

Sexual Misconduct Policy
College of Saint Benedict & Saint John's University

08/12/2020 Approved by the CSB and SJU Boards of Trustees

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Nothing in this Policy is intended to create a contract between or among the (1) College of Saint Benedict and Saint John's University and (2) any student, employee, independent contract, vendor, or other individual or entity.

I. PURPOSE, NOTICE OF NON-DISCRIMINATION, SCOPE, AND DEFINITIONS

A. Purpose and Notice of Non-discrimination

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

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

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

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

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

missions of our institutions.

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

Questions or concerns regarding Title IX, sex discrimination, or Sexual Misconduct may be directed to the institutions' Lead Title IX Coordinators:

Kathryn Enke
Chief of Staff
CSB Lead Title IX Coordinator
kenke@csbsju.edu
(320) 363-5070
37 South College Avenue
Mary Commons 223
Saint Joseph, MN 56374

Patti Epsky
Chief of Staff
SJU Lead Title IX Coordinator
pepsky@csbsju.edu
(320) 363-2246
PO Box 2000
Quad 142A
Collegeville, MN 56321

Questions or concerns may also be directed to the U.S. Department of Education Office for Civil Rights:

Web Address: <http://www2.ed.gov/about/offices/list/ocr/index.html>
Mailing Address: US Department of Education Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012
TDD: 800-877-8339
Email: OCR@ed.gov

B. Scope

This Policy applies to all CSB/SJU community members, including students, faculty, staff, other employees, administrators, trustees, volunteers, vendors, independent contractors, applicants for admission or employment, and visitors of CSB and/or SJU, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity with either institution or on CSB or SJU property. This Policy may also apply to individuals who interact with CSB/SJU community members under certain circumstances. All CSB/SJU community members must abide by this Policy and local, state, and federal law.

This Policy applies to Sexual Misconduct committed by or against a CSB/SJU community member, including conduct that occurs on campus or CSB and/or SJU property, conduct that occurs at CSB and/or SJU-sanctioned events or programs that take place off campus, including but not limited to professional meetings, classes, practica, seminars, and study abroad programs, and off campus conduct that the institutions determine may (1) have continuing adverse effects on either campus, CSB or SJU property, or in a CSB and/or SJU education program or activity, (2) substantially and unreasonably interfere with a CSB/SJU community member's employment, education, or environment on campus, CSB or SJU property, or in a CSB and/or SJU education program or activity, or (3) create a hostile environment for CSB/SJU community members on campus, CSB or SJU property, or in a CSB and/or SJU education program or activity.

This Policy applies to Sexual Misconduct within the scope of Title IX, as well as Sexual Misconduct committed by or against a CSB/SJU community member that does not fall within the scope of Title IX. More information about what Sexual Misconduct falls within the scope of Title IX is provided in the section I(D) Prohibited Conduct below and more information about the process applicable to different types of Sexual Misconduct is provided in the Procedures sections VIII and IX.

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

C. Definitions

1. **Sexual Misconduct** as used in this Policy and the Procedures, Sexual Misconduct means the following forms of sex discrimination Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Stalking, Domestic Violence, Dating Violence, and Sexual Exploitation. Some instances of Domestic Violence, Dating Violence, and Stalking may not be sexual in nature. For purposes of this Policy and the Procedures, the term "Sexual Misconduct" encompasses all instances of Dating Violence, Domestic Violence, and Stalking (as those terms are defined in this Policy), regardless of whether there is a sexual component to the behavior.
2. **Complainant** means an individual who is alleged to be the victim of conduct that could violate this Policy.
3. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.
4. **Formal Complaint** is a document filed by a complainant or signed by a Lead or Deputy Title

IX Coordinator alleging a violation of this Policy and requesting that CSB and/or SJU investigate the allegation of the Policy violation. A formal complaint begins the Complaint Resolution Process as set forth in the Procedures.

5. **Report** means an account of alleged Sexual Misconduct provided to CSB and/or SJU by the complainant, a third party, or an anonymous source.
6. **Complaint Resolution Process** refers to the process used to investigate and adjudicate formal complaints of Sexual Misconduct, from the filing of the formal complaint through determination and appeal, if any.
7. **Policy** refers to the Sexual Misconduct Policy for the College of Saint Benedict and Saint John's University
8. **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.
9. **Campus** refers to the entire physical grounds of CSB and SJU.
10. **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 Sexual Misconduct, including overseeing Complaint Resolution Processes, identifying and addressing any patterns or systemic problems that arise during the review of reports and formal complaints, and assisting in answering any questions related to the Policy and Procedures. The Lead Title IX Coordinators exercise oversight, while the Deputy Title IX Coordinators and others designated by the Lead Title IX Coordinators are responsible for the implementation of the Sexual Misconduct Complaint Procedures and case management. Any Title IX Coordinator or Deputy Title IX Coordinator may appoint a designee to fulfill the functions of the Coordinator under the Policy and Procedures. When the Policy and Procedures refer to actions of a Lead Title IX Coordinator or Deputy Title IX Coordinator, these actions may be fulfilled by the Lead Title IX Coordinator, a Deputy Title IX Coordinator, or a designee of a Lead Title IX Coordinator or Deputy Title IX Coordinator. In addition, as used in the Policy and Procedures, Lead Title IX Coordinator and Deputy Title IX Coordinator may refer to a single individual or multiple individuals, in cases when multiple individuals share responsibility for the implementation of the Complaint Resolution Procedures. The parties will be informed of who will serve as the Lead and/or Deputy Title IX Coordinator in a particular Complaint Resolution Process. The Lead and Deputy Title IX Coordinators for each institution who have responsibility for Sexual Misconduct formal 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, section II — Responsibility for more information.
11. **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.

12. Supervisor refers to administrators, department chairs, faculty, residence directors, faculty residents, resident 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.

13. 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.

