

# STANDARDS OF CONDUCT - STUDENT BEHAVIORS

## College Policy Statement

It is the policy of St. Francis College to establish the Standards of Conduct Expected of Students, campus environment that is conducive to learning, protects the College's educational purposes, maintains reasonable order on campus, and protects the rights of all members of the College community. The College's Standards of Conduct Expected of Students and the accompanying student disciplinary processes are intended to foster moral and ethical development, personal accountability, and civility toward others. Our student affairs and resident life creed, Living the Franciscan Spirit, sets forth our expectations for all students of St. Francis College.

## College Practice

The Standards of Conduct Expected of Students, below, outlines the practices to be utilized in administering the student disciplinary system at College.

### Section I: Purpose

The Standards of Conduct Expected of Students embraces several core philosophies: preservation of the rights of free speech and peaceable assembly; respect for freedom of inquiry and constructive criticism; a conviction that honesty and integrity are key values to the College community; and the belief that all members of the College should be part of a Franciscan campus environment that respects differences of culture, gender, religion, race, age, lifestyle, or ability. These expectations are communicated in our creed, Living the Franciscan Spirit.

### Section II: Responsibility for Implementation

The President, as Chief Executive Officer of the College, has overall responsibility for implementation of the Standards of Conduct Expected of Students and the student disciplinary process. The President has delegated its overall management to the Dean of Students. The Office of the Dean of Students is directly responsible for the daily administration of the College's student judicial system.

All authority concerning discipline resides with the Dean of Students, or a designee appointed at the Dean of Student's discretion, who will take whatever action the Dean of Students deems necessary after having investigated all the facts in any case brought to his or her attention.

### Section III: Student Judicial Process

All students have the right to due process, which shall include: a specification of the misconduct which is alleged; an opportunity to confront the student's accuser; an opportunity to present the student's version of the facts; an opportunity to call witnesses on the student's behalf; and an expectation that the truth of the allegation against the student will be decided solely on the basis of the facts presented.

Upon a finding that a student has violated the Standards of Conduct Expected of Students, the Dean of Students, or a designee appointed at the Dean of Student's discretion, is empowered to render, among other sanctions, the following disciplinary penalties: oral reprimand; written reprimand; deprivation of services or loss of specific privileges; disciplinary probation; suspension expulsion; community service; or reimbursement for damage to, or loss of, College property.

A student may appeal a decision made by the Dean of Students, or a designee appointed at the discretion of the Dean of Students, by submitting a written request to the Chairman of the Faculty Committee on Student Behavior. A student may appeal the decision of the Dean of Students on the following grounds: (i) there is new evidence that was not reasonably available at the time the decision of the Dean of Students was rendered, or (ii) the sanctions are not consistent with past practices or the severity of the misconduct. Contact information for the Faculty Committee on Student Behavior can be found at the Dean of Students Office (Room 2000) and the Office of Academic Affairs (Room 8312). The request for an appeal must be made within five class days following receipt of the original decision of the Dean of Students. The Faculty Committee on Student Behavior's decision regarding the appeal shall be considered final.

### Right of Summary Suspension

Subject to prompt review, the President of the College, or a designee appointed by the President, may summarily suspend a student from the College for a period of up to five class days if, in the President's judgment, such action is necessary for the protection of the health and safety of any member of the College community or the welfare of the College as a whole. Decisions regarding summary suspensions must be reviewed by the Faculty Committee on Student Behavior within five class days. Persons under summary suspension shall not be allowed on the College's property, including student occupied housing, or any other property on which a College activity takes place.

### Section IV: Jurisdiction

The College maintains jurisdiction over misconduct that occurs on the College's property, including student occupied housing, or any other property on which a College activity takes place. The College may also address off-campus behavior if the College determines that the behavior or the continued presence of the student impairs, obstructs, interferes with, or adversely affects the mission, processes, or functions of the College.

A student may be subject to discipline if the student commits a criminal offense off campus and the offense in question also constitutes a violation of the Standards of Conduct Expected of Students. The College may pursue disciplinary action against a student irrespective of any pending criminal charges, criminal prosecution, or any other potential action taken by law enforcement agencies. The College may impose sanctions when the criminal proceeding is dismissed or the charges have been reduced.

### Section V: Standards of Conduct Expected of Students

The following behavior is subject to disciplinary action as a violation of the Standards of Conduct Expected of Students. An individual, a group of individuals, or a student organization may be charged with violations of the Standards of Conduct Expected of Students. In cases where a violation is committed by an individual member of a student organization, the entire organization may be held responsible, when other members of the organization participate in the activity by encouraging, witnessing, or condoning the act in any manner.

### Standards of Conduct Expected of Students

1. St. Francis College has a duty and the disciplinary powers to protect its educational purpose. The College exercises these powers by setting standards of academic performance and conduct for its students and enforcing such principles where necessary. In the event these powers need be used, proper procedural safeguards will be

observed to protect the student from the unfair imposition of serious penalties.

2. Students who violate the law in a manner that also violates College rules and regulations, may be subject to College penalties in addition to any legal penalties which may be assessed by civil or criminal authorities for the same offense(s).
3. The conduct listed below constitutes grounds for disciplinary action.

In addition to the prohibited conduct listed below, the College may, from time to time, promulgate regulations or policies that pertain to specific situations. Prohibited conduct includes, but is not limited to, the following:

1. Plagiarism, cheating, and other academic irregularities.
2. The submission of a falsified, forged, or modified document or record to a campus agency or official; this includes, but is not limited to, identification cards, absence excuses, transcripts, applications, other academic documents, service applications, and agreements.
3. Unauthorized use of the College name by any person, persons, or organization; this includes, but is not limited to, identification cards, absence excuses, transcripts, applications, other academic documents, service applications, and agreements.
4. Failure to meet a financial obligation to the College; this includes, but is not limited to, issuing bad or fraudulent checks in exchange for cash by the College or any check cashing facility on the campus, refusal to pay delinquent accounts and/or use of bad or fraudulent checks or money orders in payment of College tuition, library fines, or other fees.
5. Possession or distribution of alcoholic beverages.
6. The manufacture, possession, sale, distribution, or use of illegal drugs.
7. Behavior which jeopardizes the safety or well-being of other persons; this includes, but is not limited to, harassment or physical or verbal abuse of, or interference with, firemen, policemen, or other persons engaged in the performance of their official duties; harassment, verbal abuse, or threatened or actual physical abuse of persons on College property; forcible detention of any person on College property; unauthorized use or possession of firearms or other dangerous weapons; hazing or loud and disorderly conduct; and willful indecent exposure.
8. A violation(s) of fire, health, safety, security, and traffic regulations; this includes, but is not limited to, failure to comply with evacuation procedures; the mishandling of, or tampering with, a fire-prevention apparatus; unauthorized or improper use of electrical equipment; the use or possession of fireworks, open flame devices, or combustible materials which may endanger persons or property; and any other action which endangers or impairs the health, safety, or security of a member(s) of the College community or other person(s) on College property.
9. Destruction, theft, attempted theft, impairment, abuse, misuse, or unauthorized use or possession of private property, College property, or College facilities. This regulation is intended to safeguard the personal property rights of members of the College community as well as the general public. In addition, it is intended to protect the facilities and equipment provided for the benefit of the College community, which includes, but is not limited to, telephones, vending machines, lockers, elevators, laundry equipment, keys, and locks.
10. Unauthorized entry into or presence in any College building or facility. This regulation applies to all classrooms, and administrative, recreational, and service facilities. The scheduled hours of authorized

public access to any building or facility, or permission for special use of any building or facility, may be obtained from the academic or administrative officer normally having control over such building or facility.

