St. John Fisher College
Sexual Misconduct Policy
Updated August 2019
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. The College stands opposed to all forms of discrimination, harassment, and violence and will work to prevent such behavior within the College community.

This policy prohibits behavior that violates Title IX of the Education Amendments of 1972 and New York’s Enough is Enough Law (Education Law 129-B). This policy complies with these laws as well as the requirements under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013.

St. John Fisher College prohibits sexual or gender-based violence, sexual or gender-based harassment, sexual assault, sexual exploitation, intimate partner violence including dating violence and domestic violence, stalking, and retaliation. These forms of behavior are referred to in this policy interchangeably as “sexual misconduct” or “prohibited conduct.” The College will respond promptly and equitably to reports of sexual misconduct to eliminate hostile environments created by such behavior and provide access to educational programs and activities.

St. John Fisher College recognizes that sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientations.

**Defined Roles Related to Sexual Misconduct Policy Reports**

*Accused* - a person accused of a violation who has not yet entered in to the College’s Sexual Misconduct Process.

*Bystander* - a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is a violation of this Sexual Misconduct Policy or other College policies.

*Complainant* – any person reporting a problem or incident to the College. The Complainant has specific opportunities for involvement in the Sexual Misconduct Process. In the instance of the College being the Complainant, a member of Safety and Security or a designated College official may act as the Complainant on the College’s behalf.

*Reporting Individual* - encompasses the terms victim, survivor, Complainant, claimant, witness with victim status, witness, and any other term used by the College to reference an individual who brings forth a report of sexual misconduct.

*Respondent* – the student accused of violating the Sexual Misconduct Policy. The Respondent is subject to the procedures outlined in this document.

**Jurisdiction/ Scope of the Policy**

This policy is applicable to Prohibited Conduct involving students, faculty, staff, or third parties. Student status under this policy applies to undergraduate, graduate, and part-time students. In cases where the Respondent is a student, the Student Sexual Misconduct Process outlined in this policy will apply. In cases where the Respondent is an employee of the College, the procedures for resolving sexual misconduct complaints outlined in the Employee Handbook will apply.

All services and protections afforded to Reporting Individuals under this policy are available to all students and applicable to conduct that has a reasonable connection to the College.
These policies apply to Prohibited Conduct that occurs:

- On campus
- Off campus, with a reasonable connection to the College
- In the context of a College-related or sponsored educational program or activity, regardless of the location, including study abroad, internships, or athletic activities
- Through the use of College-owned or provided technology resources, or
- When the conduct has continuing adverse effects and creates or continues a hostile environment on campus

The College’s Title IX Coordinator will determine whether the College has jurisdiction or disciplinary authority over the Respondent or the conduct. In cases where the College does not have jurisdiction, the College will take reasonably available steps to support a Complainant or other community members through Interim Measures and provide assistance in identifying external reporting mechanisms.

The Role of the Title IX Coordinator

Pursuant to Title IX and its regulations (34 C.F.R. Part 106), the Title IX Coordinator is the designated College official with primary responsibility for coordinating compliance with Title IX and other federal and state laws and regulations relating to sex-based discrimination.

Any member of the College community who believes they have been the victim of sexual misconduct and/or chooses to seek more information about sexual misconduct or College policies may contact the Title IX Coordinator. The College’s Title IX Coordinator is available to help students understand their options regarding both receiving support and reporting sexual misconduct. The Title IX Coordinator is unable to guarantee confidentiality but they will maintain privacy to the fullest extent. Additionally, the Title IX Coordinator is responsible for ensuring compliance with Title IX and its regulations, as well as the New York State Education Law 129-B.

The Title IX Coordinator, Meg Flaherty, can be reached Monday-Friday from 8:30 a.m. – 4:30 p.m. by phone at 585-385-8232, by email at titleix@sjfc.edu, or after hours by contacting the Residence Director on duty, or Campus Safety & Security.

The Title IX Coordinator:

- Supports those who assist with Title IX compliance;
- Ensures that the College policies and procedures provide prompt and equitable resolutions to allegations of sexual harassment/misconduct, including mitigating real or perceived conflicts of interest;
- Annually reviews the College’s sexual harassment/misconduct policies;
- Annually reviews the College’s educational programs and opportunities for the campus community regarding the topics of sexual misconduct and harassment;
- Informs campus community members about appropriate reporting processes for sexual harassment/misconduct allegations involving campus community members;
- Tracks/monitors sexual harassment/misconduct allegations involving campus community members;
- Ensures that training, education, and prevention efforts with respect to sexual misconduct allegations are provided for campus community members;
- Provides for mandatory training for those implementing the grievance procedure (Title IX Coordinator, investigators, hearing board members) regarding College policies, formal process procedures, and applicable non-disclosure requirements;
- Promotes the creation and implementation of policies, procedures, and notifications designed to ensure the College’s compliance with Title IX;
- Acts as a liaison to the U.S. Department of Education’s Office of Civil Rights and other state and federal agencies that enforce Title IX;
- Oversees matters related to the College’s compliance with NYS Education Law 129-B.

The Title IX Coordinator maintains broad oversight responsibility but may delegate responsibilities under this policy to designated administrators or external professionals who will have appropriate training and/or experience. When used in this policy, the term “Title IX Coordinator” may include an appropriate designee.

**Student Rights and Information**

**Student Bill of Rights Regarding Sexual Misconduct**

St. John Fisher College is committed to providing options, support and assistance to individuals reporting sexual or gender-based violence, sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All individuals reporting these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights afforded by New York State Education Law 129-B section 6443, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad.