D. Prohibited Conduct

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

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

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

For the purposes of the definition of Title IX Hostile Environment Harassment, reasonable person means a reasonable person in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

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

- **Non-verbal harassment** may include suggestive or insulting sounds, leering, whistling, obscene or sexual gestures, and visual displays;
- **Verbal harassment** may include statements (written or spoken) drawing upon sexual innuendo, suggestive comments, insults, humor or jokes that

are sexual in nature, sexual propositions (including repeated unwelcome invitations to social engagements), commentary about an individual's body, gossip about sexual relations, or sexual threats;

- **Physical harassment** may include unwanted kissing, touching, pinching, patting, hugging, or brushing of one's body;
- **Cyber or electronic harassment.**

The determination of what constitutes Title IX Hostile Environment Harassment depends upon the specific facts of each situation in the context in which the conduct occurs. Sexual Harassment may take many forms. It may be subtle and indirect, or blatant and overt. It may be conduct affecting an individual of the opposite sex or conduct affecting an individual of the same sex. It may occur between peers or between individuals in a hierarchical relationship.

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

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

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

For the purposes of the Title IX Sexual Harassment definition, conduct is **unwelcome** when the individual did not request or invite and regarded it as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the

conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

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

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

2. Non-Title IX Sexual Harassment

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

As used in the Policy, Non-Title IX Sexual Harassment is unwelcome conduct of a sexual nature or based on sex, including sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature, when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience or submission or rejection of such conduct by an individual is used as the basis of employment decisions or academic or education-related decisions affecting such individual (**Quid Pro Quo Sexual Harassment**); or
- such conduct has the purpose or effect of substantially and unreasonably interfering

with an individual's work or educational experience or creating an intimidating, hostile, or offensive working, residential, or educational environment (**Hostile Environment Sexual Harassment**).

Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institutions' education program or activity; (2) does not occur in the institutions' education program or activity; or (3) does not occur against a person in the United States. The determination of what constitutes Non-Title IX Sexual Harassment depends upon the specific facts of each situation in the context in which the conduct occurs. Sexual Harassment may take many forms. It may be subtle and indirect, or blatant and overt. It may be conduct affecting an individual of the opposite sex or conduct affecting an individual of the same sex. It may occur between peers or between individuals in a hierarchical relationship.

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

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

Non-Title IX Sexual Harassment does not include conduct covered under the definition of Title IX Sexual Harassment.

3. Sexual Assault

Sexual Assault is defined as any actual or attempted sexual contact, including but not limited to penetration and contact with any object, with another person without consent. Sexual Assault includes, but is not limited to:

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

Sexual Assault is a criminal act under state law. See Minnesota Statutes Section 609.341 et seq. for applicable criminal law definitions of criminal sexual conduct in Minnesota.

Sexual contact, for purposes of this Policy, sexual contact includes, but is not limited to, the intentional touching by an individual of another's intimate parts (including an individual's breasts, inner thighs, buttocks, genitals and/or groin area, whether clothed or unclothed); touching another with any of these intimate body parts, whether clothed or unclothed; the coerced touching by an individual of another's intimate parts, whether clothed or unclothed; and forcing another to touch oneself with or on any of these body parts.

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

- a. Consent requires more than the existence of a prior or current social or sexual relationship between the parties. In cases involving prior or current social or sexual relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- b. Consent to one sexual act does not, by itself, imply consent to another. Consent has to be specific to the act and persons involved, at the time of the act. Past consent to sexual activity does not imply ongoing future consent.
- c. Consent can be withdrawn at any time. When consent is withdrawn, the sexual activity for which consent was initially provided must stop.
- d. Consent is active, not passive. Simple silence, the lack of a negative response, or

failure to resist, in and of itself, is not consent.

- e. Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- f. The use or threatened use of force or other forms of coercion or intimidation take away a person's ability to give consent to sexual contact. **Coercion** refers to conduct or intimidation that would compel an individual to do something against his or her will by (1) the use of physical force, (2) threats of severely damaging consequences, or (3) pressure that would cause a reasonable person to fear severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone used to obtain consent from another.
- g. A person who is incapacitated cannot give valid consent to sexual contact initiated by another individual. **Incapacitation** means the inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol.

With respect to incapacitation due to the influence of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol; a person is not incapacitated simply because he or she has been drinking or using drugs.

Where drugs and/or alcohol are involved, incapacitation is determined based on the facts and circumstances of the particular situation looking at: (1) whether the individual was able to understand the fact, nature, or extent of the sexual situation, (2) whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent, and (3) whether such condition was known or reasonably known to the respondent or a sober, reasonable person in respondent's position. Use of drugs or alcohol by the respondent is not a defense against allegations of Sexual Misconduct.

- h. A person who has not reached the legal age of consent cannot give consent. The legal age of consent may vary depending on the circumstances and the applicable state law. In Minnesota, the age of consent is 16.
- i. Where there is otherwise credible evidence to support a finding of non-consent, corroborating testimony is not required.

4. Sexual Exploitation

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- a. Intentional and repeated invasion of sexual privacy (e.g., walking into another

- person's room or private space with the purpose or result of invading sexual privacy);
- b. Prostituting another person;
 - c. Non-consensual taking of photographs/images, video recording, and/or audio recording of a sexual activity;
 - d. Non-consensual distribution or displaying of photographs/images, video recording, audio recording, or live-streaming of a sexual activity;
 - e. Allowing third parties to observe sexual activities or view another's breasts, inner thighs, buttocks, genitals and/or groin area, in a place where that person would have a reasonable expectation of privacy, without consent;
 - f. Engaging in non-consensual voyeurism;
 - g. Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without the person's knowledge;
 - h. Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, breasts, inner thighs, buttocks, genitals and/or groin area, or that is otherwise sexual in nature, without consent;
 - i. Exposing one's breasts, buttocks, genitals and/or groin area in non-consensual circumstances;
 - j. Inducing another to expose his/her breasts, inner thighs, buttocks, genitals and/or groin area in non-consensual circumstances;
 - k. Ejaculating on another person without consent;
 - l. Distributing or displaying pornography to another without that individual's consent.