11. Actions which obstruct, disrupt, or interfere with any College activity or with a properly scheduled non-College activity occurring on College property.— Such actions include, but are not limited to, disorderly or disruptive actions within or near any classroom, laboratory, research facility, administrative office, or other College space, as well as during athletic events and entertainment programs held on the College premises. This also includes the possession or use of bombs or other explosive devices of any character, and the threat, oral or written, that any bomb or explosive device has been, or may be, implanted in or upon any property or building of the College.
12. A violation(s) of state or federal law in a manner that hampers the College's pursuit of its educational purpose
13. Failure to appear at a conduct review board or appeal board hearing following proper notification to appear, either as a party or as a witness.
14. Knowingly giving false information or testimony during the investigation or hearing of a disciplinary matter.
15. Any action or situation which recklessly or intentionally endangers the mental or physical health of a member of the College community or which involves the forced consumption of liquor or drugs for the purpose of initiation into, or affiliation with, any organization sponsored by, or in any way affiliated with, the College.
16. Behavior which intentionally disrupts the academic process, including failure to comply with the directives of a faculty member in the faculty member's class.
17. Failure to show one's College Identification Card when requested by a security officer, faculty member, or administrator.
18. Physical or verbal attacks against an individual whereby the victim is intentionally selected in whole, or in substantial part, because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation of the victim.

Disruptive Conduct Includes, but it is not Limited to:

1. Any action that impairs, interferes with, or obstructs the normal operations of the College and/or interferes with the rights of any other member(s) of the College community, including a visitor(s) to the College. This includes intentional occupation of, or blocking the entry or exit to, College facilities, including, but not limited to, buildings, classrooms, offices, hallways, entryways, conference rooms, and campus grounds.
2. Any action that impairs, interferes with, or obstructs the orderly conduct, processes, and functions of any classroom or other instructional setting. This includes interfering with a faculty member's or instructor's ability to carry out the normal academic or educational functions of the faculty member's or instructor's class.
3. Participating in or leading in the disruption of, or inciting others to disrupt scheduled and/or normal campus activities, events, and programs.
4. Intentional obstruction of the free flow of pedestrian or vehicular traffic on College premises or at a College-sponsored or supervised functions.
5. Disturbance of any member of the College community, including a visitor to the College.

6. Solicitation on campus without prior approval from appropriate College officials. This includes, but is not limited to, the disbursement of any forms of promotional or informational material, requests for donations, or the selling or vending of any merchandise or services on College property, including student occupied housing, or any other property on which a College activity takes place.

### Discrimination by Student Organizations

Discrimination by a student organization occurs when the organization selects its membership upon the basis of a prospective member's race, religion, color, national origin, gender, age, sexual orientation or disability unless any given student organization's membership restriction is shown to be specifically allowed by law.

### Hazing

1. Any action or activity committed by either active members, associate members, or pledges of an organization which inflicts or intends to cause physical or mental harm or anxieties that may demean, degrade, or disgrace any person, regardless of location, intent, or consent of participants. Hazing includes, but is not limited to:
  - a. Interference with a student's academic or work performance.
  - b. Forced consumption of any food, alcohol, drugs, or any other substance.
  - c. Forced physical activity.
  - d. Deprivation of food or sleep.
  - e. Physical acts such as branding or paddling.
  - f. Requiring participation in any activity that violates College policies or any local, state, or federal law.
  - g. Any forced activity that adversely affects a person's self-esteem or academic welfare.
2. Any action or situation which intentionally or unintentionally endangers a student who is attempting admission into or affiliation with any student organization.
3. In cases where the activity is performed by an individual member of a student organization, the entire organization may be held responsible, when other members of the organization participate in said activity by encouraging, witnessing, or condoning the act in any manner.
4. Any individual and/or organization found guilty of hazing will be subject to a minimum penalty of suspension.

### Sexual Misconduct

St. Francis College is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct. Sexual misconduct includes a broad range of behaviors that will not be tolerated in the College's education programs or activities. The College strictly prohibits sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking. Any allegations of sexual misconduct will be investigated in accordance with the College's Policy and Procedures for Reports of Student Sexual Misconduct. For additional information about such policy, or to report incident of sexual misconduct, please contact the College's Title IX Coordinator:

Linda Werbel Dashefsky  
 Vice President for Government and Community Relations & Title IX  
 Coordinator  
 180 Remsen Street  
 Brooklyn, NY 11201  
 lwerbel@sfc.edu  
 718-489-5370

## Section VI: Sanctions for Misconduct

College-imposed sanctions are meant to be corrective and educational as well as punitive. The disciplinary process is intended to clarify the limits of acceptable behavior and give students who violate the rules an opportunity to more fully understand the rules and incorporate the experience into the student's overall development. Assigned discipline may include a combination of sanctions for a particular incident. The sanctions which may be incurred include, but are not limited to, the following:

1. Sanctions for Students and/or Student Groups
  - a. *Verbal Warning*: Notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
  - b. *Formal Reprimand*: An official written statement informing the student of the College's disapproval of the student's actions and a warning that any future violation(s) will be dealt with more severely.
  - c. *Disciplinary Probation*: An official notice that the student's conduct is in violation of the Standards of Conduct Expected of Students, but does not warrant suspension or permanent dismissal. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if, during the probationary period, the student commits another violation of the Standards of Conduct Expected of Students. During the probationary period, a student will be considered "not in good standing" and may be excluded from some programs and curricular or extracurricular activities, including, but not limited to, running for and/or holding office in any student organization.
  - d. *Suspension*: An involuntary separation of the student from the College for a definite period of time and/or until the student meets certain conditions for readmission. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission. Suspension requires administrative review and approval by the President or a designee appointed by the President.
  - e. *Deferred Suspension*: The sanction of suspension may be placed in deferred status provided that the student completes other assigned sanctions by the specified deadline(s). Failure to complete all sanctions and provide proof of completion by the deadline(s) will result in the automatic enactment of the suspension without charges or a hearing. If a student is found responsible for another violation of the Standards of Conduct Expected of Students during the period of deferred suspension, the student may be permanently dismissed from the College.
  - f. *Permanent Dismissal*: An involuntary permanent separation from the College. Permanent dismissal requires administrative review and approval by the President or a designee appointed by the President.
  - g. *Delay and/or Denial of Degree Award*: During the period disciplinary charges are pending against a student the College may deny and/or delay issuance of a degree. Further, the College may refuse to issue a degree to a student who is serving a suspension or has been permanently dismissed from the College.
  - h. *Revocation of Degree*: An awarded degree may be revoked for a violation(s) of the Standards of Conduct Expected of Students that occurred prior to the award of the degree, but is discovered after the degree has been awarded, and where the violation is sufficient to justify the suspension or permanent dismissal of the student. Revocation of a degree requires administrative review

and approval by the President or a designee appointed by the President.

