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

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

A. Purpose and Notice of Non-discrimination. The purpose of this Policy is to maintain an environment that is free from the physical and emotional threat of sexual misconduct, including sexual harassment, sexual assault, and other forms of sexual violence. The College of Saint Benedict (CSB) and Saint John’s University (SJU) have zero tolerance for sexual misconduct in any form.

CSB and SJU are committed to compliance with all applicable anti-discrimination laws and do not unlawfully discriminate on the basis of race, religion, color, national origin, sex, sexual orientation, age, marital status, disability, familial status, status with regard to public assistance, or other legally protected category or characteristic, in their programs and activities. Harassment based upon an individual’s legally protected status is a form of prohibited discrimination.

In accordance with Title IX, this Policy addresses the institutions’ prohibition of sexual misconduct, including sexual harassment, sexual assault, and other forms of sexual violence. Sexual harassment, sexual assault, and all other forms of sexual misconduct are forms of sex discrimination. Not only are they prohibited by this Policy, but they are also prohibited by various federal and state laws, including Title IX of the Educational Amendments of 1972 and the Minnesota Human Rights Act.

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

The College of Saint Benedict and Saint John’s University will investigate and promptly seek the equitable resolution of all allegations of sexual misconduct, take steps to prevent the recurrence of sexual misconduct, and to correct its effects on victims and others.

Questions or concerns regarding Title IX, sex discrimination, sexual harassment or sexual misconduct may be directed to the institutions’ Title IX Coordinators:

Kathryn Enke  
Chief of Staff  
kenke@csbsju.edu  
(320) 363-5070  
37 South College Avenue  
Main 106  
Saint Joseph, MN 56374

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

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

Web address:  http://www2.ed.gov/about/offices/list/ocr/index.html  
Mailing address:  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

B. Scope. This Policy applies to all students, faculty, and staff of CSB and SJU. Other individuals or organizations engaging in or conducting activities associated with CSB and/or SJU or doing business at or with CSB and/or SJU are also required to comply with the provisions of this Policy. All community members will abide by this Policy at all times, whether on campus or away from campus, when engaged in programs or activities sponsored by the institution(s) or which otherwise relate to the institution(s) or its business. Such activities include, but are not limited to, professional meetings, classes, practica, seminars, study abroad programs, and all other activities involving or relating to the institution(s).

C. Definitions.

1. Sexual Misconduct. Sexual misconduct incorporates a variety of behaviors, including sexual assault, sexual violence, sexual harassment, stalking, domestic violence, dating partner violence, sex-based cyber harassment, hazing of a sexual nature, peeping, voyeurism, going beyond the boundaries of consent (such as secretly allowing others to watch a sexual encounter), and any other conduct of a sexual nature that is nonconsensual or has the purpose or effect of threatening, intimidating, coercing or interfering with the rights of another person or persons.
Much sexual misconduct includes nonconsensual sexual contact, but this is not a necessary component. Threatening or intimidating speech, which meets the definition of sexual harassment, for example, will constitute sexual misconduct. Photographs, video, or other visual or auditory records of sexual activity made or shared without explicit consent constitute sexual misconduct, even if the activity documented was consensual. Domestic violence and dating partner violence constitute sexual misconduct, regardless of whether the intimate or sexual relationship between the parties is consensual.

2. **Sexual assault** is defined as sexual contact, including but not limited to penetration, without consent. Sexual assault is a form of sexual violence and a severe form of sexual harassment. Sexual assault includes, but is not limited to rape (including sodomy and sexual assault with an object); fondling (the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim); incest; and statutory rape.

3. **Sexual contact**, for purposes of this Policy, shall have the same meaning as it has under Minnesota law. “**Sexual contact**” includes, but is not limited to, the intentional touching by an individual of another’s intimate parts (including an individual’s breasts, inner thighs, buttocks, genitals and/or groin area, whether clothed or unclothed); or the coerced touching by an individual of another’s intimate parts. Sexual contact also includes the intentional removal or attempted removal of clothing covering an individual’s intimate parts.

4. **Consent** means words or overt actions by a person indicating a freely given, present agreement to perform a particular sexual act with the person initiating sexual contact. Consent must be informed and freely and actively given.

   a. Consent requires more than the existence of a prior or current social or sexual relationship between the parties.

   b. Consent to one sexual act does not imply consent to another. Consent has to be specific to the act and persons involved, at the time of the act. Past consent to sexual activity does not imply ongoing future consent. Consent can be withdrawn at any time. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent.

   c. Simple silence, the lack of a negative response, or failure to resist is not consent. It is the responsibility of the person initiating sexual contact to obtain consent to any and all sexual contact that person initiates.

   d. The use or threatened use of force or other forms of coercion or intimidation take away a person’s ability to give consent to sexual contact. Coercion refers to intimidation that would compel an individual to do something against his or her will by the use of psychological pressure, physical force, or threats of severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based
on the degree and type of pressure someone used to obtain consent from another.

e. A person who is incapacitated cannot give valid consent to sexual contact. Incapacitation means the inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol.