5. Dating Violence

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse, such as Sexual Assault, physical harm, bodily injury, or criminal assault, or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

Dating Violence is prohibited by state law. See [Minnesota Statutes Section 518B.01; 609.2242](#) for applicable criminal law definitions related to Dating Violence in Minnesota.

6. Domestic Violence

Domestic Violence is violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Minnesota, or by any other person against an adult or youth victim who is protected from that person's acts under domestic or family violence laws. In addition to the relationships described above, Minnesota law defines Domestic Violence to include violence committed between parents and children, blood relatives, persons who are presently residing together or who have resided together in the past, persons involved in a significant romantic or sexual relationship, and a man and woman, if the woman is pregnant and the man is alleged to be the father.

While not exhaustive, the following are examples of conduct that can constitute Domestic Violence: physical harm, bodily injury or assault; the infliction of fear of imminent physical harm, bodily injury, or assault; terroristic threats; criminal sexual conduct; or interference with an emergency call.

Domestic Violence may also be called domestic abuse or spousal/intimate partner/relationship abuse or violence and is prohibited by state law. See Minnesota Statutes Section 518B.01; 609.2242 for applicable criminal law definitions related to Domestic Violence in Minnesota.

7. Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress.

For purposes of this definition, **course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

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

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

Stalking behavior includes, but is not limited to:

- a. Repeated, unwanted, intrusive, and frightening communications by phone, mail, text, email, and/or social media;
- b. Repeatedly leaving or sending the victim unwanted items, presents, or flowers;
- c. Following or lying-in-wait for the victim at places such as home, school, work, or recreation place;

- d. Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets;
- e. Damaging or threatening to damage the victim's property;
- f. Posting personal information or spreading rumors about the victim on the internet, in a public place, or by word of mouth;
- g. Unreasonably obtaining personal information about the victim.

Stalking is prohibited by state law. See [Minnesota Statutes Section 609.749](#) for applicable definitions of criminal Stalking.

8. Retaliation and Interference with Process

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

The institutions are committed to protecting the rights of the complainant, the respondent, and anyone else involved in the Complaint Resolution Process. Any conduct constituting Retaliation or Interference with Process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation to a Deputy Title IX Coordinator. For more information, see section IX Complaints of Related Misconduct in the Procedures.

II. CRIME VICTIM BILL OF RIGHTS

Victims of crimes in Minnesota have certain rights. The following is a summary of crime victims' rights under Minnesota law.

When a crime is reported to law enforcement, victims have the right to:

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

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

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

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

Information about victims' rights is also available from a Deputy Title IX Coordinator or from the Minnesota Department of Public Safety, Office of Justice Programs.

III. REPORTING SEXUAL MISCONDUCT

Individuals have several options for reporting allegations of Sexual Misconduct.

A. Reports of Sexual Misconduct to CSB and/or SJU

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

Any individual who believes that he or she has experienced or who knows of Sexual Misconduct in violation of this Policy is strongly encouraged to report the alleged violation to a Deputy Title IX Coordinator, CSB Security, or SJU Life Safety Services as soon as possible. (See contact information at the end of this policy.) CSB and SJU understand that it can be difficult for victims

of Sexual Misconduct to come forward. Victims of Sexual Misconduct are NOT to blame for what has occurred.

Reports may be submitted in person, via phone, online, mail, or via email. Reports may be made at any time, including non-business hours by phone, email, mail, or the institutions' website.

The purpose of reporting allegations of Sexual Misconduct is so that CSB and SJU can respond appropriately. This includes providing supportive measures to the complainant and taking other actions as appropriate to stop Sexual Misconduct, prevent its recurrence, and address its effects. Reports to the institutions should include as much information as possible, including the names of the complainant, the respondent, and any other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the institutions to respond appropriately. Reporting a Sexual Assault or Sexual Misconduct incident to CSB Security, SJU Life Safety Services, a Deputy Title IX Coordinator, or law enforcement authorities does not require the complainant to initiate or participate in the Complaint Resolution Process.

An individual who reports an incident of Sexual Assault to CSB or SJU, at his or her request, shall be provided access to the report as it was reported to the institution(s) consistent with state and federal laws governing privacy of education records. Such requests should be made to CSB or SJU Deputy Title IX Coordinator as appropriate.

Although most CSB and/or SJU employees cannot promise confidentiality, the institutions are committed to protecting the privacy of individuals involved in a report of Sexual Misconduct. Allegations of policy violations will be considered private and will only be shared with other CSB and/or SJU employees on a need to know basis, as permitted by law. The institutions will keep confidential the identity of any individual who has made a report or filed a formal complaint alleging a violation of this Policy, as well as any complainant, respondent, and witness, except as permitted by law or to carry out the Complaint Resolution Process pursuant to this Policy and the Procedures.

- 1. Employee Reporting Obligations.** All CSB and/or SJU employees who are not confidential resources who have observed others experiencing what they believe to be an incident of Sexual Misconduct or who have received a report of Sexual Misconduct are required to report this information to a Deputy Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to a Deputy Title IX Coordinator. Such report should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the complainant, respondent, and others involved in the incident, as well as relevant facts, including the date, time, and location of any incident.

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

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

In addition to the above reporting responsibility, institutional Supervisors (See Section I(C) Definitions) have the further responsibility to use their best efforts to assure that Sexual Misconduct does not occur.

All other community members are encouraged to report any incidents of potential Sexual Misconduct.

2. **Anonymous Reporting.** Anonymous reports can be made online at www.csbsju.edu/report-sexual-misconduct. The individual making the report is encouraged to provide as much detail as possible to allow the institution(s) to investigate and respond as appropriate. The institution(s) will likely be limited in their ability to effectively investigate and respond to an anonymous report, unless sufficient information is furnished to enable the institutions to conduct a meaningful investigation.
3. **Response of CSB and SJU to Reports.** Upon receiving a report of Sexual Misconduct, a Deputy Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process of filing a formal complaint. CSB/SJU will also provide a written explanation of the individual's rights and options and procedures and written notification about how to request changes to academic, living, transportation and work situations, and assistance in identifying options and requesting changes.
4. **Obligation to Act in Good Faith.** Reports and formal complaints of alleged Sexual Misconduct should only be made in good faith. Reports and formal complaints that are not made in good faith may be a form of retaliation under this Policy and/or may violation other CSB and/or SJU policies.