- i. *Other Secondary Sanctions* may be imposed instead of, or in addition to, those specified above. Secondary sanctions include, but are not limited to:
  - i. *Restitution* (compensation for loss, damage or injury)
  - ii. *Fines* for alcohol or drug violations (First Offense = \$100; Second Offense = \$200; Third Offense = \$300)
  - iii. *Community Service*
  - iv. *Educational activities* such as a reflective writing assignment or attendance at an event directly related to the violation committed (e.g., alcohol/drug workshop; diversity awareness training; ethics workshop)
  - v. *Restrictions* (temporary or permanent loss of privileges, including the use of certain College facilities or services.)

### Enhanced Sanctions

Any violation of the Standards of Conduct Expected of Students against any individual, group, or student organization which is shown to be motivated by the individual's, group's, or student organization's racial identity, religion, or religious beliefs, disability, national origin, gender, sexual orientation, or other personal characteristic will subject a student and/or student organization to a more severe sanction than would ordinarily accompany that violation.

## Section VII: Review of the Student Judicial System

1. The Office of the Dean of Students will convene a committee for a Student Judicial System Review with the Faculty Committee on Student Behavior at least every four years ("Review Committee"). The Review Committee will be responsible for carrying out the following tasks:
  - a. Reviewing the goals and effectiveness of the College's disciplinary system;
  - b. Reviewing the effectiveness of the types of sanctions issued;
  - c. Recommending changes to the Standards of Conduct Expected of Students;
  - d. Recommending changes in the judicial processes and procedures established and followed by the Office of the Dean of Students; and
  - e. Recommending training sessions and publications on topics related to student conduct and the campus judicial processes.
2. The Review Committee will be chaired by the Dean of Students and will include one representative from the following areas: Residence Life, Health Services, Counseling Services, Student Government, and Student Activities.
3. Amendments to the Standards of Conduct Expected of Students that receive the support of the Review Committee will be reviewed with the Vice President & Provost of Academic Affairs.

## Section VIII: Scope of Policy Coverage

This policy applies to all students, student groups, and student organizations as defined in Section V of the Standards of Conduct Expected for Students.

## Section IX: Campus Safety

The Advisory Committee on Campus Safety: In accordance with New York State Education Law Article 129-A and section 1092(f) of Title 20 of the United States Code, the Advisory Committee on Campus Safety will provide, upon request, all campus crime statistics as reported to the United States Department of Education, [www.ope.ed.gov/security/](http://www.ope.ed.gov/security/) ([http://](http://www.ope.ed.gov/security/)

[www.ope.ed.gov/security/](http://www.ope.ed.gov/security/)). To request this information, please contact the Office of Campus Safety, Community Events and Partnerships at (718) 489-5372.

The President has appointed the Advisory Committee on Campus Safety in accordance with New York State Education Law 129-A section 6431. The Committee is tasked with reviewing current campus security policies and procedures and making recommendations for their improvement. Such review includes the College's policies and procedures for:

1. Educating the campus community, including security personnel and those persons who advise or supervise students, about sexual assault, domestic violence and stalking offenses;
2. Educating the campus community about personal safety and crime prevention;
3. Reporting sexual assaults, domestic violence and stalking incidents and assisting victims during investigations;
4. Referring complaints to appropriate authorities;
5. Counseling victims; and
6. Responding to inquiries from concerned persons.

The Committee reports in writing to the College President at least once each academic year. This report is available upon request.

## Policy and Procedures for Reports of Student Sexual Misconduct

(amended April 2018)

### Part 1: Resources and Definitions

#### I. Introduction

##### 1. Notice of Nondiscrimination and Statement on Sexual Misconduct

The health, safety, and well-being of all members of the St. Francis College ("College") community are the College's primary concerns. In furtherance of the Franciscan Spirit, and in accordance with Title IX of the Education Amendments of 1972 ("Title IX"), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), as amended by the Violence Against Women Act/ Campus Sexual Violence Act ("Campus SaVE Act"), and Article 129-B of the New York State Education Law ("Article 129-B"), the College is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct. In accordance with Title IX, the College does not discriminate on the basis of sex in its education programs and activities. Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence.

Sexual misconduct includes a broad range of behaviors that will not be tolerated in the College's education programs or activities. Sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking are all forms of sexual misconduct that are strictly prohibited by the College. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. The College does not tolerate any form of sexual misconduct.

Questions regarding Title IX, the Campus SaVE Act and/or Article 129-B may be referred to the College's Title IX Coordinator or to the

U.S. Department of Education's Office for Civil Rights  
400 Maryland Avenue, SW



Washington, DC 20202-1100

or call the OCR main numbers (800) 421- 3481 FREE, TDD or (800) 877-8339 FRE or email the OCR's New York office [ocr.newyork@ed.gov](mailto:ocr.newyork@ed.gov) or by telephone at 646-428-3800.

## 2. The Title IX Coordinator

The College's designated Title IX Coordinator is:

Linda Werbel Dashefsky  
Vice President of Government and Community Relations and Title IX  
Coordinator  
180 Remsen Street  
Room 7304  
Brooklyn, NY 11201  
Phone: (718) 489-5370 or, if on campus, extension 5370  
Email: [lwerbel@sfc.edu](mailto:lwerbel@sfc.edu) ([lwerbel@sfc.edu](mailto:lwerbel@sfc.edu))

The Title IX Coordinator's responsibilities include, but are not limited to, overseeing the College's response to complaints of sexual misconduct, coordinating investigations into allegations of sexual misconduct, and identifying and addressing any patterns or systemic problems of sexual misconduct that arise during the investigation of a complaint of sexual misconduct.

## 3. Scope of Policy

This Policy and Procedures for Reports of Student Sexual Misconduct (the "Policy") governs sexual misconduct involving College students, and applies to such students regardless of sex, race, religion, national origin, disability, part-time/full-time status, marital status, creed, genetic disposition, or carrier status, sexual orientation, gender identity, or other protected status. Complaints of discrimination or harassment on the basis of sex/gender that do not involve sexual misconduct are governed by the College's Non-Discrimination and Anti-Harassment Policy contained in the College's Student Handbook (also referred to as "The Cord").

If the respondent is a College employee or other person doing business with the College, the investigation and disciplinary processes described in the College's Policy and Procedures for Reports of Employee Sexual Misconduct will apply. For information about this policy, please contact the Title IX Coordinator.

This Policy applies to any allegation of sexual misconduct that takes place on College property, including student-occupied housing, or any other property on which a College program or activity takes place. This Policy also covers conduct that takes place off of College property, or has a reasonable connection to the College.

This Policy:

- sets forth the Students' Bill of Rights;
- describes programs implemented by the College to educate and increase awareness among the College community regarding sexual misconduct;
- sets forth available resources and reporting options for victims of sexual misconduct;
- defines prohibited conduct;
- describes the College's formal and informal procedures for responding to complaints of sexual misconduct, including the investigation, hearing, sanctioning and appeal process.

## II. Student's Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the College;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident with as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the College, any student, the accused and/or respondent, and or their friends, family and acquaintances within the jurisdiction of the College;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the College.

## III. Prevention and Awareness Education Programs

Creating a safe and respectful environment is the responsibility of all members of the College's Franciscan community. To promote and maintain this environment, the College engages in comprehensive educational programming to prevent sexual misconduct (including sexual harassment, domestic violence, dating violence, sexual assault, stalking, and retaliation). The College provides primary prevention and awareness programs for all incoming students and employees, and ongoing prevention and awareness campaigns for all students and employees.

