Introduction

St. John Fisher College (the “College”) is committed to maintaining a community in which learning and working can be carried out in an environment of respect, open-mindedness, and integrity. Sexual harassment is a form of workplace discrimination. St. John Fisher College prohibits policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of St. John Fisher College’s commitment to a discrimination-free work environment.

Sexual harassment is a violation of New York State Human Rights Law and Title VII of the federal Civil Rights Act of 1964. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the College, or with a government agency, or in court under federal, state or local antidiscrimination laws.

Jurisdiction/Scope of this Policy

This policy is applicable to sexual harassment involving faculty, staff, students, or non-employees. In cases where the accused person is an employee, or non-employee, of the College, the Sexual Harassment policy and process outlined in this policy will apply. In cases where the accused person is a student, the Student Sexual Misconduct Policy and process will apply. These policies apply to sexual harassment that occurs on campus, in the workplace, or off campus, while on business travel, or with reasonable connection to College programs or activities, including study abroad, internships, or athletic activities. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or not during work hours.

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees; paid or unpaid interns; and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace, regardless of immigration status. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.
Policy:

1. St. John Fisher College Policy applies to all employees including faculty, staff, and student workers; applicants for employment; interns, whether paid or unpaid; volunteers; contractors; and persons conducting business, regardless of immigration status, with St. John Fisher College.

2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation, as determined through the appropriate investigation process, will be subject to remedial and/or disciplinary action, up to and including termination.

3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. St. John Fisher College will not tolerate retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of St. John Fisher College who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee including faculty, staff, and student worker; paid or unpaid intern; volunteer; or non-employee working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or the Assistant Vice President for Human Resources. Any employee including faculty, staff and student worker; paid or unpaid intern; volunteer; or non-employee who believes they have been a target of such retaliation may also seek compensation in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject St. John Fisher College to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

5. St. John Fisher College will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

Footnote: A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.
Policies/Procedures: Sexual Harassment

6. All employees are encouraged to report any harassment or behaviors that violate this policy. St. John Fisher College will provide all employees a complaint form for employees to report harassment and file complaints. The Complaint Form for Reporting Sexual Harassment is included at the end of this policy.

7. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe to Assistant Vice President of Human Resources or designee, or the Title IX Coordinator.

8. This policy must be posted prominently in all work locations and be provided to employees upon hiring.

Definitions of Sexual Harassment, Sexual Assault, Sexual Exploitation and Stalking

Sexual harassment, including sexual assault, in any setting is prohibited at St. John Fisher College. This policy also prohibits sexual exploitation and stalking.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. St. John Fisher College recognizes that sexual harassment and sexual misconduct affects individuals of all genders, gender identity, gender expressions, and sexual orientations.

The College recognizes its responsibility to develop and implement educational programs to help its students and employees to recognize and address sexual harassment and misconduct and is committed to its prevention.

Sexual Harassment:

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or is directed at an individual because of that individual’s sex, including advances, requests for sexual favors, or other verbal, written, online and/or physical conduct that creates a hostile work environment when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.
A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Conduct need not meet the legal definition of unlawful harassment to be a violation of this policy.

Examples of Sexual Harassment:

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim’s job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
  - Unwelcome touching, physical assault, impeding, restraining, or blocking movements, unwanted sexual advances.

- Sexually oriented gestures, leering; noises, remarks, jokes or comments about a person’s sexuality or sexual experience, which create a hostile work environment.

- Sex Stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes letters, notes, or electronic communications containing comments, words, or images of a sexual or suggestive nature. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity or and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
Policies/Procedures:

Sexual Harassment

- Sabotaging an individual’s work;
- Bullying, yelling, name-calling.

Any employee who feels that they have been harassed should file a complaint so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy. A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

The fact that a person is offended is not alone enough to establish a violation of this policy. The College evaluates complaints based on a “reasonable person” standard, taking into account the totality of the circumstances, including the context of the interaction.

Sexual Assault:

For the purposes of this policy, sexual assault is an unwanted physical assault or sexual act through force or coercion involving:

- Physical assaults of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
  - Rape, sexual battery, or molestation;
  - Intentional sexual contact of sexual or intimate parts without consent;
  - Sexual intercourse without consent;

Sexual exploitation and stalking are also prohibited by this policy.

Sexual Exploitation:

Occurs when one person takes the non-consensual or abusive sexual advantage of others for self-serving advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual digital, video, or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Knowingly exposing someone to or transmitting an STI or blood born infection, such as Hepatitis or HIV to another person;
- Intentionally or recklessly exposing one’s genitals in non-consensual circumstances, or inducing another to expose their genitals.