All St. John Fisher Students have the right to:

- Make a report to local law enforcement and/or state police
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously
- Make a decision about whether or not to disclose a crime or violation and participate in the conduct or criminal justice process free from pressure by the College
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard
- Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available
- 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
- Describe the incident to as few College representatives as practicable and not to be required to unnecessarily repeat a description of the incident
- Be protected from retaliation by the College, any student, the Accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the College
- Access to at least one level of appeal of a determination
- Be accompanied by an advisor of choice who may assist and advise a Reporting Individual, Accused, or respondent throughout the Student Sexual Misconduct Process including during all meetings and hearings related to such process
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or Student Sexual Misconduct Process of the College

Additional Rights for Reporting Individuals:
• Make a report to the Department of Safety & Security, local law enforcement, and/or state police, or choose not to report
• Report the incident to the College
• Have emergency access to the College’s Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a Reporting Individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such officials shall also explain whether he or she is authorized to offer the Reporting Individual confidentiality or privacy, and shall inform the Reporting Individual of other reporting options
• Disclose confidentially the incident to College representatives who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Reporting Individuals
• Disclose confidentially the incident and obtain services from the state or local government
• Disclose the incident to the College representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for Reporting Individuals
• File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate College representatives for information and assistance. Reports shall be investigated in accordance with institution policy and Reporting Individual’s identity shall remain private at all times if said Reporting Individual wishes to maintain privacy
• Disclose, if the Accused is an employee of the College, the incident to the College’s Department of Human Resources or the right to request that a confidential or private employee assist in reporting to the appropriate Human Resources authority
• Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court
• To be protected by the College from retaliation for reporting an incident
• To receive assistance and resources from the College, whether or not the Reporting Individual chooses to participate in the College’s investigation and/or Student Sexual Misconduct Process
• Withdraw a complaint or involvement from the College process at any time

**Prohibited Conduct**

**Sexual Assault**
The College defines sexual assault as including non-consensual sexual intercourse and non-consensual sexual contact, which are further defined as:

• Non-Consensual Sexual Intercourse:
  o any penetration (anal, oral, or vaginal), however slight, with any body part (e.g. penis, tongue, finger, hand) or object, by a person upon another person that is without Affirmative Consent or by force or coercion;
  o sexual intercourse with a person who is under the statutory age of consent (which under New York law is 17 years old); or
  o sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law (incest).

• Non-Consensual Sexual Contact:
o any intentional touching, however slight, the intimate parts of another (including over clothing), causing another to touch one’s intimate parts, or disrobing or exposure of another without Affirmative Consent. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner;

o the same conduct not forcibly or against the person’s will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

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.

Sexual Harassment
Sexual harassment is unwelcome, sexual, sex-based, and/or gender-based verbal, written, online, and/or physical conduct that creates a hostile environment when

(1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, evaluation of academic work, or participation in any aspect of a College program or activity;

or

(2) Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual;

Or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual’s educational experience or creates an intimidating, or abusive educational environment. i.e. it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

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.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:
- **Physical conduct:** Unwelcome touching, physical assault, impeding, restraining, or blocking movements, unwanted sexual advances within the employment context.
- **Verbal conduct:** Making or using derogatory comments, epithets, slurs, or humor; graphic verbal commentaries about an individual's body; or sexually degrading words used to describe an individual.
- **Visual conduct:** Leering; making sexual gestures; displaying of suggestive objects, pictures, cartoons, or posters in a public space or forum if deemed severe, persistent, or pervasive by a reasonable party.
- **Written conduct:** letters, notes, or electronic communications containing comments, words, or images described above.
- **Quid Pro Quo (this for that):** unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, by a person having power or authority over another, when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual’s educational or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

**Intimate Partner Violence**

Intimate-partner violence, also referred to as dating violence, domestic violence, and relationship violence, includes any act of violence or threatened act of violence or abuse against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with another person. It may involve one act or an ongoing pattern of behavior. Intimate-partner violence may take the form of threats, assault, or violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner.

**Dating Violence:** The term “dating violence” means violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

**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.

Prohibition Against Retaliation

The College prohibits retaliation against anyone for filing a complaint or participating in any manner in an investigation or hearing in response to an allegation of discrimination or harassment, including allegations of sexual misconduct. The College recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that a Respondent can also be the subject of retaliation by the Complainant or a third party.

Affirmative Consent

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in the sexual activity. Consent can be given by words or actions, as long as those words or action create clear permission regarding willingness to engage in the 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.

Guidance for consent:

- 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 may be initially given but withdrawn at any time.
- A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.
- Consent to engage in sexual activity with a person(s) does not imply consent to engage in sexual activity with another person(s).
- Individuals with previous or current intimate relationships do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be voluntary and mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent cannot be given when a person is incapacitated or when the person initiating the sexual activity should have reasonably known about the incapacitation. Incapacitation 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, and other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Affirmative consent cannot be obtained through the use of force: Force is the use or threat of physical violence, intimidation, or coercion to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. For this use of force to be demonstrated, there is no
requirement that a Complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

- **Intimidation:** Intimidation includes intentionally directing verbal, written, or electronic threats of violence or other threatening behavior(s) toward another person or group that reasonably leads the targeted person(s) to fear for their physical well-being. Intimidation also includes fear inducing behavior(s) that deter or prevent the targeted person(s) from taking legitimate actions that they may otherwise take.

- **Coercion:** Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity, or gender expression, or threatening to harm oneself if the other party does not engage in the sexual activity.

**Sexual Activity:**
“Sexual Activity” has the same meaning as “sexual act” and “sexual contact” as provided in 18 U.S.C. § 2246(2) and 18 U.S.C. § 2246(3). Therefore, the term “sexual activity” includes the following:

- contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;

- contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

- the penetration, however slight, of the anal or genital opening of another by a 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;

- the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 17 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

- 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.

Individuals must obtain Affirmative Consent prior to engaging in sexual activity.

**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, full and part-time, must refrain from entering into any inappropriate sexual relationships with students (https://www.sjfc.edu/media/services/human-resources/documents/EmployeeHandbook.pdf). Allegations of inappropriate College employee/student sexual relationships should be reported to the Office of Human Resources (585-385-8048; hr@sjfc.edu) located in Kearney Hall 211. In cases where an employee of the College is a Respondent, the procedures detailed in the Employee Handbook apply.
Understanding Privacy and Confidentiality

St. John Fisher is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. Throughout the process, every effort will be made to protect the privacy of interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Students should be aware, however, that privacy and confidentiality have distinct meanings under this policy.

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).

At St. John Fisher College, reports of sexual misconduct made directly to the Campus Minister or to a staff member in the Health and Wellness Center are confidential. These are the ONLY resources at St. John Fisher College where confidential reports can be made. Confidential means that the information is protected from being disclosed to anyone else, unless required or permitted by law.

Confidential off-campus resources are identified below as “Additional Confidential Resources: Off-Campus.”

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but will still not disclose information learned from a Reporting Individual or bystander more than necessary to comply with the law, including informing appropriate College officials. Even College officials and employees, including Responsible Employees, who cannot guarantee confidentiality, will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be related only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

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, as soon as practical, any disclosure of Prohibited Conduct of which they are aware. The information that should be reported includes but is not limited to the identities of the parties involved, if known. 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.