The College educates the student community about sexual misconduct through its mandatory freshman orientation program, certain required courses, and ongoing programming initiatives throughout the students' time at the College. Such programming and courses provide students with information about safety and security procedures, the College's procedures for responding to reports of sexual misconduct, options for safe and positive bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks. For additional information about the College's sexual misconduct prevention and awareness programming, please contact the Title IX Coordinator.

**Public Awareness and Advocacy Events:** If an individual discloses information through a public awareness event such as candle light vigils, protests, or other public events, the College is not obligated to begin an investigation based on such information. The College will use the information provided at such an event to inform its efforts for additional education and prevention efforts.

## IV. Resources and Reporting Options for Victims

### 1. Immediate Medical Assistance and Counseling

If you or someone you know is or may be the victim of any form of sexual misconduct, the College strongly urges you to seek immediate assistance. Assistance is available 24 hours a day, 7 days a week, from:

- Local Police (84th Precinct) and Emergency Assistance – Call 911
- Campus Security – (718) 489-5333 or, if on campus, extension 5333
- Safe Horizon Rape and Sexual Assault Hotline – (866) 689-HELP (4357)
- Safe Horizon Domestic Violence Hotline – (800) 621-HOPE (4673)
- Beth Israel Hospital Emergency Room, First Avenue and 16th Street Manhattan
- Maimonides Medical Center Emergency Rm – 4802 10th Ave., Brooklyn, NY, 11219, (718) 283-7222
- NYPD Sex Crimes Report Hotline – (212) 267-7273
- Brooklyn District Attorney's Office Special Victims Bureau – (718) 250-3170
- New York City Gay and Lesbian Anti-Violence Project – (212) 714-1141
- St. Luke's Hospital Crime Victim Treatment Center – (212) 523-905
- Center Against Domestic Violence – (718) 254-9134
- New York State Office of Victim Services Toll Free Number – (800) 247-8035 (*can report anonymously*)
- New York State Police – (844) 845-7269
- New York State Domestic Violence and Sexual Assault Hotline, provides crisis intervention, shelter services, and referrals (800)-942-6906

### 2. Sexual Assault Forensic Examiners

Victims of sexual assault should receive immediate medical attention. Sexual Assault Forensic Examiners (SAFE) are considered the best and most appropriate medical professionals to conduct such an examination.

- The College has an MOU with Beth Israel Hospital (Manhattan)
- St. Luke's Hospital (Manhattan)
- Roosevelt Hospital (Manhattan)
- Bellevue Hospital (Manhattan)
- Mount Sinai (Manhattan)
- New York Presbyterian – Weill Cornell (Manhattan)
- Woodhull Hospital (Brooklyn)
- Coney Island (Brooklyn)
- King's County Hospital (Brooklyn)

### 3. College Counseling Resources

Regardless of whether or not an individual makes an official complaint of sexual misconduct, various counseling options are available at the College.

Student Health Services  
180 Remsen Street, Room 2310  
Brooklyn, NY 11201  
Phone: (718) 489 - 5366  
Monday – Friday 9AM – 5PM

The SFC Counseling Center  
180 Remsen Street, Room 2310

Brooklyn, NY 11201  
Phone: (718) 489 – 5335 or, if on campus, extension 5335

## V. Reporting of Incidents of Sexual Misconduct

### 1. Law Enforcement Notification

If you are the victim of sexual misconduct, the College strongly encourages you to promptly report the incident to the police. Timing is a critical factor in collecting and preserving evidence that may assist in proving that the alleged misconduct occurred, or may be helpful in obtaining a protection or restraining order from the police. College representatives are available to assist you in notifying law enforcement of an incident of sexual misconduct and in contacting law enforcement or legal service organizations to learn about these remedies. You may also decline to notify law enforcement.

### 2. College Notifications

The College is committed to providing a prompt, fair, and impartial investigation and resolution to all allegations of sexual misconduct. The College also encourages the reporting of sexual misconduct to a College representative in a timely manner. Incidents of sexual misconduct can be reported to the Title IX Coordinator or the Dean of Students.

Dr. Stanley Bazile, Dean of Students  
180 Remsen Street Room 2000  
Brooklyn, NY 11201  
Phone: (718) 489-5315  
Cell Phone: (347) 633-1374  
Email: JRodriguez2300@sfc.edu

Linda Werbel Dashefsky  
Vice President of Government and Community Relations and Title IX Coordinator  
180 Remsen Street Room 7304  
Brooklyn, NY 11201  
Phone: (718) 489-5370 or, if on campus, extension 5370  
Email: LWerbel@sfc.edu

Any incident of sexual misconduct reported to another College employee, with the exception employee to the Title IX Coordinator.

When the College receives a report from a student that he or she has been the victim of sexual misconduct including dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the College will provide the reporting individual with a written explanation of his or her rights and options regarding existing counseling, health, mental within the College and in the community. If the reporting individual is not the complainant, and the identity of the complainant is made known to the College, the College will provide written notification to the complainant.

A reporting individual will have emergency access to the Title IX Coordinator, or his or her designee, who is trained in interviewing victims of sexual misconduct. The Title IX Coordinator, or other designated College official will be able to provide the reporting individual with information regarding his or her options to proceed, and other important information about his or her rights under College policy and the law.

At the first instance of disclosure by a reporting individual to a representative, the following information shall be presented to the reporting individual: "You have the right to make a report to campus police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be

protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

The College will seek consent from reporting individuals prior to conducting an investigation. Declining to consent to an investigation shall be honored unless the College determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Honoring such a request may limit the College’s ability to meaningfully investigate and pursue conduct action against a respondent. Factors used to determine whether to honor such a request include but are not limited to:

- a. Whether the respondent has a history of violent behavior or is a repeat offender;
  - b. Whether the incident represents escalation in unlawful conduct on behalf of the respondent from previously noted behavior;
  - c. The increased risk that the respondent will commit additional acts of violence;
  - d. Whether the respondent used a weapon or force;
  - e. Whether the reporting individual is a minor; and
  - f. Whether the College possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.
3. Reports of Sexual Misconduct from Anonymous Sources  
If the College receives a report of alleged sexual misconduct by someone other than the complainant (e.g., friend or roommate) or from an anonymous source, the Title IX Coordinator will promptly notify the complainant of the report, and inform the complainant of the available resources and assistance. The College will respond to the report of sexual misconduct as if the complainant had made the initial report and an investigation will commence
4. Time for Reporting  
There is no time limit for reporting sexual misconduct. Nevertheless, any member of the College community who believes that he or she has been a victim of sexual misconduct is encouraged to report the alleged sexual misconduct immediately in order to maximize the College’s ability to obtain evidence and conduct a thorough, impartial, and reliable investigation.

Under no circumstances will the College allow an impending graduation to compromise its resolution of a sexual misconduct complaint. The conferral of a degree may, therefore, be withheld, if necessary, until proper resolution of any sexual misconduct charges, provided that an opportunity will be scheduled for the earliest practicable date that can accommodate the parties and their witnesses.