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

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

f. A person who has not reached the legal age of consent cannot give consent. The legal age of consent may vary depending on the circumstances and the applicable state law. In Minnesota, the age of consent is 16.

g. Where there is otherwise credible evidence to support a finding of nonconsent, corroborating testimony is not required.

5. Sexual harassment, a form of discrimination based on sex, is defined in part as follows:

a. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual or gender-based nature when:

   i. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or educational experience; or submission or rejection of such conduct by an individual is used as the basis of employment decisions or academic or education-related decisions affecting such individual (Quid Pro Quo Sexual Harassment); or

   ii. such conduct has the purpose or effect of substantially and unreasonably interfering with an individual’s work or educational experience or creating an intimidating, hostile, or offensive working,
residential, or educational environment. (Hostile Environment Sexual Harassment).

b. **Examples of Sexual Harassment.** The determination of what constitutes sexual harassment depends upon the specific facts of each situation in which the conduct occurs. Sexual harassment may take many forms. It may be subtle and indirect, or blatant and overt. It may be conduct affecting an individual of the opposite sex or conduct affecting an individual of the same sex. It may occur between peers or between individuals in a hierarchical relationship. If it meets the conditions set forth in the above definition, conduct such as the following may be considered sexual harassment:

i. **Non-verbal harassment** may include suggestive or insulting sounds, leering, whistling, obscene gestures, and visual displays;

ii. **Verbal harassment** may include statements (written or spoken) drawing upon sexual innuendo, suggestive comments, insults, humor or jokes emphasizing gender-specific traits or clothing, sexual propositions (including repeated unwelcome invitations to social engagements), or sexual threats;

iii. **Physical harassment** may include unwanted touching, pinching, patting, hugging, or brushing of one’s body. In its most extreme form, physical sexual harassment includes sexual assault.

iv. **Gender-based harassment** may include non-verbal, verbal or physical harassment directed at an individual or a group of individuals solely on the basis of gender, whether or not such conduct is sexual in nature. It also may include harassment based on stereotypical notions of what is female/feminine and male/masculine or a failure to conform to those gender stereotypes.

v. In some cases, **consensual romantic or sexual relationships** may form the basis for a claim of sexual harassment. These relationships are particularly complex when there is a power imbalance between the individuals involved in the relationship. Such relationships may also affect other members of the campus community adversely and give rise to conflict of interest concerns when there is real or perceived favorable treatment or an unacceptable work environment. Refer to the policies on Consensual Romantic or Sexual Relationships for further information at [http://www.csbsju.edu/human-rights/consensual-romantic-or-sexual-relationships](http://www.csbsju.edu/human-rights/consensual-romantic-or-sexual-relationships).

6. **Dating Violence.** Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the statement of the individual alleging the dating violence and a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the
frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

7. **Domestic Violence.** Domestic Violence is violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Minnesota, or by any other person against an adult or youth victim who is protected from that person’s acts under domestic or family violence laws. In addition to the relationships described above, Minnesota law defines domestic violence to include violence committed between parents and children, blood relatives, persons who are presently residing together or who have resided together in the past, persons involved in a significant romantic relationship, and a man and woman, if the woman is pregnant and the man is alleged to be the father. While not exhaustive, the following are examples of conduct that can constitute domestic violence: physical harm, bodily injury or assault; the infliction of fear of imminent physical harm, bodily injury, or assault; terrorist threats; criminal sexual conduct; or interference with an emergency call.

8. **Stalking.** Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. For purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. Stalking can be a form of sexual harassment. Stalking behavior includes, but is not limited to:

a. Repeated, unwanted, intrusive, and frightening communications by phone, mail, text, email, and/or social media;

b. Repeatedly leaving or sending victim unwanted items, presents, or flowers;

c. Following or laying-in-wait for the victim at places such as home, school, work, or recreation place;

d. Making direct or indirect threats to harm the victim, the victim’s children, relatives, friends, or pets;

e. Damaging or threatening to damage the victim’s property;

f. Posting personal information or spreading rumors about the victim on the internet, in a public place, or by word of mouth;

g. Unreasonably obtaining personal information about the victim.

As defined by Minnesota law, stalking means “to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.”
D. Other Important Terms.

1. **Associate** refers to any individual or organization engaging in or conducting activities associated with CSB and/or SJU or doing business at or with CSB and/or SJU, including members of Saint John’s Abbey and Saint Benedict’s Monastery.

2. **Campus** refers to the entire physical grounds of CSB and SJU.

3. **Campus authorities** refer to the Department of Security at the College of Saint Benedict, Life Safety Services at Saint John’s University, and/or the Dean(s) of Students, or Lead or Deputy Title IX Coordinators.

4. **Community** and **institutions** refer to CSB and SJU and in the case of community, all of their students, faculty and staff, and associates.

5. **Complainant** means a person alleged to have been subjected to a Policy violation, but need not be the person who initiates the complaint.

