

- C. Confidentiality. CSB and SJU strive to protect the confidentiality interests of all individuals involved in the sexual misconduct reporting and complaint proceeding. However, because of the need to investigate and respond to reports of sexual misconduct, the institutions cannot guarantee strict confidentiality in most cases. Please refer to the Policy for more information about confidentiality, including confidential resources available to individuals. In addition, individuals with concerns about confidentiality may speak with a Title IX Coordinator about the complaint process.
- D. Interference with Procedure. Interference with these Procedures is strictly prohibited. Interference includes, but is not limited to the following:
1. Knowingly falsifying, distorting, or misrepresenting information provided to an investigator, adjudication panel, adjudicator(s), or appeal official;
  2. Knowingly instituting a complaint without cause and in bad faith;
  3. Harassment and/or intimidation of any investigator or member of an adjudication panel, or of any complainant, respondent, witness, student, or employee involved in a complaint proceeding before, during, or after a proceeding. See Sexual Misconduct Policy, Section VII – Retaliation;
  4. Breaching the confidentiality requirements.



Students who interfere with these Procedures will be subject to disciplinary sanctions. Staff and faculty members who interfere with these Procedures will be subject to discipline, up to and including termination in accordance with the applicable handbook. Associates or other third parties who interfere with these Procedures will be subject to removal from campus, prohibition from returning to campus, and/or other appropriate measures as determined by CSB and/or SJU.

E. Interim Restrictions or Suspension

1. For Students. At any time following the initiation of a complaint proceeding or at any other time throughout the process, the Dean(s) of Students of the institution of the complainant or respondent may impose various conditions or restrictions on a complainant or respondent pending resolution of the complaint proceeding. The Dean(s) of Students may also alter or suspend the rights of a student to be present on campus, to restrict building and space privileges, to attend classes, or to participate in extracurricular activities or events pending resolution of the complaint proceeding. The Dean(s) of Students will base his/her decision on whether the allegations of misconduct are apparently reliable and whether the continued unrestricted status of the student on the campus poses a threat to the physical or emotional condition or well-being of any individual, including the student, or for reasons relating to the safety, integrity and welfare of the community as a whole.

The interim restrictions, behavioral requirements, and/or alteration or suspension of privileges will be communicated to the complainant and respondent in writing and will remain in effect until a final decision has been made in the complaint proceeding, or until modified or withdrawn in writing.

2. For Faculty, Staff, Associates, and Third Parties. CSB and SJU may impose various conditions and restrictions on a complainant or respondent pending resolution of the complaint proceeding or at any other time throughout the process.

- F. Treatment of Parties. CSB and SJU strive to treat all individuals involved in a complaint proceeding with respect and dignity and, with regard to complainants, in a manner that does not suggest a complainant is ever at fault for sexual assault or that he or she should have done something different to avoid becoming a victim. This applies to all campus authorities and all those involved in complaint procedures, and applies during the complaint process and thereafter. Complaint proceedings will be prompt, fair, and impartial. In addition, support will be provided to students, faculty, and staff who are engaged in a complaint proceeding. Upon request, personal counseling services are available to students and the Employee Assistance Program is available to faculty and staff.

- G. **Participation and Silence.** All participants in the complaint procedures have a duty to CSB and SJU to be truthful throughout the process. The complainant may decide when to repeat a description of the incident of sexual assault and either party may at any time decline to provide information and/or participate in a complaint proceeding. If, at any time during the complaint proceeding, a complainant or respondent does not participate, the Deputy Title IX Coordinator(s) may move the proceeding to the next step, dismiss the complaint, or take whatever other steps may be necessary to ensure the integrity of the proceeding. A respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed. Similarly, a complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.
- H. **Conflicts.** In cases where it is determined that a Deputy Title IX Coordinator has a conflict of interest given the nature of the complaint and/or the parties or witnesses involved, or in cases where a Deputy Title IX Coordinator is unavailable, the Lead Title IX Coordinator of the institution of the conflicted individual shall appoint an alternate person to serve as the Deputy Title IX Coordinator. If a Lead Title IX Coordinator has a conflict of interest with respect to a complaint, the President(s) or the President(s)' designee of the institution of the conflicted Lead Title IX Coordinator shall appoint an alternate person to serve as the Deputy or Lead Title IX Coordinator. In cases where the President of CSB or SJU is a party to the complaint or has a conflict of interest with respect to a complaint, the Chair of the Board of Trustees for the institution shall ensure that the institution puts in place appropriate safeguards under the circumstances to ensure that the institution promptly and equitably responds to the complaint, including, but not limited to appointment of alternate individuals to serve in roles of Deputy and/or Lead Title IX Coordinator.
- I. **Reservation of Flexibility.** These Procedures reflect the desire of the institutions to respond to complaints in good faith and in a manner that promotes fairness to all parties. The institutions recognize, however, that each case is unique in its presentation and requires that the institutions reserve some flexibility in responding to the particular circumstances of each case. In the rare cases where it is not possible or practical to follow these Procedures, the institutions reserve the right to modify these Procedures or to take other administrative action as appropriate under the circumstances.

## **VII. PROCEDURE**

The procedure followed by CSB and SJU to resolve sexual misconduct complaints will vary depending on the status of the respondent. Procedure VII. A. will be followed in all cases in which the respondent is a student. Procedure VII.B. will be followed in all cases in which the respondent is a member of the faculty or staff. Procedure VII.C. will be followed in cases where the respondent is an associate/third party.

#### A. Complaint Procedure for Complaints in which the Respondent is a Student

The following constitutes the steps which make up the complaint process when the respondent is a student.

##### Step 1: Initiation of Complaint Proceeding

Any member of the community may initiate a complaint proceeding. The complaint proceeding may be initiated at the request of the complainant upon making a report to a Dean of Students, SJU Life Safety, or CSB Campus Security. Students at the SJU School of Theology Seminary may alternately submit their report to the Rector or Dean of the School of Theology Seminary, who will then refer the matter to the Dean(s) of Students. The report should contain sufficient detail to enable the Dean(s) of Students to make a determination as to whether the complaint falls within the Policy. When a complaint proceeding is initiated, the institution(s) may ask that the reporting party verify a written summary of an oral report. Reporting forms are available on the CSB and SJU Sexual Misconduct web page.

Upon receiving a report of a violation of the Policy, the institution(s) will seek the alleged victim's cooperation to proceed with a complaint proceeding using the Procedures set forth herein. In addition, circumstances may arise in which a complaint proceeding may be initiated (even without the alleged victim's participation) to protect the safety, integrity and welfare of the community as a whole. Generally, the Lead Title IX Coordinator(s) or designee(s) will make a determination of whether a complaint proceeding should be initiated. If the institution(s) decide that it has an obligation to move forward with a complaint proceeding regarding the alleged Policy violation, prior to proceeding with the complaint process, they will notify the alleged victim of their decision and of the option to have the institution(s) inform the respondent that the alleged victim did not want to initiate the complaint process.