5. Timely Warnings  
The College is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represents a serious or continuous threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual.
6. Bad Faith Reporting  
Submitting a false report or providing false or misleading information in bad faith in connection with an incident of sexual misconduct is prohibited and subject to disciplinary sanction. This provision does

not apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

## VI. Confidentiality

The College understands that, for many victims of sexual misconduct, confidentiality is a concern. However, certain College employees are required by state and federal laws to share information from a report of sexual misconduct with the College or governmental agencies. Even College employees who cannot guarantee confidentiality will maintain the privacy of the reporting individual to the greatest extent possible. The information that the reporting individual provides to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. When reporting crimes for the purposes of Clery Act compliance, the College will not release identifying information of the victim. The ability of College employees to maintain confidentiality is as follows:

### 1. Professional and Pastoral Counselors

Professional, licensed counselors and pastoral counselors (ordained clergy) whose official responsibilities include providing mental-health counseling to College students, including those who act in that role under the supervision of a licensed counselor, are not required to report any information about an incident of sexual misconduct to the Title IX Coordinator. The following is a list of the College’s professional and pastoral counselors:

The SFC Counseling Center  
180 Remsen Street, Room 2310  
Brooklyn, NY 11201  
Phone: (718) 489 – 5335 or, if on campus, extension 5335

### 2. Non-Professional Counselors and Advocates

Non-professional counselors and advocates may be found in the College’s Student Health Services and Counseling Center. These individuals may maintain a victim’s confidentiality while reporting the nature, date, time, and general location of the incident to the Title IX Coordinator.

### 3. Responsible Employees

A “responsible employee” is a College employee who: (i) has the authority to redress sexual misconduct; (ii) has been given the duty to report incidents of sexual misconduct or any other misconduct by students, faculty or staff to the Title IX coordinator or other appropriate College official; or (iii) a student could reasonably believe has this authority or duty. This definition encompasses virtually every College employee, including all faculty, staff and administrators, except those who are acting as pastoral and professional counselors and non-professional counselors and advocates.

A responsible employee must report all relevant details about the alleged sexual misconduct shared by the reporting individual to the Title IX Coordinator. A responsible employee will strive to maintain privacy and information reported to the responsible employee will be shared only with those having a need to know such information in order to respond in accordance with College policy.

### 4. Requests for Confidentiality/Inaction

The College is obligated by law to investigate all allegations of sexual misconduct regardless of whether the complainant wishes to file a complaint. If a complainant reports an incident of sexual misconduct but wishes to remain anonymous or requests that no investigation into the incident be conducted, the College will weigh that request against the College’s obligation under the law to

provide a safe, nondiscriminatory environment for all members of the College community, including the complainant. If the College honors the request for confidentiality, the complainant must understand that the College's ability to effectively investigate the incident and pursue disciplinary action against the respondent may be limited. In certain circumstances, the College may not be able to honor a complainant's request for confidentiality when doing so would jeopardize the College's responsibility to provide a safe, non-discriminatory environment. The Title IX Coordinator is notified of alleged sexual misconduct.

When weighing a complainant's request for confidentiality or the need to continue to pursue the investigation, the Title IX Coordinator will consider a range of factors, including, but not limited to, the following:

- Whether there have been other sexual misconduct complaints about the same respondent;
  - Whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the incident represents an escalation in and unlawful conduct on behalf of the respondent from previously noted behavior;
  - Whether there is an increased risk that the respondent will commit additional acts of violence;
  - Whether the sexual misconduct was committed by multiple perpetrators;
  - Whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group
  - Whether the alleged sexual misconduct was perpetrated with a weapon or force;
  - the age of the complainant (whether the reporting individual is a minor);
  - Whether the College has other means to obtain relevant evidence (e.g., security cameras or personal, physical evidence).
5. After considering these factors, the College may be compelled to investigate the alleged sexual misconduct and, if appropriate, pursue disciplinary action in a manner that may require the College to disclose the complainant's identity to the respondent. If the College determines that an investigation is required, the College will inform the complainant and take immediate action necessary to protect and assist the complainant.
- If, after considering these factors, the College determines that it is able to respect the complainant's request for confidentiality, the College will nevertheless take all reasonable steps to respond to the complaint consistent with the complainant's confidentiality request, and will determine whether interim measures are appropriate or necessary. The College will also consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported sexual misconduct occurred, increasing training, education and prevention efforts, and conducting climate surveys.
6. Clery Reporting  
Reports of certain crimes occurring in specific geographic locations shall be included in the College's Annual Security Report pursuant to the Clery Act, 20 U.S.C. § 1092 (f), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual.
7. FERPA  
FERPA, 20 U.S.C. § 1232g, permits institutions to share information with parents when: (i) there is a health or safety emergency or (ii)

when the student is a dependent on either parent's prior year federal income tax return. Generally, the College will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

#### 8. Minors

Certain members of the College community who interact with, supervise, chaperone, or otherwise oversee minors in programs or activities at the College or sponsored by the College are required to report immediately to the New York State Maltreatment Hotline if they have reasonable cause to suspect abuse or maltreatment of individuals under the age of 18.

### VII. College Amnesty Policy

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith or reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to College officials or law enforcement will not be subject to the College Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

### VIII. Interim Measures and Accommodations

Any individual who has been the victim of sexual misconduct may request assistance in changing academic, housing, living, transportation, employment, working or other applicable situations in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment. The College will grant such accommodations, provided they are reasonable and available, regardless of whether the student chooses to report the incident to law enforcement and regardless of whether the student chooses to formally report and/or participate in the College's investigation or conduct process. When taking such steps to separate the complainant and the respondent, the College will, to the extent practicable, minimize the burden on the complainant.

To ensure the safety and well-being of the parties, the Title IX Coordinator may take any protective action that he or she deems appropriate concerning the interaction of the parties before the final outcome of the investigation. Such actions may include, but are not limited to, providing increased security, supervision or monitoring at location or activities where the alleged misconduct occurred, moving a student's residence, adjusting a student's academic or College work schedule, and issuing a "no-contact" order.

Requests for accommodations in connection with incidents of sexual misconduct should be made to the Title IX Coordinator. The College will provide information about the student's request for accommodations only to those having a need to know such information in order to implement the accommodations. Both the complainant and the respondent may ask the College to review the need for and terms of any interim measures or accommodations that directly affects him or her and may submit evidence in support of his or her request. Upon such request, the College will notify the other party and conduct a prompt review.



Violation(s) of the Title IX Coordinator's directives and/or interim actions may lead to additional disciplinary action.

#### 1. No Contact Order

Interim measures may also include no contact orders. As defined herein, a no contact order is a directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party. All no contact orders will be mutual – i.e. neither student involved will be permitted to contact the other student – unless the College determines, in its discretion, that a non-mutual order is appropriate. If the respondent and complainant observe each other in a public place, it shall be the responsibility of the respondent to leave the area immediately and without directly contacting the complainant.

The complainant or respondent may request a review of the need for, and terms of, the no-contact order, including potential modification, and may submit evidence in support of his or her request. The College will notify the other party and conduct a prompt review in response to such request.

#### 2. Interim Suspension

When the respondent is a College student and is determined to present a continuing threat to the health and safety of the College community, the respondent may be subject to interim suspension pending the outcome of the resolution process, described herein. In determining whether interim suspension is appropriate, the Title IX Coordinator, or his or her designee, consider, inter alia, the following factors: whether there have been other sexual misconduct complaints about the same respondent; whether the incident involves a weapon or violence; whether the respondent has a history of arrests or disciplinary records; whether the incident represents an escalation in and unlawful conduct on behalf of the respondent from previously noted behavior; and whether there is an increased risk that the respondent will commit additional acts of violence. In the event the College imposes an interim suspension on the respondent, the complainant or respondent may request a review of the need for, and terms of, an interim suspension, reasonable under the circumstances, including potential modification, and may submit evidence in support of his or her request to the Title IX Coordinator. Any such requests should be submitted to the Title IX Coordinator. Upon such request, the Title IX Coordinator, or his or her designee, will notify the other party and conduct a prompt review.