Clergy Act Reporting

Under the Clery Act, the College must report statistics about certain offenses in its annual security report and provide those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. Individuals can access the College’s Clery Act annual security report on the Department of Safety and Security website.
If a report of misconduct discloses a serious or continued threat to the College community, the College may issue a campus wide timely warning to protect the health or safety of the community. The timely warning can take the form of an email and/or the College’s designated emergency notification system. The timely warning will not include any identifying information about the Reporting Party.

The release of the Respondent’s name to the general public is guided by the Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

**Campus and Community Resources**

A Reporting Individual has many options, including seeking counseling or assistance from a confidential resource, making a report under this policy and/or making a report to law enforcement. The College encourages prompt reporting of Prohibited Conduct to the Title IX Coordinator and (where appropriate) to law enforcement. The College also recognizes that deciding among these options can be difficult and is a personal decision for each student.

**Emergency Resources and Law Enforcement**

Emergency medical assistance, campus safety, and local law enforcement assistance are available 24/7 both on and off campus. Individuals are encouraged to seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense. Not only can internal and external injuries be treated, but measures can be taken to combat the possibilities of disease or pregnancy, as well as to collect evidence that could be relevant to criminal charges that may be brought or that might be needed to obtain a protection order.

**In an emergency, please contact the Department of Safety & Security at (585) 385-8111 or local law enforcement by dialing 911.**

**Emergency Medical Care Resources**
UR Medicine Urgent Care, Pittsford, 585-203-1055
Rochester Regional Health Immediate Care, Penfield, 585-388-5280
Immediate Care East, Victor, 585-398-1275
Urgent Care by Lifetime Health, Rochester, 585-338-1200

Within 96 hours of an assault, an individual can get a Sexual Assault Forensic Examination (or “SAFE,” commonly referred to as a rape kit) at a local hospital. Completing a SAFE will not require a report to the police, but will help an individual preserve evidence in case they decide at a later date to file a police report. Before obtaining a SAFE, a person should avoid showering, washing, changing clothes, combing hair, drinking, eating, or altering their physical appearance. There should be no charge for a rape kit, but there may be charges for medical or counseling services off campus, and in some cases, insurance may be billed for services. An individual should notify hospital personnel if they do not want their insurance policyholder to be notified about their access to these services.

The New York State Office of Victim Services may also be able to assist in compensating you (victims/survivors) for health care and counseling services, including emergency funds.

More information may be found here: [https://ovs.ny.gov/forensic-rape-examination-fre-direct-reimbursement-program](https://ovs.ny.gov/forensic-rape-examination-fre-direct-reimbursement-program) or by calling 1-800-247-8035.

**Local Hospitals with a Sexual Assault Forensic Examiner (SAFE) Program and Sexual Assault Nurse Examiner (SANE):**
Strong Memorial Hospital – Emergency Department, 601 Elmwood Ave., Rochester, NY 14642
Addison Confidential Resources

On-campus:

Health and Wellness Center, M-F 8:30 a.m. - 4:30 p.m., Wegmans School of Nursing, Suite 107, 585-385-385-8280.
Campus Ministry, M-F 8:30 a.m. - 4:30 p.m., Campus Center, 585-385-8368.

Off-Campus:

Willow Domestic Violence Center
24-hours a day, Free, Confidential
585-222-SAFE (7233)
SERVICES: 24/7 hotline, emergency shelter, counseling, support groups, children's services, court advocacy, Latina services, dating violence education, prevention education

Restore: Sexual Assault Services
24-hours a day, Free, Confidential
Rochester (Monroe County) Hotline: 585-546-2777
Genesee, Livingston, Orleans & Wyoming Counties Hotline: 800-527-1757
114 University Avenue, Rochester, NY 14605
SERVICES: trained counselors provide crisis intervention and support services to women, children, and men who are survivors of sexual assault, provide information to enable informed choices concerning medical, legal and counseling needs, offer advocacy and information about client’s rights, provide short-term counseling sessions, and legal and medical accompaniment

New York State Police Campus Sexual Assault Victims Unit
5831 Groveland Station Road
Mount Morris, New York 14510
Matthew Stegner, Senior Investigator
Matthew.stegner@troopers.ny.gov
https://consentfirst.troopers.ny.gov/

Monroe County Sheriff's Dept. Victim Assistant Program
585-753-4389 789
Linden Avenue, Rochester 14625
SERVICES: crisis support, short-term counseling, referrals, advocacy, case status, and court procedure information

Trillium Health
Monday-Friday (hours vary daily)
585-545-7200
259 Monroe Avenue, Rochester, NY 14607
SERVICES: medical care, specialized LGBT Care, on-site pharmacy and lab services, HIV prevention and testing, women's gynecological services, and supportive services

New York State Coalition Against Sexual Assault
24-hours a day, Free, Confidential
New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906

RAINN (Rape, Abuse & Incest National Network)
24-hours a day, Free, Confidential
1-800-656-HOPE (4673)
SERVICES: support from a trained staff member, help finding a local health facility trained to care for survivors of sexual assault that offers services like sexual assault forensic exams, help to talk through what happened, local resources to assist with your next steps toward healing and recovery, referrals for long term support, information about the laws in your community, basic information about medical concerns

Resolve of Rochester, Inc.
Free, Confidential 585-425-1580
P.O. Box 21, Fairport, NY 14450
SERVICES: serves women and children in transition from domestic violence, who need individual or group counseling, advocacy, or community referrals as they heal from abuse

OUT Alliance
585-244-8640
100 College Avenue, #100, Rochester, NY 14607
SERVICES: a variety of support groups and services for LGBT individuals

IGNITE Advocacy Services for Abused Deaf Victims
SERVICES: supports the needs of Deaf, Deaf Blind, and Hard of Hearing survivors of domestic violence and sexual violence, anonymity and confidentiality are strictly honored

**Reporting Sexual Misconduct**

At the first disclosure by a Reporting Individual to a College representative, the Reporting Individual will be informed, “You have the right to make a report to Department of Safety and Security, local law enforcement, and/or state police or choose not to report; to report the incident to St. John Fisher College; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

A Reporting Individual has several choices for both reporting Prohibited Conduct as well as getting more information about their options for reporting and support. A Reporting Individual may choose to use any of the following reporting options simultaneously.

**Reporting to the College**

A Reporting Individual may choose to share information with the College, receive resources and support, and pursue no resolution process at that time. When this is the expressed preference, the Reporting Individual is provided resources and informed of Interim Measures.