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

5. **Supportive/Interim Measures.** At any time after a report of a potential violation of this Policy has been received by CSB and SJU, a Deputy Title IX Coordinator will consider whether supportive/interim measures are reasonably necessary or appropriate to protect the parties and the campus community. Such supportive/interim measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the Complaint Resolution Process, if requested and reasonably available. Such measures will be designed to restore or preserve equal access to the institutions' education program or activity without

unreasonably burdening the other party, including measures designed to protect the safety of all parties or the institutions' educational environment, or to deter sexual harassment.

CSB and SJU are obligated to comply with a student's reasonable request for a living and/or academic situation change and for an employee's reasonable request for a change in work environment following an alleged incident of Sexual Misconduct. CSB and SJU will make appropriate supportive/interim measures available with or without a formal complaint, even when a complainant asks to keep a reported violation confidential, when a request is made to not investigate, and regardless of whether an individual chooses to report to Campus Security Authorities or local law enforcement.

Supportive/interim measures that may be available include, but are not limited to:

- a. connecting the individual with appropriate, fair, and respectful on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services;
- b. making changes to academic, living, transportation, and/or working arrangements;
- c. providing academic accommodations or providing assistance with academic issues;
- d. establishing a no contact directive prohibiting the parties involved from communicating with each other;
- e. assistance in filing a criminal complaint;
- f. providing information about restraining orders and other available protections and services and providing assistance with respect to obtaining and enforcing such orders; and
- g. for students who choose to transfer to another institution, at the student's request, providing information about resources for victims of Sexual Assault at the institution to which the student is transferring.

CSB and/or SJU also reserve the right to impose various conditions or restrictions on a complainant and/or respondent, including altering or suspending the rights of a student to be present on campus, restricting building and space privileges to attend classes or to participate in extracurricular activities or events.

If the respondent is a CSB and/or SJU student and the respondent will be barred from CSB and/or SJU property, prohibited from residing in a CSB or SJU residence, or otherwise removed from the institutions' education program or activity, in whole or in part, prior to the conclusion of the complaint resolution process, these protective measures will be put in place pursuant to the procedures discussed in the section III(A)(7) above.

Individuals may request such accommodations and protective measures by contacting any official listed in the contact information section IX. below. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need

expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, or have a work relationship and whether other measures have been taken to protect the complainant. A Deputy Title IX Coordinator will be responsible for determining what measures will be put in place.

CSB and SJU will strive to maintain as confidential any supportive/interim measures provided to an individual, to the extent that maintaining such confidentiality will not impair the ability of the institutions to provide the accommodations or protective measures. CSB and SJU will only disclose information necessary to provide the accommodations or protective measures in a timely manner. A Deputy Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. CSB and SJU will inform the individual before sharing personally identifying information that CSB and SJU believes is necessary to provide an accommodation or protective measure. CSB and SJU will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Additional information regarding resources for immediate and ongoing assistance available to victims of Sexual Misconduct, and what to do if you have been sexually assaulted, is available on the institutions' website:

<http://www.csbsju.edu/human-rights/sexual-misconduct/resources>

<http://www.csbsju.edu/human-rights/sexual-misconduct>

<http://www.csbsju.edu/chp/sexual-assault-survivors-guide>

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

- 6. Waiver of Drug, Alcohol and Open House Policy Violations.** CSB and SJU strongly encourage students to report instances of Sexual Misconduct. Therefore, any student who makes a good faith report about Sexual Misconduct and/or who participates in a Complaint Resolution Process will not be disciplined by CSB or SJU for any violation of the institutions' drug, alcohol, or open house policies in which they might have engaged in connection with the reported incident, except as outlined in this section. CSB or SJU may still require the individual to participate in educational or restorative action. In instances where any other individual is harmed by the conduct constituting a violation of the institutions' drug, alcohol, or open house policies, a waiver may not be extended and in such cases, the institutions may still pursue disciplinary action for the alleged violation of the institutions' drug, alcohol, or open house policies.
- 7. Emergency Removal.** The institutions reserve the right to remove a student respondent, in whole or in part, from the institutions' education program or activity on an emergency basis. Prior to removing the student respondent on an emergency basis, the institutions will

undertake an individualized safety and risk analysis and will determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. If a student respondent is removed on an emergency basis, the institutions will provide the student respondent with notice and an opportunity to challenge the decision immediately following the removal.

- 8. Administrative Leave.** The institutions reserve the right to place a non-student employee respondent on administrative leave during the pendency of the Complaint Resolution Process. See section VIII(B) Sanctions for Faculty and Staff for more information.

B. Reports of Criminal Sexual Misconduct to Law Enforcement

Some forms of Sexual Misconduct are crimes. Individuals who believe they have been subject to criminal Sexual Misconduct (or who believe that another crime has occurred) are strongly encouraged to notify CSB Security or SJU Life Safety Services and/or local law enforcement authorities immediately. Time is a critical factor for evidence collection and preservation. Victims should be aware of the importance of preserving evidence, which may be necessary to the proof of criminal Sexual Assault, Domestic Violence, Dating Violence, or Stalking, or to obtain an order of protection. Evidence collection does not require you to make a police report, but it does help preserve the evidence if you later decide to file a police report. To obtain a forensic medical exam, go to the St. Cloud Hospital, 1406 6th Ave. N., St. Cloud, MN 56303. For more information about preserving evidence, see the Sexual Assault Survivor's Guide, <https://www.csbsju.edu/chp/sexual-assault-survivors-guide>.