### IX. Orders of Protection

The College may also assist an eligible complainant in acquiring a New York State court order of protection. If an order of protection is granted, the requesting individual will have the right to receive a copy of the order of protection when the order is received by the College. The complainant will also have the opportunity to have an appropriate College employee explain the order, the consequences for violating the order, and answer any questions about the order. Additionally, if the respondent violates the order of protection, the complainant may receive assistance from the College in calling local law enforcement to inform them of the violation.

### X. Anti-Retaliation Policy

The College prohibits retaliation against any person who reports sexual misconduct or participates in the investigation of any allegation of sexual misconduct. Retaliation should be reported promptly to the Title IX Coordinator. Reports of retaliation will be investigated in accordance with the appropriate College policy, and such conduct may result in

disciplinary action independent of the sanction(s) or interim measures imposed in response to the underlying allegations of sexual misconduct.

### XI. Within the Policy

“Bystander” means a person who observes a crime, impending crime, conflict, potentially violent or violent behavior or conduct that is in violation of rules or policies of the College.

“Complainant” means the individual who experienced the sexual misconduct, regardless of whether such individual reports such sexual misconduct to the College or participates in the College’s conduct process for responding to complaints of sexual misconduct described herein.

“Confidentiality” may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092 (f) and 20 U.S.C. 1681 (a). Licensed mental health counselors, medical providers and pastoral counselors are examples of College employees who may offer confidentiality.

“Consent” must be affirmative. Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be when it is the result of any coercion, intimidation, force, threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

“Force” The use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

“Incapacitation” A state where a person cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision. A person can become incapacitated as a result of disability, involuntary physical constraint, sleep, or consumption of alcohol or other drugs.

"Intimidation" means implied threats or acts that reasonably cause another to fear for his/her safety or well-being.

"Privacy" may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws or College policy, including informing appropriate College officials.

"No-Contact Order" A directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

"Reporting Individual" Any individual who reports a violation of this Policy to the College.

"Respondent" means the individual alleged to have committed acts constituting sexual misconduct.

"Retaliation" Taking any adverse action or attempting to take adverse action, including intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint of sexual misconduct or participation in an investigation or proceeding related to alleged sexual misconduct.

#### Definitions of Gender-Based Misconduct

"Sexual Misconduct" means a range of unwelcome behavior of a sexual nature that is committed without consent or by intimidation, coercion, threat or force. Sexual Misconduct includes, but is not limited to, sexual harassment, sexual violence, sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking.

"Sexual Activity" includes any "sexual act" or "sexual contact."

- A "sexual act" means (a) contact between the penis and vulva or the penis and the anus where penetration occurs, however slight; (b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (c) the penetration, however slight of the anal or genital opening of another by hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (d) the intentional touching, not through the clothing of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
- "Sexual contact" means the intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

"Sexual Assault" includes non-consensual sexual intercourse and non-consensual sexual contact.

- "Non-consensual sexual intercourse" means any form of sexual penetration or intercourse (vaginal, anal, or oral), however slight, with any object by an individual upon another individual without consent and/or by force. Intercourse means: vaginal or anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).
- "Non-consensual sexual contact" means any intentional sexual touching, however slight, with any body part or object by an individual upon another individual without consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making another person touch

any of these body parts; and any intentional bodily contact in a sexual manner.

"Sexual Coercion" is the application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.

"Sexual Exploitation" means abuse or non-consensual sexual advantage of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

"Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic or physical conduct of a sexual nature, when:

- submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education or campus life activities, or used as the basis of any academic, student life or employment decision (*quid pro quo*); or
- such conduct is sufficiently severe, persistent or pervasive such that it limits an individual's ability to participate in, or benefit from, the College's education or work programs or activities (hostile environment).

"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 based on the victim's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

"Domestic Violence" means felony or misdemeanor crimes of 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 New York, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York.

"Sexual Violence" refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of discrimination prohibited by Title IX.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her

safety or the safety of others; or (2) suffer substantial emotional distress. For purpose 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.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- “Reasonable person” means a person under similar circumstances and with similar identities to the victim.

Conduct that violates College policy may also violate New York State laws and subject the respondent to criminal prosecution. Sex Offenses under New York law are described in Sections 130.00 to 130.96 of the New York State penal Code, available at <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWC>:

## Part 2: Procedures for Responding to a Complaint of Sexual Misconduct

The College is committed to providing a prompt, fair, and impartial investigation and resolution of all allegations of sexual misconduct. Incidents of sexual misconduct should be reported to the Title IX Coordinator. Any incident of sexual misconduct reported to another College responsible employee, with the exception of those employees designated above as confidential, must be reported by the responsible employee to the Title IX Coordinator.

### XII. Initial Steps

#### 1. Intake Meeting with Complainant

Upon notice of any allegation of sexual misconduct, the Title IX Coordinator or his or her designee will schedule an individual intake meeting with the complainant. At the intake meeting, the Title IX Coordinator or his or her designee will provide the complainant with a general understanding of this Policy for reports of student sexual misconduct, and identify forms of support or immediate assistance available to the complainant (e.g., referrals to appropriate law enforcement agencies; referrals for medical treatment at local hospitals and trauma centers). The Title IX Coordinator or his or her designee will also provide the complainant with a written explanation of his or her rights and options with respect to his or her report of sexual misconduct. The intake meeting may also involve a discussion of any interim accommodations that may be appropriate.

At the initial intake meeting or at a subsequent time the Title IX Coordinator or his or her designee will seek to determine how the complainant wishes to proceed, i.e., whether the complainant wishes to pursue Formal Resolution, Informal Resolution, or does not wish to pursue resolution of any kind. The College seeks to resolve every report of sexual misconduct within 60 calendar days of the initial report, excluding any appeal. The time frames included in this Policy may vary depending on the details of the complaint and, in some cases, the time of the academic year (e.g., during College breaks or final exams). The College may extend any time frame for good cause, provided the complainant and respondent are given a written explanation as to the reason for such extension.

If the complainant does not wish to pursue Formal Resolution or Informal Resolution, and either requests that his or her complaint remain confidential, or refuses to participate in the initial intake

meeting with the Title IX Coordinator, the Title IX Coordinator will inform the complainant that the College’s ability to respond may be limited. In such scenarios, Title IX and Article 129-B nevertheless require the College to evaluate the complainant’s request(s) for no action in the context of the College’s commitment to provide a reasonably safe and non-discriminatory environment for the entire College community.

#### 2. Intake Meeting with the Respondent

If the complainant wishes to proceed with either Formal Resolution or Informal Resolution, the Title IX Coordinator will ascertain the name of the respondent, and the date, location, and nature of the alleged sexual misconduct, and, in a timely fashion, will schedule an individual intake meeting with the respondent. The College will notify the respondent that a complaint has been filed and provide the date, time, location and factual allegations concerning the alleged violation, and possible sanctions. At the intake meeting, the Title IX Coordinator or his or her designee will provide the respondent with a general understanding of this Policy for reports of student sexual misconduct, and identify forms of support or immediate assistance available to the respondent. The intake meeting may also involve a discussion of any interim accommodations.