A Reporting Individual can also choose to make a report regarding sexual misconduct to the Title IX Coordinator or Department of Safety and Security. When this is the expressed preference, the Reporting Individual is provided resources, informed of Interim Measures, and has the opportunity to discuss resolution options.
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 by phone at (585) 385-8111 or in person at the Haffey Hall Lobby.

If what is reported is a violent felony, New York State law requires the College to report the alleged offense to law enforcement within 24 hours of receiving the report. The College's Director of Safety and Security will determine if an incident requires reporting. If law enforcement is contacted, the Reporting Individual may choose their level of participation with law enforcement.

Allegations involving an employee of the College may be reported to the **Office of Human Resources** [(585) 385-8048; hr@sjfc.edu] located in Kearney Hall 211. The Title IX Coordinator is available to assist a Reporting Individual in making such a report. The Reporting Individual may also request that a confidential or private employee assist in making the report.

**Reporting to Law Enforcement**

A report may be made to **Monroe County Sheriff's Department** Victim Assistance Program at 585-753-4389 ([http://www.monroecountysheriff.info/](http://www.monroecountysheriff.info/) ) or by calling 911.

A report can also be made with the **New York State Police** at:

- New York State Police  
  Campus Sexual Assault Victims Unit  
  1220 Washington Ave, Building 22  
  Albany, New York 12226  
  Dedicated 24-hour hotline: 1-844-845-7269

The College will assist any person in contacting law enforcement officials to report an allegation of sexual misconduct. Additionally, any campus community member may independently report. Law enforcement follows its own procedures. If you choose to contact law enforcement directly, law enforcement may not inform the College of your report. If you wish to make the College aware and involved, please contact the Title IX Coordinator or the Department of Safety and Security.

Upon reviewing the facts of the case, law enforcement may decide to prosecute the matter and further participation with law enforcement may be required. Once criminal charges are initiated, charges can be withdrawn only with the proper consent of the **District Attorney's Office**. The College will act on any information law enforcement shares with the College if there is a concern for the safety of the College community.

St. John Fisher College fully supports all local, state, and federal laws prohibiting sexual misconduct and will cooperate with law enforcement officials who investigate such allegations to the fullest extent allowed under the law. In all cases reported to law enforcement, the College will coordinate its investigations and responses with those of law enforcement. A concurrent investigation will not prevent the College from conducting its own investigation and conduct processes, except for temporary delays requested by law enforcement.
Additional Reporting Options

In addition to the reporting choices above, persons may direct information about their allegations to the Office of Civil Rights, U.S. Department of Education:
https://wdrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm

The OCR National Headquarters is located at:
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Requests for Anonymity

Once a report has been shared with the Title IX Coordinator, a Reporting Individual may request that their identity not be shared with the Respondent (request for anonymity), that no investigation occur, or that no disciplinary action be pursued. The College will carefully balance this request in the context of the College’s commitment to provide a safe and non-discriminatory environment for all community members.

Alcohol and/or Drug Use Amnesty

A Reporting Individual or bystander acting in good faith that discloses any incident of domestic violence, dating violence, stalking, sexual harassment, or sexual assault to College officials or law enforcement will not be subject to the St. John Fisher College’s Student Code of Conduct for violation of the 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.

The health and safety of every student at St. John Fisher College is of the utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether use is voluntary or involuntary) at the time that violence occurs, including but not limited to domestic violence, dating violence, stalking, or sexual assault, may be hesitant to report incidents due to fear of potential consequences for their own conduct. St. John Fisher College strongly encourages students to report domestic violence, dating violence, stalking, sexual harassment, or sexual assault to College officials.

False Reports

The College will not tolerate intentional false reporting of incidents. The College expects truthful and accurate reports as an allegation of sexual misconduct is serious and may have severe consequences for the individuals involved. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a Complainant or witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the Complainant or witness may be subject to disciplinary action. It is a violation of the Code of
Student Conduct to make an intentionally false report of any policy violation, and may also be a violation of state criminal statutes and civil defamation laws.

**Interim Measures**

Interim Measures, including support and protective measures, are available to the Reporting Individual, Accused/Respondent and/or witnesses. The purpose of such measures is to help to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Interim Measures may include interim actions, College No-Contact Orders, changes in academic, work, parking, and/or living situations, if reasonable alternatives exist.

Interim Measures are available to the Reporting Individual, the Accused/Respondent and/or witnesses whether or not:
- A report results in an investigation by the College
- A report results in the initiation of the Student Sexual Misconduct Process
- The Reporting Individual, Accused/Respondent and/or witnesses choose to participate in the College’s investigation and/or Student Sexual Misconduct Process

Interim Measures will be individualized, appropriate, and potentially evolving, depending on the circumstances. In the use of Interim Measures, the College will make every reasonable effort to avoid depriving a student of their education. Such measures will be reasonable and tailored to balance the ability of the Accused/Respondent to complete their studies, with the safety of both the Reporting Individual and/or the College community at large.

**Interim Actions**

The Title IX Coordinator may assign an interim action or actions at any time following the receipt of information of an allegation of sexual misconduct that is apparently reliable and relates to the safety and/or welfare of any person, College property, or any College function. The assignment of an interim action(s) restricts the student from certain privileges at the College in the interest of safety and/or the well-being of the community or the student themselves; it does not mean the student has been found responsible for violating this policy or the Student Code of Conduct.

Interim actions include the following:
- Modification or suspension of the ability of a student to be present in specific areas or buildings on campus
- Modification or suspension of the ability of a student to be present on College property in its entirety
- Modification or suspension of the ability to attend class(es)
- Modification or suspension of the ability to participate in a College-related activity or activities
- The issuance of a No Contact Order

Interim suspension pending the outcome of the Student Sexual Misconduct Process will occur when the Accused/Respondent is a student determined to present a continuing threat to the health and safety of the College community. When the Accused/Respondent is not a student, but a member of the College’s community and presents a continuing threat to the health and safety of the community, that person will be subject to Interim Measures in accordance with applicable College rules and policies governing employment.
The interim action(s) will be communicated in writing to the affected parties, by email or USPS mail, and will be effective immediately. Failure or refusal to take receipt of notification will not negate or postpone the implementation of said interim action.

Interim actions are in effect from the time of issuance until the Title IX Coordinator determines that the reason for imposing the interim action no longer exists and the student receives written notice that the interim action is no longer applicable or until the resolution of the matter.