The institution(s) will accept anonymous complaints, but the institution(s) may be limited in their ability to investigate an anonymous complaint. See Sexual Misconduct Policy, Section III.A.4. – Anonymous Reporting.

##### Options for Resolution

When a complainant chooses to initiate a complaint proceeding, there are two avenues for resolution: formal and informal resolution. The complainant has the option to proceed informally, except in cases of sexual assault which always require the use of the formal resolution process. If the complainant proceeds informally, either the complainant or respondent has the option to move the complaint to the formal process at any time. The Dean(s) of Students of the institution(s) of the parties involved in the complaint proceeding will explain the informal and formal resolution procedures.

In addition, the Dean(s) of Students of the involved institutions has discretion move the complaint to the formal resolution process or to refer the matter to other institutional disciplinary procedures. The referral option will generally be used when: (1) the alleged behavior does not fall within the Policy or (2) the alleged behavior applies to another disciplinary procedure. If the Dean(s) of Students of the involved institutions determines that the report or complaint, even if substantiated, would not violate the Policy, he/she/they may close the matter or refer it to another, applicable, disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to complainant.

Every attempt should be made to determine the option for resolution within five (5) business days of the submission of the complaint.

#### Option A: Informal Procedure and Resolution

If the complainant, the respondent and the institution(s) all agree that an informal resolution should be pursued, the Dean of Students shall attempt to facilitate a resolution of the conflict that is agreeable to all parties.

The complainant and respondent each have the option to discontinue the informal process and request a formal investigation by notifying the Dean of Students in writing. The institution(s) always has/have the discretion to bypass or discontinue the informal process and move forward with a formal investigation. If at any point during the informal process, the complainant, the respondent, or the institution(s) wish to cease the informal procedure and to proceed through the formal procedure, the formal procedure outlined below will be invoked.

The informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the institution(s) to stop, remedy, and prevent Policy violations. The recommended resolution may include a variety of institutional responses or requirements, including, but not limited to, the following:

warning, behavioral contracts, community service hours, restitution, required attendance at educational programs, required assessment and/or counseling, restriction of privileges, inclusion in the respondent's education record of a finding that the Policy was violated, parental notification and/or probation.

If all parties to the complaint agree in writing to the terms and conditions of the recommended resolution within five (5) business days, the case will be resolved without further process under these Procedures. If all parties to the complaint do not agree in writing to the terms and conditions of the recommended resolution within five (5) business days, the complaint will move to the formal procedure.

If the complaint is referred to the formal process, the time spent attempting to reach an informal resolution generally will not be counted as part of the 60-day time frame discussed in the "Timing" section above.

#### Option B: Formal Procedure

If the complaint is not resolved through the informal procedure outlined above, the complaint shall be processed according to the formal procedure (Steps 2 through 5) outlined below. The Deputy and/or Lead Title IX Coordinator(s) of the involved institutions shall ensure that all officials involved in the complaint procedure have received annual training on the Policy, these Procedures, issues relating to sexual misconduct, the rights of complainants and respondents, and applicable law.

#### Step 2: Investigation

The formal resolution process will include an investigation conducted by an appointed outside investigator, or at the institutions' discretion, SJU Life Safety or CSB Campus Security. The complainant and the respondent shall receive written notice of the name of the investigator appointed to conduct the investigation. The complainant or respondent may request the removal of the investigator on the grounds of personal bias or conflict of interest by submitting a typewritten statement identifying the basis for the concern to the Dean(s) of Students no later than two (2) business days after receiving the notice of the investigator. The Dean(s) of Students will determine whether to accept or deny the request. If the request is accepted, a replacement investigator will be appointed to conduct the investigation. The decision of the Dean(s) of Students with regard to the request is final and is not appealable. If the complainant or respondent believes the new investigator should be removed because of personal bias or conflict of interest, the complainant or respondent may initiate the same process seeking removal of the newly-assigned investigator by submitting a typewritten

statement no later than two (2) business days after receiving the notice of the newly-assigned investigator.

The investigator will interview the complainant, respondent and/or other witnesses and may request additional information from the complainant, respondent or others. In addition, the complainant and respondent will have an opportunity to advise the investigator of any witnesses they believe should be interviewed, and/or other evidence that they believe should be reviewed by the investigator. The investigator, at his or her discretion, may decline to interview witnesses suggested by the parties and may interview witnesses who were not suggested by either party. Character or reputation evidence is generally considered to be irrelevant and will not be included as part of the investigation. If a party suggests witnesses solely for the purpose of providing general character or reputation evidence, the investigator may choose not to interview such witnesses and/or to not include information related to a party's general character/reputation in the investigation report. All interviews with the complainant, respondent, and other witnesses shall be recorded. The complainant and respondent shall receive timely notice of meetings at which the complainant or respondent or both will be present.

The parties will be notified of a close of evidence date. The parties shall submit any and all information and evidence believed to be relevant to the complaint by the close of evidence date. After the close of evidence date, the parties shall not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator determines otherwise.

Every attempt will be made to complete the investigation phase, including the issuing of the investigation report, within twenty-five (25) business days of the filing of the complaint or the referral from the informal process.

If a criminal complaint has been filed, CSB's and/or SJU's investigation may be temporarily delayed to allow law enforcement to gather evidence. Such delay may only occur at the request of law enforcement and shall not be any longer than necessary for law enforcement to complete the gathering of evidence. Guidance from the Department of Education directs that a school may not wait for the conclusion of a criminal investigation or proceeding to begin or complete the school's own investigation, therefore, in no case will CSB and SJU wait for the conclusion of a criminal investigation or criminal proceeding to begin their own investigation.

The investigator shall compile the investigation file, which shall consist of at least the complaint, the investigation written summary, and relevant documents, if any. The investigation written summary will include the names of all witnesses interviewed and dates

on which interviews took place. The investigator will present the facts gathered, but will not make credibility determinations or otherwise evaluate the facts.

### Step 3: Review of Investigation File in Cases Involving Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Following the appointment of the adjudication panel, the investigation file will be made available for review by the complainant and respondent by making an appointment with their Dean of Students during regular business hours. The Dean(s) of Students will provide a five (5) business day review and response period for the parties to have access to review the investigation file and prepare a response to the investigation file, as discussed below. Information in the investigation file that cannot be shared with the complainant, respondent, or adjudicators may be redacted from the file in accordance with applicable law. The file cannot be photographed, copied, or removed from the Dean(s) of Students office(s) or other location provided for review purposes. All parties (and their advisors) may take personal handwritten notes.