### Effect of Criminal Proceedings

Sexual misconduct may constitute a violation of both law and College policy. The College encourages students to report alleged sexual misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy. Therefore, criminal investigations or reports are not determinative of whether sexual misconduct under this Policy, has occurred. In other words, conduct may constitute sexual misconduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

The filing of a complaint of sexual misconduct under this Policy is independent of any criminal investigation or proceeding. The College will not wait for the conclusion of a criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the complainant and the College community. However, the College may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code.

### Advisors

Both the complainant and the respondent will have the right to be accompanied by an advisor of choice who may assist and advise the student throughout the conduct process under this Policy, including during all meetings and hearings. At the complainant’s or respondent’s request, the Title IX Coordinator will appoint to each party an advisor who has been formally trained. Advisors will not be permitted to speak on behalf of students and the College will not permit the presence of advisors to interfere with the resolution process.

### XIII. Formal Resolution Process

#### 1. Investigation

The reported allegations will be investigated promptly, thoroughly, and impartially.

The College will notify the respondent that a complaint has been filed and will include notice of the allegations. The complainant and respondent will be given the opportunity to meet separately with the

Title IX Coordinator, or his or her designee. During all phases of the Formal Resolution Process, the parties will be provided with advance notice of any meeting they are required or eligible to attend.

The Title IX Coordinator, or his or her designee, will collect and review evidence it deems necessary or helpful to the investigation of the alleged sexual misconduct. The Title IX Coordinator may designate a specially trained investigator or investigators to conduct the interviews and investigation. The investigation will include individual interviews with the parties involved and with individuals who may have observed the alleged conduct or may have other relevant knowledge. The investigation may also include examination of medical records, surveillance video, cell phone and other electronic records, and other evidence.

In response to the investigation, both the complainant and the respondent will be given the opportunity to submit a written statement. The written statement will be provided to the Title IX Coordinator, the opposing party, as well as members of the Hearing Committee.

## 2. Hearing Committee

If the complainant wishes to proceed with Formal Resolution, or the College otherwise deems it necessary to protect the College community, the Title IX Coordinator will promptly prepare a formal letter to the Faculty Committee on Student Behavior ("Hearing Committee") notifying the Hearing Committee of the initiation of a formal process. The letter will provide the Hearing Committee with the names of the complainant and respondent and the date, location, and nature of the alleged sexual misconduct.

The Hearing Committee is comprised of at least three College faculty members, all of whom receive training, at least annually, on the issues relating to sexual misconduct, including sexual harassment, dating violence, domestic violence, sexual assault, and stalking. They will also be trained on how to conduct an investigation and on a hearing process that promotes accountability and protects the safety of complainants and the rights of respondents; including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made under this Policy. The Hearing Committee Chair will select the Hearing Committee members who will participate in the hearing and will either serve as the presiding chair of the hearing, or will appoint the presiding chair.

## 3. The Hearing

The College will provide written notice at least five business days before the hearing date to both parties stating the date, time, and place of the hearing.

A party wishing to challenge the participation of any member appointed to the Hearing Committee must notify the Hearing Committee Chair, in writing, within three business days of receipt of the notice of hearing, stating the specific reason(s) for the party's objection. The Hearing Committee Chair will determine whether the challenge has merit, and reserves discretion to make changes in the composition of the Hearing Committee at any time. A party wishing to challenge the participation of the Hearing Committee Chair must notify the Title IX Coordinator, in writing, within three business days of receipt of the notice of hearing, stating the specific reason(s) for the party's objection. The Title IX Coordinator will determine whether the challenge has merit and reserves discretion to instruct the Hearing Committee to designate a new Hearing Committee Chair.

**Pre-Hearing Submissions** In addition to the written statements submitted by the parties, the parties will provide the Title IX Coordinator with a list of witnesses they wish the Hearing Committee to call, copies of documents, and a description of any other information they propose to present at the hearing at least three business days prior to the hearing. The Title IX Coordinator will determine whether such witnesses and documents are deemed relevant to the hearing. The Title IX Coordinator will provide each party with a copy of the list of witnesses and copies of documents or other information submitted by each party.

In the absence of good cause, as determined by the Hearing Committee, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided by this deadline.

**Conduct of the Hearing** The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the College will provide both parties with written notice explaining the reason for such change. The College will arrange for the hearing to be recorded, and may arrange for the preparation of any transcript of the recording that the College deems appropriate.

As a non-adversarial process, the hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The Hearing Committee will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. The College will ask for all necessary witnesses to be present, or to have provided written statements in lieu of attending the hearing. This may be done as necessary to accommodate a witness who cannot be present, or whom the Hearing Committee determines may remain anonymous.

Only the Hearing Committee may question the individual parties and any witnesses, unless permission is granted to modify the questioning process. After all witnesses have been questioned, each party may make a closing statement.

In order to comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, the College will not disclose documents prepared in anticipation of the hearing, documents, testimony, or other information introduced at the hearing, and any transcript of the hearing itself may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law and/or College policy.

Both the complainant and the respondent may have advisors present to support and assist them during any meeting, the hearing and appeal stages of the Formal Resolution process. An advisor may not direct questions to the Hearing Committee or witnesses at the hearing. The Hearing Committee will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the hearing.

The parties are expected to cooperate at the hearing. If either party fails to appear at the scheduled hearing, the Hearing Committee may postpone the proceedings if there is a legitimate documented reason for the absence, or proceed and determine the complaint on the basis of the evidence available, provided the absent party was duly notified of the scheduled hearing date.



In general, any information or questioning about the prior sexual history of the complainant or respondent with individuals other than the other party is precluded and will not be admitted at the hearing. Additionally, any information or questioning about either party's mental health history diagnosis, and/or treatment is precluded and will not be admitted at the hearing. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanctions. After all witnesses have been questioned, each party may make a closing statement.

If the Hearing Committee determines that unresolved issues exist that would be clarified by the presentation of additional information, the Hearing Committee may suspend the hearing and reconvene it in a timely manner to receive such information. A delay may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents, which were readily available at the time of the hearing.

#### 4. Determination

The Hearing Committee will evaluate evidence under a "preponderance of the evidence" standard. A preponderance of the evidence means that information shows it is "more likely than not" that the respondent violated this Policy. The respondent will be found to be responsible for the alleged sexual misconduct if the Hearing Committee concludes, based upon careful review of all information presented, that such sexual misconduct more likely than not occurred in violation of the Policy. The Hearing Committee shall provide a written statement of such determination to the Vice President for Academic Affairs.

#### 5. Complainant and Respondent Impact Statement

Within five business (5) days of the conclusion of the hearing, both the complainant and respondent will be given access to the record of the hearing and offered an opportunity to provide an impact statement to the Vice President for Academic Affairs while he or she is deliberating on the appropriate sanctions. The record of the hearing may not be copied.

The impact statement may be up to five (5) pages single spaced. The impact statement is an opportunity for the student to discuss his or her experience, and the incident in question, as well as respond to how the investigation and hearing was conducted and any areas of agreement or/disagreement with the investigation or hearing, or determination of the Hearing Committee.

This impact statement must be provided to the Title IX Coordinator who will provide it to the opposing party as well and the Vice President for Academic Affairs, and all members of the Hearing Committee.