Individuals who would like to report Sexual Misconduct to law enforcement should contact:

St. Joseph Police Department

Emergency: 911

Non-emergency: 320-363-8250

75 Callaway Street East, St. Joseph, MN 56374

<http://www.cityofstjoseph.com/114/Police-Department>

Stearns County Sheriff

Emergency: 911

Non-emergency: 320-259-3700

807 Courthouse Square, Room S100, St. Cloud, MN 56303

<https://co.stearns.mn.us/Government/CountyDepartments/SheriffsOffice>

The Central Minnesota Sexual Assault Center (CMSAC) is a 24-hour crisis intervention agency providing direct services to people affected by any form of sexual violence. The Center's purpose is to offer non-judgmental, confidential, free, direct services to victims of Sexual Assault, their partners, families, coworkers, and friends. Advocates at the Center can also assist individuals with reports to law enforcement and in seeking medical care. The Central Minnesota Sexual Assault Center can be reached 24 hours at (320) 251-4357. An advocate from CMSAC can accompany individuals to make a report to law enforcement if the assault happened in CMSAC's four-county area of Stearns, Benton, Sherburne, or Wright. You always have the right to request an advocate be present with you during a report or interview with law enforcement.

CSB Security and SJU Life Safety Services are available to assist an individual who wants to make a report to law enforcement. In addition, CSB Security, SJU Life Safety Services, or local law enforcement can ensure that the individual has access to appropriate medical treatment and tests, crisis counseling, information, and other support services. The institutions do not report incidents of Sexual Misconduct to law enforcement without the consent of the complainant unless the incident involves a minor, the disclosure is necessary to protect the health or safety of the complainant or any other individual, or unless compelled to do so pursuant to a subpoena or court order.

Individuals may file a criminal complaint and a Sexual Misconduct formal complaint simultaneously. Reporting an incident of Sexual Misconduct to law enforcement is not necessary for the institutions to proceed with a Complaint Resolution Process under this Policy and Procedures.

To report to law enforcement:

1. Call 911 if there is immediate danger. Help will come to wherever you are.
2. Contact the local law enforcement agency. Ask to speak to an officer regarding a sexual assault. If you are not comfortable indicating the specific reason for the call, you can ask to speak with an officer regarding a possible crime. CSB Security, SJU Life Safety, and the Dean(s) of Students can also assist you in making contact with local law enforcement. In some cases, the law enforcement officer will meet you on campus or another location that is comfortable for you.
 - For incidents that occur on the CSB campus or in the St. Joseph community, contact St. Joseph Police at (320) 363-8250.
 - For incidents that occur on the SJU campus, contact the Stearns County Sheriff's Department at (320) 259-3700.
 - For incidents that occur in St. Cloud, contact the St. Cloud Police at (320) 251-1200.

Helpful information regarding reporting to law enforcement is available here:

<https://cmsac.org/reporting-a-sexual-assault/>
<https://cmsac.org/education-safety-reporting/>
<https://rainn.org/articles/reporting-law-enforcement>
<https://rainn.org/articles/communicating-law-enforcement>

Members of the community who are aware of criminal Sexual Misconduct involving a minor must make reports as required by the Joint Policy on Reporting Suspected Child Abuse:

<https://www.csbsju.edu/human-rights/child-protection/reporting-suspected-child-abuse>

C. Restraining Orders, Orders for Protection, Domestic Abuse No Contact Orders, and CSB/SJU No Contact Directives

Individuals who would like to avoid contact with another individual have several options available to them, including seeking a restraining order or an order for protection from a civil court, a criminal domestic abuse no contact order, or requesting a no contact directive from CSB and/or SJU.

- 1. Harassment restraining orders and orders for protection** are legal orders issued by a state court that forbid someone from harassing and/or making contact with another. A harassment restraining order is a civil court order issued against an alleged harasser, regardless of the relationship between the alleged harasser and the alleged victim, which orders the harasser to stop harassing the victim and/or to have no contact with the victim. An order for protection is a civil court order that protects one family or household member from domestic abuse by another family or household member. CSB and SJU do not issue such orders, however, petition forms to apply for harassment restraining orders or to seek an order for protection are available at the Court Administration Office located at the Stearns County District Courthouse, 725 Courthouse Square, St. Cloud, MN 56303 or online from the Minnesota Judicial Branch website, <http://www.mncourts.gov/GetForms.aspx?c=17#subcat39>. The telephone number for the Court Administrator is (320) 656-3620. More information about writing and filing a petition for an order for protection is available at <https://co.stearns.mn.us/LawPublicSafety/CrimeVictimServices/OrdersforProtection>. More information about writing and filing a petition for a restraining order is available at <https://co.stearns.mn.us/LawPublicSafety/CrimeVictimServices/HarassmentRestrainingOrders>. Domestic abuse no contact orders are legal orders issued by a court against a defendant in a criminal proceeding for domestic abuse, harassment or Stalking of a family or household member, violation of an order for protection, or violation of a prior no contact order. A domestic abuse no contact order may be issued before the end of the criminal case or following a conviction. An order of protection, harassment restraining order, and/or a domestic abuse no contact order can be enforced by contacting local law enforcement. CSB and SJU will fully cooperate with any such order issued by a criminal, civil, or tribal court. For more information and assistance, individuals should contact the CSB or SJU Deputy Title IX Coordinator.
- 2. No Contact Directives** are institution-issued directives that prohibit one or both parties from communication or contact with another. No Contact Directives generally are issued under this Policy in cases involving allegations of Sexual Misconduct and/or to address safety concerns; No Contact Directives are not issued based on dislike of or discomfort with another individual alone. CSB and SJU No Contact Directives are issued under the authority and procedures of the institution(s) and violations are addressed by a Deputy Title IX Coordinator and could result in further restrictions. No Contact Directives may be mutual or one-sided. Generally, No Contact Directives issued prior to the conclusion of the Complaint Resolution Process will be mutual and serve as notice to both parties that they must not have verbal, electronic, or written communication with one another, or communication through another on a party's behalf. To request a No Contact Directive from CSB or SJU, students should contact a CSB or SJU Deputy Title IX Coordinator. An institutional No Contact Directive may be enforced by contacting a CSB or SJU Deputy Title IX Coordinator, CSB Security, or SJU Life Safety Services.