Following review of the investigation file, both the complainant and respondent shall have the opportunity to provide a typewritten initial statement to add clarifying information and/or identify information previously given to the investigator that is not included in the investigation report that the party believes should have been included. While the parties may be assisted by their advisors in preparation of the initial statement, the initial statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf, including any external reports. The initial statement shall not exceed 4,500 words. The initial statement must be submitted within the five (5) business days provided for review and response described above. Submissions must be made electronically by email to the Dean(s) of Students, and must be submitted directly from the complainant or respondent, and not through an advisor or other representative.

The complainant and respondent shall have an opportunity to review the initial statement submitted by the other party and, if desired, may submit a typewritten rebuttal statement not to exceed 1,300 words. The Dean(s) of Students will provide a three (3) business day review and response period for the parties to have access to review the initial statement and prepare a response to the initial statement, as discussed below. The rebuttal statement may only be used to respond to arguments made in the other party's initial statement. While the parties may be assisted by their advisors in preparation of the rebuttal statement, the rebuttal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf, including external reports. The parties have the option to read the rebuttal statement of the other party, but no further

responses will be made by either party.

The institutions will ensure that the complainant and respondent have been given equal opportunities to present relevant information for consideration during the investigation process.

At any time during the investigation and review phases, the Deputy Title IX Coordinator(s) may review the investigation file, the parties' initial and rebuttal statements, and other information or evidence to determine whether additional investigation is necessary, statements and documents submitted by the parties are within the appropriate scope of the investigation, and/or information or other evidence contained in the investigation file and the parties' written statements should be removed or redacted. In the event the Deputy Title IX Coordinator(s) request additional investigation, the parties shall be notified.

#### Step 4: Adjudication

##### a. Appointment of Adjudication Panel.

Upon completion of the investigation, a three-person adjudication panel comprised of individuals selected by the involved institution(s) will be appointed on a case-by-case basis. In most instances, the panel will be comprised of faculty and/or staff selected by the Dean(s) of Students of the involved institution(s). The Deputy and/or Lead Title IX Coordinator(s) of the involved institutions may also be present at the meetings of the adjudication panel to oversee the process and will, if necessary, answer procedural questions, but shall not have a vote.

The adjudication panel shall be appointed within five (5) business days following the close of evidence date. The complainant and the respondent shall receive written notice of the adjudication panel members appointed.

##### b. Process for Requesting Removal of Adjudication Panel Member.

The complainant or respondent may request the removal of a member of the adjudication panel on the grounds of personal bias or conflict of interest by submitting a typewritten statement identifying the basis for the concern to the Dean(s) of Students no later than two (2) business days after receiving the notice of the adjudication panel members. The Dean(s) of Students will determine whether to accept or deny the request. If the request is accepted, a replacement will be appointed to serve on the adjudication panel. The decision of the Dean(s) of Students with regard to the request is final and is not appealable. If the complainant or respondent believes a new member assigned to the adjudication panel should be removed



because of personal bias or conflict of interest, the complainant or respondent may initiate the same process seeking removal of the newly-assigned panel member by submitting a typewritten statement no later than two (2) business days after receiving the notice of the newly-assigned adjudication panel member.

#### Step 5: Determination

The adjudication panel will review the investigation file and written response and rebuttal statements provided by the complainant and respondent. The adjudication panel may, in their discretion, request additional investigation by the investigator or another appropriate individual. In the event that the adjudication panel requests additional investigation, the complainant and respondent shall be notified. The adjudication panel will use a preponderance of the evidence standard as directed by Title IX, to determine whether, based upon the information obtained from the investigation and any written statements provided by the complainant and respondent, it is more likely than not that the respondent violated the Policy. The Deputy and/or Lead Title IX Coordinator(s) are available for consultation, but will not participate in making a decision. Only the members of the adjudication panel and the Deputy and/or Lead Title IX Coordinator(s) may be present during deliberations. A simple majority of adjudication panel members is necessary to find that the respondent is responsible for a Policy violation.

The adjudication panel will communicate the decision to the Dean(s) of Students of the institutions of the parties.

The determination of the adjudication panel may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision of the adjudication panel will be final.

#### a. Determination of "Not Established Responsible"

If the adjudication panel concludes, based upon the information obtained through the investigation, that there is not sufficient basis to establish that it is more likely than not that a respondent violated the Policy, the adjudication panel will make a determination of "Not Established Responsible." This will be the decision if the panel concludes that it is more likely than not that a Policy violation did not occur or there is insufficient evidence to support a finding that it is more likely than not that the respondent violated the Policy. The complainant and respondent will be notified of the "Not Established Responsible" determination and of other steps that may be taken in response to the complaint such as "no contact" directives. The complainant will also be apprised of other resources that may be available.

b. Determination of "Responsible" and Imposition of Remedies and Sanctions

If the adjudication panel, based upon the information obtained through the investigation, that it is more likely than not that a respondent violated the Policy, the adjudication panel will make a finding of "Responsible" and the Dean(s) of Students of the institution(s) of the parties will determine appropriate sanction(s). The Dean(s) of Students' determination will include steps to stop the misconduct, prevent its recurrence, and as appropriate, address its effect on the complainant and the campus community. Sanctions imposed on a student depend on the severity of the violation, time remaining until complainant graduates or is no longer a student, and any previous violations that resulted in a finding of "Responsible". Sanctions may include a variety of institutional responses or requirements and can include any of the following: warning, writing a reflection paper, behavioral contracts, no-contact directives, administrative referrals, community service hours, restitution, required attendance at educational programs, required assessment and/or counseling, restriction of privileges, inclusion in the respondent's education record of a finding that the Policy was violated, probation, suspension and/or expulsion.

c. Written Notice of Outcome

The complainant and respondent shall receive a simultaneous written notice of outcome within twenty-five (25) business days after completion of the investigation (including completion of any additional investigation conducted at the request of the adjudication panel).

For complaints involving sexual assault, dating violence, domestic violence, or stalking: The written notice shall include the determination of the adjudication panel, any imposition of sanctions, and the rationales for the determination and sanctions. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the institution(s) have taken to eliminate the conduct and prevent its recurrence. The complainant will also receive written notice regarding remedies offered or provided.

For all other complaints of sexual misconduct: The written notice shall include the determination of the adjudication panel. The respondent's written notice shall include any imposition of sanctions and the complainant's written notice shall include any imposition of sanctions that directly relates to the complainant. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the institution(s) have taken

to eliminate the conduct and prevent its recurrence and the complainant's written notice will contain remedies offered or provided to the complainant.