Both the Respondent and the Reporting Individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of interim actions, including potential modification, and shall be allowed to submit a request in writing and evidence in support of the request to the Title IX Coordinator. The other party may be notified regarding any requests made for changes or modifications. The Title IX Coordinator will conduct a prompt review, reasonable under the circumstances, of the need for and terms of the interim actions, and will notify both parties of the decision to modify or not.

**No Contact Orders**

The conditions of a No Contact Order, whether as an interim action or a College sanction, are as follows:

A No Contact Order separates two or more parties from each other in the interest of safety and/or the well-being of the students or the community.

Students with a No Contact Order should have:
- No physical contact with the other party
- Should a student who is the subject to a No Contact Order (the Accused/Respondent or a third party) find themselves in the same location as the protected party (the Reporting Individual/Complainant), it is the responsibility of the covered person to remove themselves in a reasonable time and manner without directly contacting the protected party.
- No verbal contact with the other party
- No written contact with the other party
- No telephone contact with the other party
- No electronic contact with the other party
- No contact with the other party/parties via third parties

When a College facility is limited (e.g. dining hall, athletic facility, etc.) the College may establish an equitable schedule for both parties to access and utilize College facilities, services, and programs.

If contact is made in violations of the No Contact Order, the following steps should be taken:
- Immediately report the contact to either the Office of Safety & Security (585-385-8111 or Haffey Hall Lobby) or the Title IX Coordinator (585-385-8232 or titleix@sjfc.edu, 206 Campus Center);
- If the contact is written or electronic, attempt to save and not delete it. Please bring this information with you when you report to the Office of Safety and Security or the Title IX Coordinator;
- Do not respond to the contact. Whether it is in person, verbal, writing, electronic, third party, etc. responding to the contact may be considered a violation of the policy and could result in additional interim or student conduct action.
When the College determines on the basis a good faith report that a No Contact Order has been violated, the College will take action through the Student Conduct Process. A range of measures may result, including:

- Additional interim action(s) or sanction(s) (e.g. interim suspension, residence hall changes, etc.)
- Contacting law enforcement for a formal order of protection or appropriate action
- Referral to the Student Conduct Hearing Process, which entails the full range of potential outcomes detailed on the St. John Fisher College Student Conduct website

Both the Respondent and the Reporting Individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a No Contact Order, including potential modification, and shall be allowed to submit evidence in support of the request. The other party will be notified regarding any requests made for changes or modifications. The Title IX Coordinator will conduct a prompt review, reasonable under the circumstances, of the need for and terms of the No Contact Order, and will notify both parties of the decision to modify or not.

Orders of Protection
A Reporting Individual can get assistance from the Office of Safety & Security (585-385-8111) and the Title IX Coordinator to obtain an order of protection or equivalent protection order. The Reporting Individual will have an opportunity to receive a copy of the order or protection when received by the College. They further will have an opportunity to meet or speak with the Department of Safety & Security officials who can explain the order and answer questions about it (including information from the order about the Accused’s responsibility to stay away from the protected person(s) and the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension). Reporting Individuals can receive assistance from the Department of Safety & Security to call on and assist local law enforcement in order to effect an arrest.

Overview of the Student Sexual Misconduct Process
St. John Fisher College is committed to providing a prompt, thorough, equitable, and impartial resolution of all reported violations of this policy. The College uses two processes to resolve reports of Prohibited Conduct under this policy:

- **Informal Resolution**, a framework that includes informal or restorative options for resolving reports that typically do not involve disciplinary action against a Respondent.

- **Disciplinary Resolution**, formal procedures that involve an investigation, adjudication and, if appropriate, the imposition of sanctions.

The Title IX Coordinator will determine the appropriate resolution process after conducting an Initial Review of the reported information, consulting with the Reporting Individual/Complainant, considering campus safety, and evaluating the College’s obligation to maintain an environment free from harassment and discrimination.

Time Frame for Resolution
The College will seek to complete the appropriate resolution process as promptly as possible, consistent with the need to conduct sensitive and informed fact-gathering to ensure an equitable resolution. This policy designates reasonably prompt timeframes for the major stages of the investigation and resolution process (typically set forth in business days), but the College may extend any timeframe in this policy for good cause. An extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties...
or witnesses; or for other legitimate reasons, such as intervening breaks in the College calendar, College finals periods, the complexity of the investigation, the volume of information, number of witnesses, length of the written record, and/or the severity and extent of the alleged misconduct.

While requests for delays by the parties may be considered, the College cannot unduly or unreasonably delay the prompt resolution of a report under this policy. Reasonable requests for delays by the parties may serve to extend the time period for resolution of the report. The Title IX Coordinator has the authority to determine whether an extension is required or warranted by the circumstances. The College will notify the parties in writing of any extension of the timeframes for good cause, the reason for the extension and the length of the extension.

Advisor of Choice
Throughout an Informal or Disciplinary Resolution, each party has the right to consult with an advisor of their choosing. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation or whose role in the process does not otherwise create a conflict of interest. The parties may be accompanied by their respective advisor at any meeting or proceeding related to the resolution of a report under this policy. While the advisor may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt or interfere with meetings and/or proceedings. The College will not unduly delay the scheduling of meetings or proceedings based on an advisor’s unavailability. An advisor may be asked to meet with the Title IX Coordinator in advance of any proceedings to understand the expectations of the role, privacy considerations, and appropriate decorum.

Initial Review
The Title IX Coordinator is responsible for an Initial Review of disclosures and/or reports of potential violations of the Sexual Misconduct Policy. The goal of this Initial Review is to provide an integrated and coordinated response to reports of sexual misconduct. The Initial Review will consider the nature of the report, the safety of the individual and of the campus community, and the Reporting Individual’s expressed preference for resolution. The Initial Review will proceed to the point where a reasonable assessment of the safety of all involved parties and the community can be made.