CSB and SJU are responsible for honoring requests for information about available options for orders for protection, harassment restraining orders, and No Contact Directives and will comply with and enforce such orders.

D. Confidential Resources

An individual who is not prepared to make a report, but who still seeks information and support, is encouraged to contact a confidential resource. Confidential resources include professionals at CSB and SJU and in the community, including designated staff members in Counseling and Health Promotion and CSB Health Services, ordained clergy (when bound by the seal of sacramental confession), the Central MN Sexual Assault Center (320-251-4357), the Employee Assistance Program (Vital WorkLife at 800-383-1908), and care providers at the St. Cloud Hospital. Conversations with confidential resources are privileged, meaning that they cannot be disclosed to another without the reporter's consent, except in certain limited circumstances such as allegations involving the physical or sexual abuse of a person under 18 or an immediate and serious threat to any person or property. Confidential resources may submit non-identifying information about violations of the Policy to CSB Security and/or SJU Life Safety Services for purposes of anonymous statistical reporting under federal and state law. See Section VI Confidentiality or Request for No Action in the Procedures for additional information on confidentiality.

Confidential Resources include:

CSB/SJU Counseling and Health Promotion

www.csbsju.edu/chp

CSB Campus	SJU Campus
Lottie Hall, Lower level	Mary Hall #10
320-363-5605	320-363-3236

CSB Health Services

www.csbsju.edu/chp/csb-health-services

Lottie Hall, Lower Level
320-363-5605

Central MN Sexual Assault Center

www.cmsac.org

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

CSB/SJU Employee Assistance Program

<https://www.csbsju.edu/about/at-a-glance/family-friendly-resources/eap>

Vital WorkLife

800-383-1908

St. Cloud Hospital

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

1406 6th Ave N

Saint Cloud, MN 56303

320-251-2700

Ordained Clergy, when bound by the seal of sacramental confession

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

A person who speaks to a confidential resource should understand that if the person does not report the concern to the institutions, the institutions will be unable to provide certain supportive/interim measures, conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource may later decide to file a formal complaint with the institutions or report the incident to local law enforcement.

E. Clery Act Reporting and Timely Warning

CSB and SJU may also be required to share information with individuals or organizations outside the institutions under reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics. Clery Act reporting and disclosures such as the annual security report and daily crime log will not include names or other information that may personally identify either the complainant or the respondent. To ensure that a complainant's personally identifying information will not be included in publicly available recordkeeping, the Director of CSB Security or Director of SJU Life Safety describes the alleged incidents by removing the complainant's and respondent's names and any other identifiers that would enable the public to identify the complainant or respondent in the context of the incident report. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, CSB and/or SJU may be subject to a subpoena or court order requiring the institutions to disclose information to law enforcement and/or the parties to a lawsuit. In such cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the institutions' responsibilities under the Family Educational Rights and Privacy Act, as allowed by law.

In addition, the Clery Act requires the institutions to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any information that identifies the complainant.

Minnesota law, Minn. Stat. 135A.15, requires institutions to collect statistics, without inclusion of any personally-identifying information, regarding the number of reports of Sexual Assault received by an institution and the number of types of resolutions. Data collected for purposes of submitting annual reports containing those statistics to the Minnesota Office of Higher Education under Minn. Stat. 135A.15 shall only be disclosed to the complainant, persons whose work assignments reasonably require access, and, at the complainant's request, police conducting a

criminal investigation. Nothing in this paragraph is intended to conflict with or limits the authority of the institutions to comply with other applicable state or federal laws.

IV. EQUITABLE TREATMENT OF THE PARTIES

A. Rights of Parties Involved in Sexual Misconduct Incident

CSB and SJU recognize that community support for both the complainant and the respondent is essential to an equitable response to a Sexual Misconduct report. Therefore, CSB and SJU strive to provide parties involved in a Sexual Misconduct incident the following:

- a. Privacy and treatment of sensitive information in a confidential manner, to the extent possible based on applicable law and institution policy;
- b. Treatment with dignity, respect, and sensitivity;
- c. Meaningful support from CSB and SJU departments and individuals, as appropriate (i.e., counseling, campus ministry, residential life, dean of students, department chairs, etc.);
- d. Equitable procedures that provide both parties with a prompt and equitable Complaint Resolution Process conducted by officials who receive annual training on conduct prohibited by the Policy;
- e. An explanation of the Complaint Resolution Process for Sexual Misconduct formal complaints;
- f. Written information about available support and resources and an opportunity to discuss those resources;
- g. Notice of the allegations and defenses and an opportunity to respond;
- h. The ability to participate or not participate in a Complaint Resolution Process regarding a formal complaint of Sexual Misconduct and an explanation of potential consequences if a party chooses not to participate;
- i. An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal Complaint Resolution Process;
- j. Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- k. Timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present;
- l. The opportunity to speak on his or her own behalf as part of the Complaint Resolution Process;

- m. A Complaint Resolution Process conducted by officials, selected in accordance with Procedures, who do not have a conflict of interest or bias for or against complainants or respondents generally or for or against a complainant or respondent in the Complaint Resolution Process;
- n. The right to be free from retaliation, as defined in this Policy;
- o. Written notification about the outcome of any Complaint Resolution Process, including the outcome of any appeal;
- p. The opportunity to appeal the outcome of a Complaint Resolution Process under certain conditions, as discussed in the Procedures;
- q. The complainant and respondent have the right to the assistance of campus personnel (during and after the complaint process), in cooperation with the appropriate law enforcement authorities, in shielding the complainant or respondent, at their request, from unwanted contact with the complainant or respondent, including but not limited to an institution issued no-contact directive, transfer to alternative classes or to alternative institution-owned housing (if alternative classes or housing are available and feasible), change in work location or schedule, or reassignment (if available and feasible); and to receive assistance with academic issues;
- r. The complainant has the right to decide when to repeat a description of an incident of Sexual Misconduct, and the respondent has the right to decide when to repeat a description of a defense to such allegations;
- s. The complainant and respondent have the right to the complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Assault incident;
- t. The complainant and respondent have the right to the assistance of campus authorities in preserving materials relevant to a campus complaint proceeding;
- u. The complainant and the respondent have the right to be provided access to their description of the incident, as it was reported to the institutions, including if the individual transfers to another post-secondary institution, subject to compliance with FERPA, the Clery Act, Title IX, and other federal or state law. Requests for an individual's description of the incident should be made to a Deputy Title IX Coordinator.