#### Step 6: Appeal

Following the determination, the complainant or respondent may request an appeal of the decision. For cases involving students from both institutions, the request for an appeal must be typewritten, may not exceed 1,300 words, and must be submitted electronically to the Vice Presidents for Student Development (or their designees) at TitleIXAppeals@csbsju.edu within three (3) business days of the party's receipt of the notice of determination. For cases involving students from only one institution, the request for an appeal must be word processed, may not exceed 1,300 words, and must be submitted electronically to the Vice President for Student Development of that institution. An extension will be granted only when exceptional circumstances cause delay. Failure to file an appeal or request an extension in a timely manner constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

- New or newly discovered evidence that may substantially affect the outcome of the adjudication; or
- There was a procedural error which substantially affected the outcome of the adjudication.

Disagreement with the finding of the Adjudication Panel does not constitute a procedural error and is not grounds an appeal.

Appeals should not be requested frivolously. An appeal represents a procedural safeguard for the complainant and respondent. In an appeal the burden of proof is on the appealing party to show that it is more likely than not that one or more of the above grounds for appeal are satisfied.

#### a. Determination of Whether Appeal Has Merit

The appeal request will be reviewed and considered by the Vice President(s) for Student Development of the institution(s) of the parties involved in the complaint. If the complaint involves parties from both institutions, the Vice President for Student Development who has received the appeal shall involve the Vice President for Student Development of the other institution and they shall consider and decide the outcome of the appeal. The Vice President(s) for Student Development will determine whether it is more likely than not that either or both of the above grounds for appeal are satisfied.

If, following review of the initial written appeal, there is not adequate reason to believe that one or more grounds for appeal has been satisfied, the Vice President(s) for Student Development may dismiss the appeal. This decision is final and is not appealable.

The Vice President(s) for Student Development will provide the complainant and respondent with simultaneous written notice of the outcome of the appeal request, within ten (10) business days of the filing of the appeal.

b. Determination on Remand.

If the Vice President(s) for Student Development of the institution(s) of the involved parties determine that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal may have reasonably been satisfied, the Vice President(s) for Student Development will remand the matter for further investigation and/or deliberations. The Vice President(s) for Student Development will determine whether the matter should be remanded to the adjudication panel or whether a new adjudication panel should review the matter. The Vice President(s) for Student Development may not change the adjudication panel's determination or the Dean(s) of Students' imposition of sanctions. Only the adjudication panel reviewing the matter on remand from an appeal may change the determination of the original adjudication panel, and based upon the new determination only the Dean(s) of Students may modify any of the sanctions previously imposed. The parties will receive timely access to view any information and documents—not already provided to the parties during the investigation and initial adjudication phases—that will be used to adjudicate matter on remand.

B. Complaint Procedure if the Respondent is a Faculty or Staff Member

Any member of the community who has a concern about potential sexual misconduct by a faculty or staff member should meet with the Associate HR Director (or in the case of a student's concern, may also meet with the Dean(s) of Students) to discuss his or her concerns, determine options going forward, and learn about other resources available. To make a complaint under these Procedures, the following steps will generally be followed. For complaints involving a respondent who is a faculty or staff member, Procedure B.1 will be used for complaints of sexual assault, dating violence, domestic violence, and stalking and Procedure B.2 will be used for all other complaints of sexual misconduct.

B.1.: Complaint Procedures for Complaints of Sexual Assault, Dating Violence, Domestic Violence, and Stalking

### Step 1: Initiation of Complaint

Any member of the community may initiate a complaint proceeding. The complaint proceeding may be initiated at the request of the complainant upon submitting a report to the Associate HR Director, a Dean of Students, SJU Life Safety or CSB Campus Security. Students at the SJU School of Theology·Seminary may alternately submit their complaint form to the Rector or Dean of the School of Theology·Seminary, who will then refer the matter to the Dean(s) of Students and/or the Associate HR Director. The report should contain sufficient detail to enable the Associate HR Director (and in cases involving students, the Deans of Student(s) to make a determination as to whether the complaint falls within the Policy. When a complaint proceeding is initiated, the institution(s) may ask that a reporting party verify a written summary of an oral report. any report be confirmed in a written and signed form. Reporting forms are available on the CSB and SJU Sexual Misconduct web page.

Upon receiving a report of a violation of the Policy, the institution(s) will seek the alleged victim's cooperation to proceed with a complaint proceeding using the Procedures set forth herein. In addition, circumstances may arise in which a complaint proceeding may be initiated (even without the alleged victim's participation) to protect the safety, integrity and welfare of the community as a whole. Generally, the Lead Title IX Coordinator(s) or designee(s) will make a determination of whether a complaint proceeding should be initiated. If the institution(s) decide that it has an obligation to move forward with a complaint proceeding regarding the alleged Policy violation, prior to proceeding with the complaint process, they will notify the alleged victim of their decision and of the option to have the institution(s) inform the respondent that the reporting party did not want to initiate the complaint process.

The institution(s) will accept anonymous complaints, but the institution(s) may be limited in their ability to investigate an anonymous complaint. See Sexual Misconduct Policy, Section III.A.4. – Anonymous Reporting.

The Associate HR Director and the Dean(s) of Students of the involved institutions, when the complaint involves a student, has discretion to refer the matter to other institutional procedures. This referral option will generally be used when: (1) the alleged behavior does not fall within the Policy or (2) the alleged behavior applies to another institutional procedure. If the Associate HR Director and the Dean(s) of Students of the involved institutions, in cases involving a student, determines that the report or complaint, even if substantiated, would not violate the Policy, he/she/they may dismiss the matter. The party will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the

complainant.

## Step 2: Investigation

The investigation will be conducted by an appointed outside investigator, or at the institutions' discretion, SJU Life Safety or CSB Campus Security. The complainant and the respondent shall receive written notice of the name of the investigator appointed to conduct the investigation. The complainant or respondent may request the removal of the investigator on the grounds of personal bias or conflict of interest by submitting a typewritten statement identifying the basis for the concern to the Associate HR Director and/or Dean of Student(s) no later than two (2) business days after receiving the notice of the investigator. The Associate HR Director will determine whether to accept or deny the request. If the request is accepted, a replacement investigator will be appointed to conduct the investigation. The decision of the Associate HR Director with regard to the request is final and is not appealable. If the complainant or respondent believes the new investigator should be removed because of personal bias or conflict of interest, the complainant or respondent may initiate the same process seeking removal of the newly-assigned investigator by submitting a typewritten statement no later than two (2) business days after receiving the notice of the newly-assigned investigator.