In order to protect the safety of the campus community, the Title IX Coordinator may need to proceed with an investigation even if a Reporting Individual specifically requests that the matter not be pursued. The Title IX Coordinator may also initiate an investigation of potential violations of this policy even absent a formal report or identified Complainant or Respondent and even if a report has been withdrawn. In such a circumstance, the Title IX Coordinator will take into account the Reporting Individual’s articulated concerns, the safety of the campus community, fairness to all individuals involved, and the College’s obligations under Title IX. The Title IX Coordinator will balance the Reporting Individual’s request against the following factors in reaching a determination on whether the request can be honored:

- the totality of the known circumstances;
- whether the Accused/Respondent has a history of violent behavior or is a repeat offender;
- whether the incident represents escalation in unlawful conduct on behalf of the Accused/Respondent from previously noted behavior;
- the increased risk that the Accused/Respondent will commit additional acts of violence;
• whether the Accused/Respondent used a weapon or force;
• whether the Reporting Individual is a minor; and
• whether the College possesses other means to obtain relevant evidence such as security footage;
• whether available information reveals a pattern of perpetration at a given location or by a particular group;
• fairness considerations for both the Reporting Individual and the Accused;
• the College’s obligation to provide a safe and non-discriminatory environment; and
• any other available and relevant information.

At the conclusion of the Initial Review, the College will proceed with one of the following options:

1. Proceed with an investigation under the **Disciplinary Resolution** process. This will occur when a Reporting Individual requests an investigation, where the Title IX Coordinator determines to proceed with an investigation even when a Reporting Individual requests that no investigation be pursued, or where Informal Resolution is not appropriate or available.

2. Proceed with **Informal Resolution**. This will always require the consent of the Complainant. The consent of the Respondent is also required when the form of resolution involves the Respondent.

3. If **outside the scope** of this policy, refer the matter to another appropriate office or department for resolution under the relevant policy.
   a. In the event that a report alleges violations of both the St. John Fisher Code of Conduct and the Title IX & Sexual Misconduct Policy (in accordance with amnesty for alcohol and drug use as specified in this policy), the allegations will be separated and documentation will be appropriately redacted to preserve the privacy of individuals involved. The charges relevant to the Code of Conduct will be referred to the Student Conduct Office for resolution.

4. If the Reporting Individual expresses a preference to share information, but not pursue any further action at this time, and there is no immediate or continuing threat to an individual or the campus community, the disclosure will be documented with the Title IX Coordinator only.

**Informal Resolution**

If all parties voluntarily agree to participate in an Informal Resolution that does not involve a full investigation and adjudication after receiving full disclosure of the allegations and their options for Disciplinary Resolution and if the College determines that the particular Title IX complaint is appropriate for such a process, the College may facilitate an Informal Resolution, including mediation, to assist the parties in reaching a voluntary resolution.
Disciplinary Resolution

A Disciplinary Resolution includes formal procedures that involve an investigation, adjudication and, if appropriate, the imposition of sanctions.

Investigation

The College will conduct a prompt and equitable investigation to gather information relevant to the determination of whether there is sufficient information, by a preponderance of the evidence, to determine that a policy violation occurred. The investigation will be impartial and will be conducted by trained individuals who have no actual bias or conflict of interest.

The Title IX Coordinator has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident is relevant to the others. Consolidation might involve multiple Complainants and a single Respondent, multiple Respondents, or conduct that is temporally or logically connected.

In the investigation process, a Complainant and Respondent should expect that:

- A notice of investigation will be delivered to the Respondent regarding the nature of the incident and the alleged violation, along with their rights and resources relevant to College processes and support.
- The investigation will be prompt, thorough, and equitable.
- The investigation will include interviews with all available involved parties, including witnesses and other persons with first-hand knowledge.
- The Complainant and Respondent will have the opportunity to ask questions of each other and witnesses (“cross-examine”) via the investigators.
- There will be a complete review of any related, relevant documents.
- The disclosure of facts to parties and witnesses will be limited to what is reasonably necessary to conduct a fair and thorough investigation.
- Participants in the investigation will be advised of the importance of maintaining privacy throughout the process.
- At any time during the investigation, the investigator will make recommendations to appropriate College officials for Interim Measures for the Complainant, Respondent, and/or witnesses.
- An investigation will result in a written report that, at a minimum, includes a statement of the allegations, the issues, and a summary of the information being forwarded to the Title IX Coordinator.
- The College will inform the parties at regular intervals of the status or progress of the process.

Timing of the Investigation

The goal of the College is to complete the fact-gathering portion of the investigation within approximately 50 business days.

Review of Case Materials

When the investigation is complete, the investigators complete a Report of Investigation for the Title IX Coordinator. Upon receipt of the report, the Title IX Coordinator will notify the Respondent and the Complainant of the conclusion of the Investigation phase of the Disciplinary Resolution process and their right to review the entirety of the case file (subject to appropriate redaction, including as permitted and/or
required by law) and review and comment on their respective statements and evidence prior to the hearing.

**Suspension-In-Process**

Following receipt of the Report of Investigation, if the Title IX Coordinator is unable to determine that a policy violation occurred and accordingly a Sexual Misconduct Hearing Committee would not be able to adjudicate the case, the Complainant and Respondent will be notified that the process has been suspended-in-process. Both parties may submit a written appeal of the suspension-in-process, and each party will have an opportunity to respond to such an appeal. Any appeal will be reviewed by a committee, pursuant to this policy. New information or evidence may lift the suspension-in-process and may be submitted to the Title IX Coordinator at any time.

Following the opportunity for review and comment, the Title IX Coordinator forwards the case to a Sexual Misconduct Committee Hearing and initiates scheduling and notifications of a Sexual Misconduct Committee Hearing. The Complainant and Respondent will be given reasonable access to review evidence directly relevant to the case in the possession or control of the College, such as materials in the case file that may be used at the Sexual Misconduct Committee Hearing and/or may exonerate or show responsibility in the case. The College will place reasonable restrictions on access to evidence, such as time, place and manner, and a heightened restriction on sensitive information that is not directly relevant to the questions raised in the investigation or Hearing. Students or their advisors may not engage in “fishing expeditions” of all records maintained by the College that in any way cover any of the parties. This review is expressly not a right to pre-Hearing “discovery” and the College has no obligation to provide copies of documents, records, or any other potential evidence to a party.

**Title IX Committee Hearing**

A Sexual Misconduct Committee Hearing (hereafter referred to as the “Hearing”) takes place between the Respondent, Complainant, the Sexual Misconduct Hearing Committee (hereafter referred to as the “Committee”) and any witnesses with first-hand knowledge of the relevant facts. Hearings are private and closed to everyone except the involved persons. At their discretion, the Committee chair may request that a representative from the Department of Safety and Security be present throughout the hearing as well to ensure the safety of the proceedings and participants.