FOOTNOTE: Consent is unable to be given when any of the following conditions exist:

- Any person verbally or physically expresses his/her intention not to engage in sexual contact and/or intercourse
- Any person is unable to provide consent due to physical or mental incapacitation
- Any person is unable to provide consent due to intoxication or being under the influence of other drugs.
**Stalking:**
Engaging in a course of conduct directed at a specific individual that would cause a reasonable person (under similar circumstances and with similar identities to the complainant) to fear for their safety or the safety of others, or suffer substantial emotional distress. Acts that together constitute stalking may be direct actions or may be communicated by a third party, and can include acts in which the stalker directly, 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” is significant mental suffering or anguish, whether or not medical or professional treatment or counseling is sought.

**Employee/Student Sexual Relationships**

Students are not peers of College employees. Therefore, regardless of whether a sexual relationship between a student and a College employee is “consensual,” and regardless of whether or not the relationship constitutes sexual harassment, such relationships are prohibited. All College employees, including full and part-time, are prohibited from entering into any sexual relationships with students (https://www.sjfc.edu/media/services/human-resources/documents/EmployeeHandbook.pdf). Employees have a responsibility to disclose any potential or perceived covered relationships to their manager and Human Resources. Allegations of College employee/student sexual relationships should be reported to Human Resources (585-385-8048; hr@sjfc.edu) located in Kearney Hall, Room K-211.


**Retaliation**

Unlawful retaliation can be any action that could discourage an employee from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (for example, threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.
Even if the alleged harassment is not found to rise to the level of a violation of the law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

**Reporting Sexual Harassment**

Preventing sexual harassment is everyone’s responsibility. St. John Fisher College cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern, or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the Human Resources Office. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Human Resources Office (585-385-8048).

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is included at the end of this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

Employees, paid or unpaid interns, or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

**Responsible Employees**

The Office of Civil Rights in the Department of Education describes a Responsible Employee as a person who has the authority to take action to redress sexual violence, who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee, or whom a student could reasonably believe has this authority or duty.

With the exception of those employees specified as Confidential Resources, all College employees, including faculty, staff, administrators, and students who are Resident Assistants, and Peer Mentors are Responsible Employees. Responsible Employees are required to share with the Title IX Coordinator any disclosure of Prohibited Conduct of which they are aware. Faculty are not required to make reports to the Title IX Coordinator when they learn of allegations of Prohibited Conduct through classroom writing assignments or class-related discussions unless the Reporting Individual expressly requests reporting.

The **Title IX Coordinator** can be reached Monday-Friday, from 8:30 am - 4:30 pm, Campus Center 206, by phone at 585-385-8232, or by emailing titleix@sjfc.edu. After hours, reporting individuals can contact the Title IX Coordinator through the Residence Director on duty or through Department of Safety and Security.

The **Department of Safety and Security** can be reached 24 hours a day, 7 days a week.
Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior, or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Human Resources Office.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

St. John Fisher College fully supports all local, state, and federal laws prohibiting rape and sexual assault and will cooperate with law enforcement officials who investigate such allegations to the fullest extent allowed under the law. Students and College employees should be aware that sexual assault must also be reported to and investigated by law enforcement agencies as required by State law. This may lead to the determination that the conduct represents a violation of state or federal law subject to criminal prosecution.

Incidents involving violent felony offenses reported to the College are automatically reported to local law enforcement authorities.

Complaint and Investigation of Sexual Harassment

All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, and will be completed as soon as reasonably possible. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. St. John Fisher College will not tolerate retaliation against employees who file complaints or participate in any investigation regarding a violation of this policy.

See Discrimination and Harassment Complaint Procedure outlined on pages D1.3.1 and D1.3.2 for investigation procedure.

See the attached Complaint Form for Reporting Sexual Harassment, Harassment and Discrimination. This form is also available on the College website at:

https://www.sjfc.edu/media/services/human-resources/documents/SexualHarassmentComplaintForm.pdf.
Process for Addressing Allegations of Sexual Misconduct

The goal of this process is to address any incidents of sexual misconduct through the process which is appropriate to the status of the alleged perpetrator.

Complaints of Sexual Misconduct Involving Members of the Campus Community

If the alleged perpetrator is a College employee, and the alleged victim is a College employee, the victim should report the behavior to a supervisor or manager, or to the Office of Human Resources (585-385-8048, Kearney Hall, Room K-211). An additional report may be made to the Office of Safety and Security (585-385-8111, Haffey Hall Lobby), or to the Monroe County Sheriff’s Office (911).