The investigator will interview the complainant, respondent and/or other witnesses and may request additional information from the complainant, respondent or others. In addition, the complainant and respondent will have an opportunity to advise the investigator of any witnesses they believe should be interviewed, and/or other evidence that they believe should be reviewed by the investigator. The investigator, at his or her discretion, may decline to interview witnesses suggested by the parties and may interview witnesses who were not suggested by either party. Character or reputation evidence is generally considered to be irrelevant and will not be included as part of the investigation. If a party suggests witnesses solely for the purpose of providing general character or reputation evidence, the investigator may choose not to interview such witnesses and/or to not include information related to a party's general character/reputation in the investigation report. All interviews with the complainant, respondent, and other witnesses shall be recorded. The complainant and respondent shall receive timely notice of meetings at which the complainant or respondent or both will be present.

The parties will be notified of a close of evidence date. The parties shall submit any and all information and evidence believed to be relevant to the complaint by the close of evidence date. After the close of evidence date, the parties shall not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator determines otherwise.

Every attempt will be made to complete the investigation phase, including the issuing of the investigation report, within twenty-five (25) business days of the filing of the complaint or the referral from the informal process.

If a criminal complaint has been filed, CSB's and/or SJU's investigation may be temporarily delayed to allow law enforcement to gather evidence. Such delay may only occur at the request of law enforcement and shall not be any longer than necessary for law enforcement to complete the gathering of evidence. Guidance from the Department of Education directs that a school may not wait for the conclusion of a criminal investigation or proceeding to begin or complete the school's own investigation, therefore, in no case will CSB and SJU wait for the conclusion of a criminal investigation or criminal proceeding to begin their own investigation.

The investigator shall compile the investigation file, which shall consist of at least the complaint, the investigation written summary, and relevant documents, if any. The investigation written summary will include the names of all witnesses interviewed and dates on which interviews took place. The investigator will present the facts gathered, but will not make credibility determinations or otherwise evaluate the facts.

### Step 3: Review of Investigation File in Cases Involving Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Following the appointment of the adjudicator, the investigation file will be made available for review by the complainant and respondent by making an appointment with the Associate HR Director and/or Dean(s) of Students during regular business hours. The HR Director and/or Dean(s) of Students will provide a five (5) business day review and response period for the parties to have access to review the investigation file and prepare a response to the investigation file, as discussed below. Information in the investigation file that cannot be shared with the complainant, respondent, or adjudicator may be redacted from the file in accordance with applicable law. The file cannot be photographed, copied, or removed from the Associate HR Director's office and/or the Dean(s) of Students office(s) or other location provided for review purposes. All parties (and their advisors) may take personal handwritten notes.

Following review of the investigation file, both the complainant and respondent shall have the opportunity to provide a typewritten initial statement to add clarifying information and/or identify information previously given to the investigator that is not included in the investigation report that the party believes should have been included. While the parties may be assisted by their advisors in preparation of the initial statement, the initial statement must

be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf, including any external reports. The initial statement shall not exceed 4,500 words. The statement must be submitted within five (5) business days provided for review and response described above. Submissions must be made electronically by email to the Associate HR Director and Dean(s) of Students, and must be submitted directly from the complainant or respondent, and not through an advisor or other representative.

The complainant and respondent shall have an opportunity to review the initial statement submitted by the other party and, if desired, may submit a typewritten rebuttal statement not to exceed 1,300 words. The HR Director and/or Dean(s) of Students will provide a three (3) business day review and response period for the parties to have access to review the initial statement and prepare a response to the initial statement, as discussed below.

The rebuttal statement may only be used to respond to arguments made in the other party's initial statement. While the parties may be assisted by their advisors in preparation of the rebuttal statement, the rebuttal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf, including external reports. The parties have the option to read the rebuttal statement of the other party, but no further responses will be made by either party.

The institutions will ensure that the complainant and respondent have been given equal opportunities to present relevant information for consideration during the investigation process.

At any time during the investigation and review phases, the Deputy Title IX Coordinator(s) may review the investigation file, the parties' initial and rebuttal statements, and other information or evidence to determine whether additional investigation is necessary, statements and documents submitted by the parties are within the appropriate scope of the investigation, and/or information or other evidence contained in the investigation file and the parties' written statements should be removed or redacted. In the event the Deputy Title IX Coordinator(s) request additional investigation, the parties shall be notified.

#### Step 4: Adjudication

In cases of alleged sexual misconduct by a staff member, the Director of Human Resources will generally serve as the adjudicator on issues of whether the Policy has been violated. In cases of alleged sexual misconduct by a faculty member, the Associate Dean will generally serve as the adjudicator on issues of whether the Policy has been violated. An alternative adjudicator may be appointed by the President or the President's designee in cases involving a conflict of interest, the appearance of a conflict of interest, or in other appropriate



circumstances. The adjudicator will have received training on the Policy, the Procedures, issues relating to sexual misconduct, the rights of complainants and respondents, and applicable law before rendering any decision and may consult with the Associate HR Director and/or a Title IX Coordinator about such topics.

The adjudicator will review the complaint and investigation file. The adjudicator may, in his or her discretion, request additional investigation by the investigator or another appropriate individual. In the event that the adjudicator requests additional investigation, the complainant and respondent shall be notified.

The adjudicator will use a preponderance of the evidence standard to determine whether, based upon the information obtained from the investigation, it is more likely than not that the respondent is responsible for a Policy violation. The Associate HR Director and/or Title IX Coordinator shall be available to consult with the adjudicator, but will not participate in making the decision.

The determination of the adjudicator may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision of the adjudicator will be final.

a. Determination of "Not Established Responsible"

If the adjudicator determines, based upon the information obtained through the investigation, that there is not sufficient basis to establish that it is more likely than not that a respondent violated the Policy, the adjudicator will make a determination of "Not Established Responsible." This will be the decision if the adjudicator determines that it is more likely than not that a Policy violation did not occur or there is insufficient evidence to determine that it is more likely than not that the respondent violated the Policy. The complainant and respondent will be notified of the "Not Established Responsible" determination and of other steps that may be taken in response to the complaint such as "no contact" directives. The complainant will also be apprised of other resources that may be available.

b. Determination of "Responsible" and Imposition of Remedies/Sanctions

Faculty Respondent: If the adjudicator determines, based upon the information obtained through the investigation, that it is more likely than not that a faculty member respondent violated the Policy, the adjudicator will make a determination of "Responsible" and the matter will be referred to the Provost for appropriate sanctions. The adjudicator's determination will include steps to take to stop the misconduct, prevent its recurrence and, as appropriate, address its effect on the complainant and the community. Sanctions will be

determined and administered in a manner consistent with the Faculty Handbook. Sanctions may include a variety of institutional responses or requirements and can include any of the following: verbal warning, written warning, required training, no-contact directives, suspension, suspension of promotion and salary increments, suspension or withdrawal of faculty privileges, and dismissal. In referring a finding of a violation by a faculty member to the Provost for sanctions, the adjudicator shall state whether the evidence establishes a violation by "clear and convincing evidence" such that dismissal for cause may be considered as a possible sanction under Section 2.13.6.5 of the Faculty Handbook.