**Notice/Appearance Letter**

The Respondent and Complainant will receive an “appearance letter” for a Hearing with the following information:

- The date, time, location and factual allegations concerning the violation
- The specific codes and college policies allegedly violated
- Possible sanctions
- The time, date, and location of the Hearing and contact information of the Committee chair
- The need to be present and prepared for participation in the Hearing and that the Hearing will proceed at the scheduled time, date, and location if the you choose not to attend or participate in the Hearing
- Information about requesting accommodations for the Hearing through the Student Accessibility Services
- The opportunity to have an advisor present in the pre-Hearing meeting and at the Hearing
- The process for requesting witnesses with first-hand knowledge of the relevant facts
- Options for alternative accommodations for participation in the Hearing, including not being in the same space as the other party
• Information regarding community resources, information regarding retaliation, and information regarding nondisclosure of information

The Respondent’s appearance letter will further contain the option to acknowledge full, partial, or no responsibility for the alleged violations.

Barring unusual circumstances, the Complainant and Respondent will be served the appearance letter within five (5) business days prior to the hearing date. Both parties will be served the appearance letter through their College email address. It is the responsibility of the parties involved to check their College email address for this and all official communication from the College.

Witnesses

The respondent and complainant may both request that witnesses with first-hand knowledge of relevant facts participate in a Hearing. Witnesses may not participate solely to speak about an individual’s character. Requests for witnesses must be made to the Title IX Coordinator at least 48 hours before the Hearing. If a witness is unavailable to attend the Hearing, the witness may fill out a statement of fact form through the Department of Safety and Security that will be used in lieu of the witness’s testimony at the Hearing. Statements must be completed at least 48 hours before the Hearing.

The Title IX Coordinator has the discretion to request that witnesses with first-hand knowledge of relevant facts participate in the Hearing even if the witness has not been requested by the Respondent(s) and/or Complainant(s).

It is the responsibility of the person requesting the witness to ensure the witness attends the Hearing. If a witness does not appear at the scheduled date and time of the Hearing, the Hearing will proceed without the participation of the witness. Although a witness may be requested to participate in a Hearing, they are not required or obligated to participate. Retaliation against any witness is a violation of this policy.

Whenever possible, witnesses will be contacted prior to the Hearing with information and options regarding their participation in the Hearing, resources, retaliation, nondisclosure information, and information about requesting accommodations for the Hearing through the Student Accessibility Services. Witnesses may also schedule a pre-hearing meeting with the Title IX Coordinator to discuss hearing procedures and their participation in the process.

As appropriate, witnesses may be contacted after the Hearing with information regarding resources, retaliation, and non-disclosure information. Witnesses are not notified of the outcome of the Hearing.

Advisors

Advisor requests must be submitted to the Title IX Coordinator at least 48 hours before the Hearing. It is the responsibility of the person requesting the advisor to ensure the advisor attends the Hearing. If an advisor does not appear at the scheduled date and time of the Hearing, the Hearing will continue without the participation of the advisor. Although an advisor may be requested to attend the Hearing, they are not required or obligated to attend or participate. Retaliation against any requested advisor is strictly prohibited. The Title IX Coordinator will assess requests by a party for more than one advisor and retains full discretion whether to approve such requests.

The advisor is not permitted to directly address anyone other than their advisee, at any time, including asking any question or speaking on behalf of their advisee. Should an advisor violate the terms of this role they will be asked to leave the Hearing by the Committee Chair and will be asked to leave the room.
where the Hearing is being conducted. It is the Respondent/Complainant's responsibility to ensure that their advisor complies with this policy.

Whenever possible, the advisor will receive written information prior to the Hearing regarding their participation in the Hearing, resources, retaliation, and nondisclosure information. The advisor will not receive written notification of the outcome of the Hearing.

**Hearing Attendance**

The Respondent and Complainant are encouraged, but not required, to attend the Hearing. If the Respondent or Complainant has a conflict with the date and/or time of the Hearing it is their responsibility to contact the Title IX Coordinator directly to reschedule. The Title IX Coordinator will assess requests by a party for a change in the date and/or time of the Hearing, and will grant a change for good cause. The Hearing may take place without the Respondent and/or Complainant if they fail to appear at the scheduled time and place.

**Hearing Proceedings**

The following is a general description of procedures for the Hearing. These procedures may vary as appropriate for specific Hearings.

1. Everyone present in the Hearing (including the Committee, Respondent, Complainant, witnesses, and advisors) will be introduced, their role in the process and expectations of behavior will be explained and review Hearing Proceedings.
2. The witnesses will leave the Hearing room.
3. Members of the Committee will review the Hearing materials which include the alleged violations, and the findings of fact from the report(s) of investigation. The review of materials will be sufficient to provide a summary of the investigation phase of the process assuming the Respondent and Complainant have reviewed the case materials prior to the Hearing.
4. The Complainant and Respondent respond to the report(s) of investigation and case materials.
5. Members of the Committee will ask the Complainant and Respondent relevant questions regarding the incident and case materials.
6. Witnesses will be invited into the hearing room individually to provide any relevant first-hand information. At this time, members of the Committee will ask the witness any relevant questions in regard to the incident. The witness will leave the room after sharing their information.
7. Both the Complainant and the Respondent will have an opportunity to submit questions to the Committee chairperson for consideration to present to any witnesses (including each other) for cross-examination purposes.
8. The Complainant and Respondent will be offered an opportunity to make a summary statement.
9. The Chair will review the confidentiality of the proceedings and case materials, interim measures, that the Complainant and Respondent will be simultaneously notified of the Committee decision via their College e-mail, the appeal process, and that any interim actions or measures remain in place until otherwise notified.
10. The Complainant and Respondent submit their Impact Statement to the Chair of the Committee.
11. All persons but the Committee are dismissed and the Committee considers the case materials and information presented to determine responsibility or non-responsibility for the alleged violation(s) and appropriate sanctions (if applicable).
   a. If there is a finding of responsibility, the Committee reads and reviews the Impact Statements, taking them into consideration when determining potential sanction(s).
The Complainant and Respondent will receive simultaneous written notification of the outcome of the Hearing which will include the factual findings, rationale, and sanction(s) if applicable. Parties will also be notified of their right to appeal and the process for completing an appeal in the written notice of outcome. Sanctions assigned will be effective immediately.

Sexual Misconduct Hearings will be audio recorded by the College. Committee deliberations will not be recorded. No audio or other recording of a Hearing is permitted by any other person. The audio recordings of the hearing will be preserved and maintained for at least five years from the Hearing, and parties will have fair access to the record.