If the alleged perpetrator is a College employee, and the alleged victim is a student, the victim should report the behavior to the Office of Safety and Security (585-385-8111, Haffey Hall Lobby), the Title IX Coordinator (585-385-8232, Campus Center, Room 206), or by emailing titleix@sjfc.edu, or the Monroe County Sheriff’s Office (911).

If the alleged perpetrator is a student, and the alleged victim is a student or College employee, the victim should report the behavior to the Office of Safety and Security (585-385-8111, Haffey Hall Lobby), the Title IX Coordinator (585-385-8232, Campus Center, Room 206, or by emailing titleix@sjfc.edu), or the Monroe County Sheriff’s Office (911). If the alleged victim is a College employee, an additional report should be made to the supervisor or manager, or the Office of Human Resources (585-385-8048, Kearney Hall, Room K-211).

When reported to a College official, complaints will be addressed through the process which is appropriate to the status of the alleged perpetrator. When reported to the Monroe County Sheriff’s Office, the Sheriff’s Office will follow their procedures.

Complaints of Sexual Misconduct Involving Non-Members of the Campus Community

If the alleged perpetrator is a non-member of the campus community and the alleged victim is a student, the victim should report the behavior to the Office of Safety and Security (585-385-8111, Haffey Hall Lobby), the Title IX Coordinator (585-385-8232, Campus Center, Room 206, or by emailing titleix@sjfc.edu), or the Monroe County Sheriff’s Office (911). If the victim is a College employee, the victim should report the behavior to a supervisor or manager, or the Office of Human Resources (585-385-8048, Kearney Hall, Room K-211).

If the alleged perpetrator is a student or College employee and the alleged victim is a non-member of the campus community, the victim should report the behavior to the Office of Safety and Security (585-385-8111, Haffey Hall Lobby), the Title IX Coordinator (585-385-8232, Campus Center, Room 206), or by emailing titleix@sjfc.edu, or the Monroe County Sheriff’s Office (911).
Legal Protections and External Remedies

Sexual harassment is not only prohibited by St. John Fisher College but is also prohibited by state and federal.

Aside from the internal process at St. John Fisher College, employees may also choose to pursue legal remedies with the following government entities at any time.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to St. John Fisher College does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney’s fees and civil fines.


Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR’s regional offices across New York State.
Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 Federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

An employee alleging that he/she discrimination against at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department. Monroe County Sheriff’s Department Victim Assistance Program at 585-753-4389 (http://www.monroecountysheriff.info/).
COMPLAINT FORM FOR REPORTING SEXUAL HARASSMENT, HARASSMENT, AND DISCRIMINATION

St. John Fisher College

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment. This form may also be used to report complaints of harassment or discrimination.

If you believe that you have been subjected to sexual harassment, harassment or discrimination, you are encouraged to complete this form and submit it to the Assistant Vice President for Human Resources by mail, marked confidential, or email to hr@sjfc.edu to the attention of the Assistant Vice President, or hand deliver to the Office of Human Resources in Kearney Hall, Room K-211, or by calling 585-385-8048. Once you submit this form, St. John Fisher College will follow its Sexual Harassment Policy, or Equal Employment Opportunity Policy and investigate any claims. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, St. John Fisher College will still follow its Sexual Harassment Policy, or Equal Employment Opportunity Policy by investigating any claims.

For additional resources, visit: ny.gov/combatting-sexual-harassment-workplace.
COMPLAINANT INFORMATION

Name: __________________________________________________________

Work Address: ______________________ Work Phone:________________

Job Title:____________________________ Email:____________________

Select Preferred Communication Method: ☐ Email ☐ Phone ☐ In Person

SUPERVISORY INFORMATION

Immediate Supervisor’s Name:_______________________________________

Title:____________________________________________________________

Work Address:________________________ Work Phone:________________

COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment, Harassment or Discrimination is made about:

Name:________________________________________________________

Title:_________________________________________________________

Work Address:___________________ Work Phone:_________________

Relationship to you: ☐ Supervisor ☐ Subordinate ☐ Co-Worker ☐ Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment, harassment or discrimination occurred:

Is the sexual harassment, harassment or discrimination continuing?

   Yes _____ No _____

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint and describe any documents, records, or other evidence that may be relevant:

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

Signature:_________________________________ Date:_________________