Staff Respondent: If the adjudicator determines, based upon the information obtained through the investigation, that it is more likely than not that a staff member violated the Policy, the adjudicator will make a determination of "Responsible" and the staff member's supervisor, in consultation with Human Resources and Divisional Vice President, shall determine the appropriate sanctions, which shall be determined and administered in a manner consistent with the Administrative and Support Staff Handbook. The adjudicator's determination will include steps to take to stop the misconduct, prevent its recurrence and, as appropriate, address its effects on the complainant and the community. Sanctions may include a variety of institutional responses or requirements and can include any of the following: verbal warning, written warning, written reprimand, required training, no-contact directives, reassignment, suspension, probation, demotion, and dismissal.

c. Written Notice of Outcome

The complainant and respondent shall receive a simultaneous written notice of outcome within twenty-five (25) business days after completion of the investigation (including completion of any additional investigation conducted at the request of the adjudicator).

For complaints involving sexual assault, dating violence, domestic violence, or stalking: The written notice shall include the determination of the adjudicator, any imposition of sanctions, and the rationales for the determination and sanctions. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the institution(s) have taken to eliminate the conduct and prevent its recurrence. The complainant will also receive written notice regarding remedies offered or provided.

For all other complaints of sexual misconduct: The written notice shall include the determination of the adjudicator. The respondent's written notice shall include any imposition of sanctions and the complainant's written notice shall include any imposition of sanctions that directly relates to the complainant. The written notice will also include information about

the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the institution(s) have taken to eliminate the conduct and prevent its recurrence and the complainant's written notice will contain remedies offered or provided to the complainant.

#### Step 5: Appeal

Following the determination, the complainant or respondent may request an appeal of the decision. A complainant or respondent who wishes to appeal shall submit a written statement of appeal, not to exceed 1,300 words, no later than three (3) business days after receiving the notice of outcome. The appeal shall be directed to the Lead Title IX Coordinator of the institution of the appealing party. The Lead Title IX Coordinator (in consultation with the Lead Title IX Coordinator of the institution of the non-appealing party when applicable), will be responsible for appointing an appropriate institutional official to oversee the appeal. Failure to file an appeal or request an extension in a timely manner constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

- New or newly discovered evidence that may substantially affect the outcome of the adjudication; or
- There was a procedural error which substantially affected the outcome of the adjudication.

Disagreement with the finding of the adjudicator does not constitute a procedural error and is not grounds an appeal.

Appeals should not be requested frivolously. An appeal represents a procedural safeguard for the complainant and respondent. In an appeal the burden of proof is on the appealing party to show that it is more likely than not that one of the above grounds for appeal are satisfied.

The Lead Title IX Coordinator(s) or their designee(s) will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered.

The Lead Title IX Coordinators will determine whether the appeal will be considered within three (3) business days of receipt of the appeal. If it is determined that the appeal will be considered, the non-appealing party will be notified of the appeal. The non-appealing party may, if desired, submit a written response to the appeal, not to exceed 1,300 words. The

written response to the appeal must be submitted to appointed appeal officer within three (3) business days of receiving notice of the appeal.

a. Determination of Whether Appeal Has Merit

The Lead Title IX Coordinator (in consultation with the Lead Title IX Coordinator of the institution of the non-appealing party when applicable), will be responsible for appointing an appropriate institutional official to oversee the appeal. The appeal request will be reviewed and considered by the appointed appeal official. The appeal official will determine whether it is more likely than not that either or both of the above grounds for appeal are satisfied.

If, following review of the initial written appeal, there is not adequate reason to believe that one or more grounds for appeal has been satisfied, the appeal official may dismiss the appeal. This decision is final and is not appealable.

The appeal official will provide the complainant and respondent with simultaneous written notice of the outcome of the appeal request, within ten (10) business days of the filing of the appeal.

b. Determination on Remand.

If the appeal official determines that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal may have reasonably been satisfied, the appeal official will remand the matter for further investigation and/or deliberations. The appeal official will determine whether the matter should be remanded to the adjudicator or whether a new adjudicator should review the matter. The appeal official may not change the adjudicator's determination or sanctions. Only the adjudicator reviewing the matter on remand from an appeal may change the determination of the original adjudicator, and based upon the new determination only the Provost (in cases involving a faculty member) or Divisional Vice President (in cases involving a staff member) may modify any of the sanctions previously imposed.

The parties will receive timely access to view any information and documents—not already provided to the parties during the investigation and initial adjudication phases—that will be used to adjudicate matter on remand.

B.2.: Complaint Procedure for all other Complaints of Sexual Harassment. The procedures for a complaint under B.2 are not subject to the same requirements as the

procedures for a complaint under B.1.

#### Step 1: Initiation of Complaint

Any member of the community may initiate a complaint proceeding. The complaint proceeding may be initiated at the request of the complainant upon submitting a report to the Associate HR Director or a Dean of Students. Students at the SJU School of Theology Seminary may alternately submit their complaint form to the Rector or Dean of the School of Theology Seminary, who will then refer the matter to the Dean(s) of Students and/or the Associate HR Director. The report should contain sufficient detail to enable the Associate HR Director (and in cases involving students, the Dean(s) of Students) to make a determination as to whether the complaint falls within the Policy. When a complaint proceeding is initiated, the institution(s) may ask that a reporting party verify a written summary of an oral report. Reporting forms are available on the CSB and SJU Sexual Misconduct web page.

Upon receiving a report of a violation of the Policy, the institution(s) will seek the alleged victim's cooperation to proceed with a complaint proceeding using the Procedures set forth herein. In addition, circumstances may arise in which a complaint proceeding may be initiated (even without the alleged victim's participation) to protect the safety, integrity and welfare of the community as a whole. Generally, the Lead Title IX Coordinator(s) or designee(s) will make a determination of whether a complaint proceeding should be initiated. If the institution(s) decide that it has an obligation to move forward with a complaint proceeding regarding the alleged Policy violation, prior to proceeding with the complaint process, they will notify the alleged victim of their decision and of the option to have the institution(s) inform the respondent that the alleged victim did not want to initiate the complaint process.