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

In cases involving allegations of Title IX Sexual Harassment the following additional rights will be afforded to the complainant and the respondent:

- a. The parties have the right to be accompanied to any Complaint Resolution Process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The institutions will not limit the choice or presence of the advisor for either the complainant or respondent in any meeting related to the Complaint

Resolution Process. See the Procedures for additional information and requirements regarding the conduct of advisors.

- b. The parties will be provided an equal opportunity to inspect and review a copy of any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as set forth in the Procedures.
- c. The parties will be provided a copy of the investigation report for their review and written response, as set forth in the Procedures.
- d. The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, as set forth in the Procedures.

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

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

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

In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, the following additional rights will be afforded to the complainant and the respondent:

- a. The parties have the right to be accompanied to any Complaint Resolution Process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The institutions will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the Complaint Resolution Process. See the Procedures for additional information and requirements regarding the conduct of advisors.
- b. The complainant and respondent have the right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in the Procedures.

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

- a. The right to be informed by the institutions of options to notify proper law enforcement authorities, including on-campus and local police, of a Sexual Assault incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
- b. Not to be treated in a manner that suggests she or he is at fault for the Sexual Assault or violence or that she or he should have acted in a different manner to avoid becoming a victim;
- c. Not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct;
- d. The right to be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing Sexual Assault advocacy, Dating Violence, Domestic Violence, or Stalking services;
- e. The right to the prompt assistance of campus authorities, at the request of the complainant, in notifying the appropriate law enforcement officials and CSB and/or SJU officials of a Sexual Assault incident;
- f. The right to the complete and prompt assistance of campus authorities, at the complainant's request, in filing criminal charges with local law enforcement officials in Sexual Assault cases;

- g. The right to assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety;
- h. For students who choose to transfer to another post-secondary institution, the right to receive information, upon request, about resources for victims of Sexual Assault at the institution to which the victim is transferring.

V. COMPLAINT PROCEDURE

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

VI. SANCTIONS AND REMEDIES

Upon a finding that a violation of the Policy has occurred, disciplinary action may be imposed pursuant to the procedures set forth in the Sexual Misconduct Complaint Procedures (www.csbsju.edu/sexualmisconductprocedure). Each of the following sanctions and other sanctions may be imposed alone or in combination for a respondent found responsible for Sexual Misconduct.

A. Sanctions for Students

The purpose of sanctions will be 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 recommending or determining sanctions, the Title IX Hearing Panel or Deputy Title IX Coordinator 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, as well as other sanctions:

- a. **Expulsion:** the permanent separation from the College of Saint Benedict or Saint John's University. The college/university may notify parents if their student is expelled to the extent allowable under state and federal law.
- b. **College/University Suspension:** a sanction imposed for a specific period of one semester to five years based on the severity of a violation, the accumulation of violations, or failure to complete or comply with other sanctions previously administered. Students placed on College/University Suspension are not permitted to engage in any of the privileges, courses, organizations, events, or activities associated with being a student at CSB or SJU. College/University Suspension includes the immediate disenrollment from all courses not

already completed. Students sanctioned with College/University Suspension may not be present on the premises of the College of Saint Benedict or Saint John's University during the period of the suspension without the express permission of the Dean of Students, and may be subject to other sanctions/conditions as well. Following the period of College/University Suspension, a student is eligible to apply for readmission. Readmission requirements for suspended students may include behavioral contracts, required attendance at educational programs, demonstrated rehabilitation, conditions upon the individual's presence on campus or at institution events, required assessment and/or recommended counseling. Suspension is also an interim measure that may be taken while an investigation is being conducted, as discussed in section III(A)(7) Emergency Removal above. To the extent allowable under state and federal law, the college/university may notify parents if their student is placed on College/University Suspension.

- c. **Disciplinary Suspension:** a sanction imposed for a specific period of one semester to five years based on the severity of a violation, the accumulation of violations, failure to complete or comply with other sanctions previously administered, or as an interim measure while an investigation is being conducted. Students placed on Disciplinary Suspension may be permitted on campus only for the purpose of completing academic requirements such as attending class, labs, or required academic experiences such as speakers or performances, and to take care of normal administrative functions related to being a student. Students placed on Disciplinary Suspension may be restricted from campus residence halls and apartments, dining areas, fitness centers, and other campus facilities or events. While on Disciplinary Suspension, a student may not participate in any co-curricular activities or events or represent the college/university in any way. Additional sanctions/conditions may also be imposed with Disciplinary Suspension. Further violations occurring while on Disciplinary Suspension will initiate a review of the student's status at CSB or SJU, and could result in College/University Suspension or Expulsion. To the extent allowable under state and federal law, the college/university may notify parents if their student is placed on Disciplinary Suspension.
- d. **Disciplinary Probation:** A probationary status imposed as a sanction on a student for a specific period of time from one semester to five years with specific conditions. Disciplinary Probation is administered for serious violations, the continued accumulation of violations, or for failure to complete or comply with other sanctions previously administered. Students on Disciplinary Probation are not in good standing with the college/university. Students on Disciplinary Probation may be prohibited from participating in study abroad and/or from representing the college/university in activities such as athletic teams, student organizations, performances, recognition, campus delegations, etc. During the period of probation, any further violations will initiate a review of the student's status at CSB or SJU, and could result in Disciplinary Suspension, College/University Suspension, or Expulsion. To the extent possible, the college/university may notify parents if their student is placed on Disciplinary Probation.
- e. **Other sanctions may include, but are not limited to:** no contact or limited contact directive, required assessment and/or counseling, required attendance at educational programs, restitution, community service hours, restriction of privileges, conditions upon

presence on campus or at CSB and/or SJU events, revocation of admission to CSB or SJU, restrictions on re-enrollment at CSB or SJU, withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions, temporary or permanent revocation of degree, administrative referrals, behavioral contracts, reflection paper, and/or written warning.