**Procedure for Determining Responsibility**

In order to determine responsibility regarding any alleged violations, the Committee reviews all information presented through the investigation and hearing processes. The Committee does not consider a Respondent’s previous findings of responsibility when determining responsibility in the current matter. The determination of responsibility for a violation of this policy and/or the student code of conduct will be made if in the judgment of the Committee that the conduct was more likely than not to have occurred (i.e. “the preponderance of the evidence”).

**Prior Sexual History/Mental Health Information:** A party may present evidence of their own prior sexual history with persons other than the other party, and mental health diagnoses and/or treatment, and may prohibit the other party from seeking to present testimony or other evidence of the same.

The sexual history of the Complainant or Respondent will never be used to prove character or reputation. Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this policy has occurred and will only be considered when a determination is made that it is directly relevant to the investigation. For example, if Affirmative Consent is at issue, the sexual history between the parties may be relevant to determine the nature and manner of communications between the parties, which may inform the determination whether Affirmative Consent was sought and reasonably appeared to have been given during the incident in question. As set forth in the Affirmative Consent definition, even in the context of a relationship, Consent on one occasion does not constitute Affirmative Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain injury, to provide proof of a pattern, or to address another specific issue raised in the investigation. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

**Prior Incidents:** Past findings of domestic violence, dating violence, stalking, or sexual assault through College or law enforcement processes may be admissible at the disciplinary stage that determines sanction (if applicable). Similarly, previous findings of responsibility for false reporting as defined in this policy may be taken into consideration at the time of deliberation and sanctioning (if applicable).

**Impact Statements**

Impact statements are presented at the Hearing after a finding of responsibility where the Committee is deliberating on appropriate sanctions, if any. A Complainant’s impact statement is a written statement describing the impact of the prohibited conduct and expressing a preference about the potential sanctions to be imposed. A Respondent’s impact statement is a written statement explaining any factors that the
respondent believes should mitigate or otherwise be considered in determining the potential sanctions imposed.

**Potential Outcomes**

When there is a finding of responsibility, College sanctions will be assigned. These may include, but are not limited to: written warnings, disciplinary probation, suspension, expulsion, as well as educational assignments and referrals. The complete list of College sanctions is listed on the [Code of Conduct website](#).

If the Hearing results in suspension, the student may not re-enroll at the College for a prescribed period of time. Before re-enrollment at the College, the student will need to meet with the Title IX Coordinator to discuss the student’s progress in completing any assigned sanctions associated with the suspension and eligibility to resume enrollment at St. John Fisher College. Upon any re-enrollment, the student will be placed on Disciplinary Probation for the remainder of the academic career. The student’s transcript will reflect “W” (withdrawn) for all courses in which the student was enrolled for the semester. Tuition, room and board charges, as applicable, will be prorated based on the College Refund Policy. The date used to determine any refund is the date of this finding or the date of any interim action related to this finding, whichever date is earlier. Persons suspended from the College are considered to be Persona Non Grata (PNG) from the College until any successful re-enrollment at the College.

**Appeal Process**

Both parties have the right to one level of appeal. Requests for an appeal should be made by completing an [Appeal Request Form](#). The Appeal Request Form must be received within five business days of the receipt of the written notification of outcome letter.

When requesting an appeal, the appealing party must demonstrate in writing that one or more of the following applies to their situation:

- Procedural error(s) that had a material impact on the final outcome
- The sanction imposed was not in keeping with the gravity of the violation
- New information is available now that was not available at the time of the hearing, which may substantially change the outcome

Both parties are notified when an appeal is requested, and notified again within five business days if the appeal request has been granted. At the time of the request, both parties have seven business days the opportunity to review and respond to the request.

An impartial review panel, free from conflicts of interest, reviews the Appeal Request Form. The Appeal Panel will can dismiss the appeal for failing to state a grounds for appeal, affirm the original findings, amend the original sanctions, send the case back to the Hearing Committee, or convene a new Hearing Committee. In cases where sanction(s) are amended or rejected, a rationale will be specified. The Respondent and Complainant will be notified simultaneously of the outcome of the appeal request within five business days. The review panel does not rehear cases.

**Effect of Withdrawal and Transcript Notation**
For those crimes of violence, as defined by the Clery Act, that St. John Fisher College is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and appeal, if any, shall include the following notation:

- "Suspended after a finding of responsibility for a code of conduct violation"
- "Expelled after a finding responsibility for a code of conduct violation"

Additionally, the transcript of any student who withdraws from the College following the receipt of a notice of investigation and declines to complete the disciplinary process shall include the following notation:
- "Withdrew with conduct charges pending"

**Transcript Notation Review Process**

When a student is suspended from the College, a notation has been placed on her/his transcript and the student may request a review of the notation for removal.

To request a review, the student must submit a letter to the Title IX Coordinator requesting the removal of the notation which also includes the following information:

- A personal statement detailing the student’s time away from the College and outlining both positive contributions the student has made to the community and personal growth.
- Two (2) character reference letters. (Letters from family members are not acceptable.)

The Title IX Coordinator will review the request and may require additional information. Following a review of the request, the Title IX Coordinator may subsequently require speaking to or meeting with the student regarding the request before making a decision.

If a notation is removed from a transcript this does not erase the student’s conduct history; it modifies the student’s transcript upon the request being granted. In no case shall the transcript notation for suspension be removed prior to one year after the conclusion of the suspension. Notations for expulsion shall not be removed from transcripts.

**Student Conduct Records**

Documentation from all processes and any appeals become part of the students’ student conduct file, considered to be part of the student's educational record, and are maintained by the Title IX Coordinator. Outcomes may be released to College officials on a "need-to-know" basis. Student records may be released to persons and agencies external to the College with the student's permission, or in compliance with the law. Records subpoenaed or ordered by a judge may be released without a student's permission. A record may also be released if it is in the College's legal interest to do so.

In cases where the College is the Complainant in an Informal Resolution or Disciplinary Resolution, the final results of the proceeding may be disclosed to the victim in the allegation, in accordance with FERPA. The final results are defined as the decision or determination made by the decision-makers, the name of the student, the violation committed, and any sanction (if applicable) imposed by the College against the student. Sanction information may include a description of the action, the date of imposition, and its duration. The recipient is prohibited from re-disclosing the information provided.

All student conduct files are maintained for seven (7) years after the most recent finding of responsibility. These student conduct records are destroyed at the end of the appropriate time period. Records pertaining to students who are suspended or expelled are maintained permanently.