The institution(s) will accept anonymous complaints, but the institution(s) may be limited in their ability to investigate an anonymous complaint. See Sexual Misconduct Policy, Section III.A.4. – Anonymous Reporting.

The Associate HR Director and the Dean(s) of Students of the involved institutions, when the complaint involves a student, has discretion to refer the matter to other institutional procedures. This referral option will generally be used when: (1) the alleged behavior does not fall within the Policy or (2) the alleged behavior applies to another institutional procedure. If the Associate HR Director and the Dean(s) of Students in cases involving a student, determines that the report or complaint, even if substantiated, would not violate the Policy, he/she/they may dismiss the matter. The party will be notified of that determination and the complainant will be informed of other procedures for resolving the complaint and of

other resources that may be available to the complainant.

## Step 2: Investigation

An investigation will be conducted by SJU Life Safety, CSB Campus Security, or, at the discretion of the institution(s), an appointed outside investigator. The complainant and the respondent shall receive written notice of the name of the investigator appointed to conduct the investigation. The complainant or respondent may request the removal of the investigator on the grounds of personal bias or conflict of interest by submitting a typewritten statement identifying the basis for the concern to the Associate HR Director and/or Dean of Student(s) no later than two (2) business days after receiving the notice of the investigator. The Associate HR Director will determine whether to accept or deny the request. If the request is accepted, a replacement investigator will be appointed to conduct the investigation. The decision of the Associate HR Director with regard to the request is final and is not appealable. If the complainant or respondent believes the new investigator should be removed because of personal bias or conflict of interest, the complainant or respondent may initiate the same process seeking removal of the newly-assigned investigator by submitting a typewritten statement no later than two (2) business days after receiving the notice of the newly-assigned investigator.

The investigator will interview the complainant, respondent and/or other witnesses and may request additional information from the complainant, respondent or others. In addition, the complainant and respondent shall have an opportunity to advise the investigator of any witnesses they believe should be interviewed, and/or other evidence that they believe should be reviewed by the investigator. The investigator, at his or her discretion, may decline to interview witnesses suggested by the parties and may interview witnesses who were not suggested by either party. Character or reputation evidence is generally considered to be irrelevant and will not be included as part of the investigation. If a party suggests witnesses solely for the purpose of providing general character or reputation evidence, the investigator may choose not to interview such witnesses and/or to not include information related to a party's general character/reputation in the investigation report.

The parties will be notified of a close of evidence date. The parties shall submit any and all information and evidence believed to be relevant to the complaint by the close of evidence date. After the close of evidence date, the parties shall not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator determines otherwise.

Every attempt will be made to complete the investigation process within twenty-five (25) business days of the filing of the complaint. The investigator shall provide a written summary of the investigation to the Associate HR Director and to the Dean(s) of Students when the

complaint involves a student. The investigator will present the facts gathered, but is not responsible for making credibility determinations or otherwise evaluating the facts.

### Step 3: Adjudication

In cases of alleged sexual misconduct by a staff member, the Director of Human Resources will generally serve as the adjudicator on issues of whether the Policy has been violated. In cases of alleged sexual misconduct by a faculty member, the Associate Dean will generally serve as the adjudicator on issues of whether the Policy has been violated. An alternative adjudicator may be appointed by the President or the President's designee in cases involving a conflict of interest, the appearance of a conflict of interest, or in other appropriate circumstances. The adjudicator will have received training on the Policy, these Procedures, issues relating to sexual harassment, the rights of complainants and respondents, and applicable law before rendering any decision and may consult with the Associate HR Director and/or a Title IX Coordinator about such topics.

The adjudicator will review the complaint and investigation file. The adjudicator may, in his or her discretion, request additional investigation by the investigator or another appropriate individual.

The adjudicator will use a preponderance of the evidence standard to determine whether, based upon the information obtained from the investigation, it is more likely than not that the respondent violated the Policy. The Associate HR Director and Dean(s) of Students shall be available to consult with the adjudicator, but will not participate in making the decision.

The determination of the adjudicator may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision of the adjudicator will be final.

#### a. Determination of "Not Established Responsible"

If the adjudicator determines, based upon the information obtained through the investigation, that there is not sufficient basis to establish that it is more likely than not that a respondent violated the Policy, the adjudicator will make a determination of "Not Established Responsible." This will be the decision if the adjudicator determines that it is more likely than not that a Policy violation did not occur or there is insufficient evidence to determine that it is more likely than not that the respondent violated the Policy. The complainant and respondent will be notified of the "Not Established Responsible" determination and of other steps that may be taken in response to the complaint such as "no contact" directives. The complainant will also be apprised of other resources that may be available.

b. "Responsible" Determination and Imposition of Remedies/Sanctions

Faculty Respondent: If the adjudicator determines, based upon the information obtained through the investigation, that it is more likely than not that a faculty member violated the Policy, the adjudicator will make a determination of "Responsible" and the matter will be referred to the Provost for appropriate sanctions. The adjudicator's determination will include steps to take to stop the misconduct, prevent its recurrence and, as appropriate, address its effect on the complainant and the community. Sanctions will be determined and administered in a manner consistent with the Faculty Handbook. Appropriate sanctions include, but are not limited to verbal warning, written warning, required training, no-contact directives, suspension, suspension of promotion and salary increments, suspension or withdrawal of faculty privileges, and dismissal. In referring a finding of a violation by a faculty member to the Provost for sanctions, the adjudicator shall state whether the evidence establishes a violation by "clear and convincing evidence" such that dismissal for cause may be considered as a possible sanction under Section 2.13.6.5 of the Faculty Handbook.

Staff Respondent: If the adjudicator determines, based upon the information obtained through the investigation, that it is more likely than not that a staff member is violated the Policy, the adjudicator will make a determination of "Responsible" and the staff member's supervisor, in consultation with Human Resources and Divisional Vice President, shall determine the appropriate sanctions, which shall be determined and administered in a manner consistent with the Administrative and Support Staff Handbook. The adjudicator's determination will include steps to take to stop the misconduct, prevent its recurrence and, as appropriate, address its effects on the complainant and the community. Appropriate sanctions include, but are not limited to verbal warning, written warning, written reprimand, required training, no-contact directives, reassignment, suspension, probation, demotion, and dismissal.

c. Written Notice of Outcome

The complainant and respondent shall receive a written notice of outcome within twenty-five (25) business days after completion of the investigation (including completion of any additional investigation conducted at the request of the adjudicator). The respondent's written notice shall include any imposition of sanctions and the complainant's written notice shall include any imposition of sanctions that directly relates to the complainant.

The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final.