#### 6. Sanctions

The Vice President for Academic Affairs may consider suspending or expelling any student found responsible for sexual misconduct; however, he or she may impose any of the following sanctions that are determined to be fair and proportionate to the violation:

- Reprimand or warning
- Changing the respondent's academic schedule
- Disciplinary probation
- Revocation of honors or awards
- Restricting the respondent's access to College facilities or activities

- Community service
- Issuing a "no-contact" order to the respondent or requiring that such an order remain in place
- Changing the respondent's housing assignment
- Dismissal from or restricting or reassignment of College employment
- Removing the respondent from student housing
- Suspension (limited time or indefinite)
- Expulsion

In determining appropriate sanctions, the Vice President for Academic Affairs will consider any record of past violations of College policies, as well as the nature and severity of such past violation(s). The Vice President for Affairs will consider as part of the deliberations whether the respondent poses a continuing risk to the complainant and/or the College community. Any sanction imposed will be explained and supported in the written decision of the Vice President for Academic Affairs.

Within seven (7) business days from the determination of the Hearing Committee, the Vice President for Academic Affairs will simultaneously issue a determination letter to the respondent and the complainant, which will contain only the following information: (i) the name of the respondent; (ii) whether the respondent has been found responsible or not responsible for specific violation(s) of this Policy; (iii) a list of the possible sanctions imposed, if any; (iv) the sanctions actually imposed; (v) the rationale for the sanctions imposed, if any; (vi) the College's appeal process; (vii) any change to the results that occur prior to the time that the results become final; and (viii) when the results become final.

If a respondent is found responsible through the College's conduct process for crime(s) of violence, including, but not limited to Sexual Violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act, the College will make one of the following notations on the transcript of such student.

- "suspended after a finding of responsibility for a code of conduct violation."; or
- "expelled after a finding of responsibility for a code of conduct violation."
- If a student withdraws from the College while such conduct charge(s) is pending and declines to complete the disciplinary process, the College will note on the student's transcript that he or she "withdrew with conduct charges pending."

For more information on transcript notations, please see the College's Transcript Notation Policy, which can be located here: [https://www.sfc.edu/uploaded/documents/pdf/Transcript\\_Notation\\_Policy\\_for\\_Violent\\_Crimes.pdf](https://www.sfc.edu/uploaded/documents/pdf/Transcript_Notation_Policy_for_Violent_Crimes.pdf). ([https://www.sfc.edu/uploaded/documents/pdf/Transcript\\_Notation\\_Policy\\_for\\_Violent\\_Crimes.pdf.html](https://www.sfc.edu/uploaded/documents/pdf/Transcript_Notation_Policy_for_Violent_Crimes.pdf.html))

#### 7. Appeal Process

Either party may appeal the Hearing Committee's determination and/or the sanction imposed by the Vice President for Academic Affairs. A party has three grounds under which to appeal the College's determination: (i) the Hearing Committee committed procedural errors that had an impact on the complaint's decision, (ii) there is new evidence that was not reasonably available at the time of the hearing,

or (iii) the sanctions are not consistent with past practices or the severity of the alleged sexual misconduct.

Final sanctions are in effect until any timely appeal of the decision is resolved. The Vice President for Academic Affairs may suspend the determination pending exhaustion of appeal, allow the student to attend classes or other activity on a supervised or monitored basis, or make such other modifications to the determination as may be advisable. Interim measures will remain in effect until the appeal is resolved.

The procedure to file an appeal is as follows:

- A party wishing to appeal must file a notice of intent to appeal within five business days of the date the party is notified of the Hearing Committee's finding and/or the Vice President for Academic Affairs' sanctions. The notice of intent to appeal must be submitted in writing (either email or hard-copy) to the Title IX Coordinator. The notice of intent to appeal must contain the party's grounds for the appeal. The Title IX Coordinator will notify the party who did not request the appeal about the notice of intent to appeal.
- Within seven (7) business days of filing a notice of intent to appeal, the party's formal appeal must be filed. The party should submit copies of any and all material the party wishes to provide as evidence for his/her appeal.
- The Title IX Coordinator will notify the party who did not request the appeal in writing and that party will have seven (7) business days from the date of notification to submit a response to the formal appeal.
- A committee made up of three full-time faculty members ("Appeals Committee"), which shall not include the Vice President for Academic Affairs or members of the Hearing Committee, will be assembled by the Title IX Coordinator. Except for appeals brought under (ii) above, the Appeal Committee's entire review process will be based on the party's appeal, the response of the other party, if applicable, and the Hearing Committee's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard.
- The Appeals Committee will make a final determination on the appeal. The Appeals Committee shall render its decision regarding the appeal within 20 calendar days of receipt of the formal appeal, response to the formal appeal (if applicable), record of the case, and/or if applicable, any new evidence pursuant to (ii) above.
- Within three business days of the Appeals Committee's determination, the Appeals Committee will issue a final determination letter to the respondent and the complainant. Both parties, concurrently, will receive a copy of this final determination letter.

#### **XIV. Informal Resolution**

If all parties voluntarily agree to participate in an informal resolution and the College determines that the particular complaint is appropriate for such a process, the College may facilitate an informal resolution of the complaint. While the Informal Resolution process is not as structured as the Formal Resolution process, it can be an effective and appropriate means to deal with certain complaints. The Informal Resolution procedure is not available for complaints of sexual violence.

If the complainant wishes to proceed with Informal Resolution the Title IX Coordinator will ascertain the name of the respondent, and the date,

location, and nature of the alleged sexual misconduct, and, within two business days, or as soon as possible, will schedule an individual intake meeting with the respondent in order to provide him or her with a general understanding of this Policy.

The College will notify the respondent that a complaint has been filed and will include notice of the allegations. The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator, or his or her designee. The complainant and the respondent each may bring an advisor to any meeting that is held pursuant to the Informal Resolution process. Advisors are subject to the same restrictions for advisors in Formal Resolution, as set forth above. During all phases of the Informal Resolution Process, the parties will be provided with advance notice of any meeting they are required or eligible to attend.

The Title IX Coordinator or designee will preside over the Informal Resolution and may elect to be assisted by another member of the senior staff of the College or outside expert. Alternative, informal resolution is designed to obtain an expedient, mutually acceptable solution without the necessity for conducting further investigation or Hearing Committee.

If, in the course of the Informal Resolution, the respondent admits to violating this Policy, that admission will serve as a finding of responsibility after an independent investigation into the matter by the College. The College will not impose sanctions on the basis of an admission without an independent investigation into the alleged misconduct. The Vice President of Academic Affairs will recommend one or more sanctions, which the respondent can accept or reject. The sanctions that may be imposed as the result of the Informal Resolution process are the same as those outlined in the Formal Resolution process above. If the Vice President for Academic Affairs' recommended sanction is accepted, the process is concluded. If it is rejected, the complaint will proceed to the Formal Resolution process.

Informal Resolution may result in the imposition of protective actions agreed upon by the parties, or (with or without such agreement) based on information derived from the Informal Resolution taken together with any other relevant information known to the College at the time of the Informal Resolution.

Participation in the Informal Resolution process is voluntary. The College will not compel a complainant or a respondent to engage in Informal Resolution and will allow a complainant or respondent to withdraw from the Informal Resolution process at any time. The College may, at any time, elect to end such proceedings and initiate Formal Resolution instead. Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the College. Statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the Formal Resolution.

#### **XV. Designation**

The College may, at its discretion, designate another trained and experienced person(s) to act in the place of the investigator and / or adjudicator in this Policy. If there is such a designation, the parties involved will be informed.