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

B. Sanctions for Faculty and Staff

The purpose of sanctions will be 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 sanctions, the Human Resources Director and appropriate administrator (or 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 employment/disciplinary record. Sanctions may include a variety of institutional responses or requirements and can include any of the following, as well as other sanctions: verbal warning, written warning, written reprimand, required training, no-contact directives, suspension, suspension of promotion and salary increments, suspension or withdrawal of faculty privileges, reassignment, probation, demotion, and dismissal.

For a faculty member, sanctions will be implemented in accord with this Policy and Procedure. This Policy supersedes the Faculty Handbook as to allegations of Sexual Misconduct. Before taking action, the President will consult with the Provost as to the level of sanction to be imposed.

For a staff member, sanctions will be implemented in accord with the Disciplinary Action section of the Administrative and Support Staff Handbook. Before taking action, the employee's supervisor will consult with the Human Resources department and the appropriate Vice President as to the level of sanction to be imposed.

Suspension as a sanction for faculty and staff: Suspension is a sanction that may be used for faculty or staff. Suspension may last for a specific period of one day up to one year based on the severity of a violation, the accumulation of violations, or failure to complete or comply with other sanctions previously administered. Employees sanctioned with suspension may not be present on the premises of the College of Saint Benedict or Saint John's University during the period of the suspension without the express permission of the Human Resources Director or Provost, and may be subject to other sanctions/conditions as well. Following the period of suspension, an employee

may be eligible for reinstatement contingent upon meeting reinstatement requirements. Reinstatement requirements for suspended employees may include one or more of the following: behavioral contracts, required attendance at educational programs, demonstrated rehabilitation, conditions upon the individual's presence on campus or at institution events, and/or required assessment or counseling. It 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. 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 a suspension as an interim measure, 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.

For a faculty member, suspension as a sanction will be implemented in accord with this Policy and Procedures. Again, the President will consult with the Provost as to the length, and the other conditions of the suspension.

- b. For a staff member, suspension as an interim measure is termed an Involuntary Leave of Absence and 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.

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.

C. Remedies

Remedies for the complainant are designed to restore or preserve equal access to the institutions' education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. Remedies, accommodations, and protective measures for the complainant may include implementing or extending all or some of the following actions, without limitation:

- A mutual or one-sided no-contact order;
- Prohibiting an individual involved from being on CSB and/or SJU property;

- Prohibiting an individual involved from participating in CSB and/or SJU-sponsored events;
- Changing an individual's on-campus residency, working location, dining, or transportation arrangements, or prohibiting an individual from residing in a CSB and/or SJU residence;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Making information about protective orders and criminal no-contact orders available to a complainant; and/or
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

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

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

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

VII. RECORDKEEPING

The Lead Title IX Coordinators, in coordination with the Director of Human Resources and the Deputy Title IX Coordinators as appropriate, are responsible for maintaining records relating to Sexual Misconduct reports and formal complaints. The Lead Title IX Coordinators will maintain records of all incidents reported and all formal complaints made under this Policy, as well as their outcomes in order to track patterns and systemic concerns.

When a formal complaint is pending, each official having a role in the Complaint Resolution Process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the formal complaint will be provided to the Lead Title IX

Coordinator, who will maintain such records in accordance with the institutions' record retention requirements and applicable law. Records related to Sexual Misconduct reports and formal complaints will be treated as confidential and shared only on a need-to-know basis, as required by law, or to conduct a Complaint Resolution Process.

VIII. EXTERNAL COMPLAINTS

Nothing in the Policy or the 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.

Questions or concerns may also be directed to the U.S. Department of Education Office for Civil Rights:

Web Address: <http://www2.ed.gov/about/offices/list/ocr/index.html>
Mailing Address: US Department of Education Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012
TDD: 800-877-8339
Email: OCR@ed.gov

IX. CONTACT INFORMATION

College of Saint Benedict	
Chief of Staff Lead Title IX Coordinator	Kathryn Enke kenke@csbsju.edu , 320-363-5070
Vice President for Student Development Deputy Title IX Coordinator	Mary Geller mgeller@csbsju.edu , 320-363-5601
Dean of Students Deputy Title IX Coordinator	Jody Terhaar jterhaar@csbsju.edu , 320-363-5270
Senior Human Resources Partner Deputy Title IX Coordinator	Chantel Braegelmann Cbraegem001@csbsju.edu , 320-363-5071
Security Director	Darren Swanson dswanson@csbsju.edu , 320-363-5000
Saint John's University (including School of Theology and Seminary)	
Chief of Staff Lead Title IX Coordinator	Patti Epsky pepsky@csbsju.edu , 320-363-2246
Interim Vice President for Student Development Deputy Title IX Coordinator	Michael Connolly mconnolly@csbsju.edu , 320-363-3171
Senior Human Resources Partner Deputy Title IX Coordinator	Chantel Braegelmann cbraegelm001@csbsju.edu , 320-363-5071
Life Safety Services Director	Shawn Vierzba svierzba@csbsju.edu , 320-363-2144
Dean, School of Theology and Seminary Deputy Title IX Coordinator	Dale Launderville, OSB dlaundervill@csbsju.edu , 320-363-3389

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