Step 4: Appeal



Following the determination, the complainant or respondent may request an appeal of the decision. A complainant or respondent who wishes to appeal shall submit a written statement of appeal, not to exceed 1,300 words, no later than three (3) business days after receiving the notice of outcome. The appeal shall be directed to the Lead Title IX Coordinator of the institution of the appealing party. The Lead Title IX Coordinator (in consultation with the Lead Title IX Coordinator of the institution of the non-appealing party when applicable), will be responsible for appointing an appropriate institutional official to oversee the appeal. Failure to file an appeal or request an extension in a timely manner constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

- New or newly discovered evidence that may substantially affect the outcome of the adjudication; or
- There was a procedural error which substantially affected the outcome of the adjudication.

Disagreement with the finding of the adjudicator does not constitute a procedural error and is not grounds an appeal.

Appeals should not be requested frivolously. An appeal represents a procedural safeguard for the complainant and respondent. In an appeal the burden of proof is on the appealing party to show that it is more likely than not that one of the above grounds for appeal are satisfied.

The Lead Title IX Coordinator(s) or their designee(s) will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered.

The Lead Title IX Coordinator(s) or their designee(s) will determine whether the appeal will be considered within three (3) business days of receipt of the appeal. If it is determined that the appeal will be considered, the non-appealing party will be notified of the appeal. The non-appealing party may, if desired, submit a written response to the appeal, not to exceed 1,300 words. The written response to the appeal must be submitted to the appointed appeal official within three (3) business days of receiving notice of the appeal.

a. Determination of Whether Appeal Has Merit

The Lead Title IX Coordinator (in consultation with the Lead Title IX Coordinator of the institution of the non-appealing party when applicable), will be responsible for appointing an appropriate institutional official to oversee the appeal. The appeal request will be reviewed and

considered by the appointed appeal official. The appeal official will determine whether it is more likely than not that either or both of the above grounds for appeal are satisfied.

If, following review of the initial written appeal, there is not adequate reason to believe that one or more grounds for appeal has been satisfied, the appeal official may dismiss the appeal. This decision is final and is not appealable.

The appeal official will provide the complainant and respondent with simultaneous written notice of the outcome of the appeal request, within ten (10) business days of the filing of the appeal.

b. Determination on Remand.

If the appeal official determines that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal may have reasonably been satisfied, the appeal official will remand the matter for further investigation and/or deliberations. The appeal official will determine whether the matter should be remanded to the adjudicator or whether a new adjudicator should review the matter. The appeal official may not change the adjudicator's determination or sanctions. Only the adjudicator reviewing the matter on remand from an appeal may change the determination of the original adjudicator, and based upon the new determination only the Provost (in cases involving a faculty member) or Divisional Vice President (in cases involving a staff member) may modify any of the sanctions previously imposed.

C. Complaint Procedure if the Respondent is an Associate or Third Party

Any member of the community who has a concern about potential sexual misconduct by an Associate or third party should report their concern to the Associate HR Director, Dean(s) of Students, and/or Lead Title IX coordinator(s).

Upon receiving a report of potential sexual misconduct by an associate or third party, the Associate HR Director and/or Dean(s) of Students will involve the appropriate administrative officials to make a determination of how to handle the complaint. The administrative official, in consultation with the Lead or a Deputy Title IX Coordinator, may exercise discretion to determine an appropriate investigative and adjudication process based on the facts and circumstances. The administrative official will document the report received, process used, and the outcome and will submit such information to the Lead Title IX Coordinator. CSB and/or SJU will notify the parties and, if applicable, employing entities that contract with CSB and/or SJU, of the outcome of the complaint. Associates and third parties may not appeal the decision made. A complainant or respondent with concerns about the process or outcome, however, should consult with the Lead Title IX Coordinator(s).

## VII. External Complaints

Nothing in the Policy or these Procedures is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR). If you filed a complaint under the Policy and believe the institution(s)' response was inadequate, or you otherwise believe you have been discriminated against by the institution(s), you may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education based in Chicago or the Educational Opportunities Section (EOS) of the Civil Rights Division of the U.S. Department of Justice.

## VIII. Contact Information

<b>College of Saint Benedict</b>	
Chief of Staff Lead Title IX Coordinator	Kathryn Enke, <a href="mailto:kenke@csbsju.edu">kenke@csbsju.edu</a> , 320-363-5070
Vice President for Student Development Deputy Title IX Coordinator	Mary Geller, <a href="mailto:mgeller@csbsju.edu">mgeller@csbsju.edu</a> , 320-363-5601
Dean of Students Deputy Title IX Coordinator	Jody Terhaar, <a href="mailto:jterhaar@csbsju.edu">jterhaar@csbsju.edu</a> , 320-363-5270
Associate HR Director Deputy Title IX Coordinator	Judy Bednar, <a href="mailto:jbednar@csbsju.edu">jbednar@csbsju.edu</a> , 320-363-5071
Security Director	Darren Swanson, <a href="mailto:dswanson@csbsju.edu">dswanson@csbsju.edu</a> , 320-363-5000

<b>Saint John's University (including School of Theology)</b>	
Chief of Staff Lead Title IX Coordinator	Patti Epsky, <a href="mailto:pepsky@csbsju.edu">pepsky@csbsju.edu</a> , 320-363-2246
Vice President for Student Development Deputy Title IX Coordinator	Doug Mullin, OSB, <a href="mailto:dmullin@csbsju.edu">dmullin@csbsju.edu</a> , 320-363-2737
Dean of Students Deputy Title IX Coordinator	Michael Connolly, <a href="mailto:mconnolly@csbsju.edu">mconnolly@csbsju.edu</a> , 320-363-3171
Associate HR Director Deputy Title IX Coordinator	Judy Bednar, <a href="mailto:jbednar@csbsju.edu">jbednar@csbsju.edu</a> , 320-363-5071
Life Safety Services Director	Shawn Vierzba, <a href="mailto:svierzba@csbsju.edu">svierzba@csbsju.edu</a> , 320-363-2144

Interim Dean, School of Theology•Seminary Deputy Title IX Coordinator	Dale Launderville, OSB, <a href="mailto:dlaundervill@csbsju.edu">dlaundervill@csbsju.edu</a> 320-363-3389
Seminary Rector Deputy Title IX Coordinator	Michael Patella, <a href="mailto:mpatella@csbsju.edu">mpatella@csbsju.edu</a> , 320-363- 2108

As changes are made in the persons holding these positions, current information will be available on the CSB/SJU **Title IX website** (<http://www.csbsju.edu/joint-student-development/title-ix>).

**CSB/SJU Complaint Procedures for Sexual Misconduct Violation (pdf)**  
approved updated August 2016