6. **Complaint** refers to an alleged Policy violation that initiates a complaint process as set forth in the Procedures.

7. **Complaint process** refers to the process used to investigate and adjudicate complaints made under the Procedures, from initiation of complaint through determination and appeal, if any.

8. **Faculty** refers to a person employed by CSB or SJU in a faculty appointment.

9. **Policy** refers to the Sexual Misconduct Policy for the College of Saint Benedict and Saint John’s University.

10. **Procedures** refer to the Sexual Misconduct Complaint Procedures for the College of Saint Benedict and Saint John’s University. The procedures can be found at [www.csbsju.edu/sexualmisconductprocedure](http://www.csbsju.edu/sexualmisconductprocedure).

11. **Report** refers to the providing of any information to the institution(s) regarding conduct that may violate the Policy.

12. **Respondent** refers to a person alleged to have violated the Policy.

13. **Sanctions for students**: The purpose of sanctions will be to ensure the health and safety of our campus communities by preventing the recurrence of problematic behavior and addressing its effects including the effects of the violation on the complainant. In determining sanctions, the Deans of Students (or their designees) may consider a variety of factors, including but not limited to, the type and severity of misconduct, the weight of the evidence, and the respondent’s complete disciplinary record. Possible sanctions can include any one or more of the following:
i. **Expulsion:** the permanent disenrollment of the student from the institution.

ii. **Suspension:** the disenrollment of a student for a specific period of time. Students who are suspended from the institution(s) generally may not be present on the premises of the College of Saint Benedict or Saint John’s University for the period of the suspension or leave and may be subject to other conditions as well. Suspension is also an interim measure that may be taken while an investigation is being conducted.

iii. **Other sanctions include:** disciplinary probation, no contact or limited contact directive, required assessment and/or counseling, required attendance at educational programs, restitution, community service hours, restriction of privileges, administrative referrals, behavioral contracts, reflection paper, and/or written warning.

14. **Sanctions for faculty and staff:** The purpose of sanctions will be to ensure the health and safety of our campus communities by preventing the recurrence of problematic behavior and addressing its effects including the effects of the violation on the complainant. In determining sanctions, the Human Resources Director and appropriate administrator (or designees) may consider a variety of factors, including but not limited to, the type and severity of misconduct, the weight of the evidence, and the respondent’s employment/disciplinary record. Further information on Sanctions for faculty and staff is covered in Section VIII.B. of this policy.

Suspension is a sanction that may be used for faculty or staff. It is also an interim measure that may be taken while an investigation is being conducted.

**Suspension as an interim measure for faculty and staff:**

i. For a faculty member, suspension as an interim measure refers to a temporary suspension of work duties and will be implemented in accordance with Section 2.13.6.4 of the Faculty Handbook. In accord with 2.13.6.4, and pending the results of the investigation, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the college [university], to its students, or to other individual members of the college [university] community is threatened by continuance. Before implementing 2.13.6.4, the president will consult with the Provost as to the length, and the other conditions of the suspension. Salary and benefits will continue during the period of the suspension.

ii. For a staff member, suspension as an interim measure is termed an Involuntary Leave of Absence and refers to a temporary suspension of work duties when the staff member is the subject of an investigation or when the staff member’s presence poses an immediate threat of harm within the institution. This interim measure will be implemented in accordance with the Involuntary Leave of Absence section of the appropriate Administrative and Support Staff Handbook. Before
imposing the involuntary leave, the employee’s supervisor will consult with the Human Resources department and the appropriate Vice President as to the length, and the other conditions of the suspension. Salary and benefits will continue during the period of the suspension.

**Suspension as a sanction for faculty and staff:**

i. For a faculty member, suspension as a sanction will be implemented in accord with section 2.13.6.3 of the Faculty Handbook. Again, the president will consult with the Provost as to the length, and the other conditions of the suspension.

ii. For a staff member, suspension as a sanction will be implemented in accord with the Disciplinary Action section of the Administrative and Support Staff Handbook. Before imposing the suspension as a sanction, the employee’s supervisor will consult with the Human Resources department and the appropriate Vice President as to the length, and the other conditions of the suspension.

iii. In accordance with the applicable handbook, members of Saint Benedict’s Monastery and Saint John’s Abbey serving in faculty or staff appointments for the College or University are subject to the above provisions, as well as to applicable Bylaws of the respective Orders

15. **Staff** refers to a person employed by CSB or SJU in an administrative or support staff appointment.

16. **Student** refers to any person enrolled in CSB or SJU, undergraduate or graduate.

17. **Supervisor** refers to administrators, department chairs, faculty, residence directors, faculty residents, residence assistants, staff persons, and others who have the responsibility for faculty, staff, or students’ terms and/or conditions of employment, educational and academic opportunities, and living situations.

18. **Title IX Coordinators** are officials of CSB and SJU who have been appointed by their respective institutions to address issues of gender-based discrimination and/or sexual misconduct, including overseeing Title IX complaints, identifying and addressing any patterns or systemic problems that arise during the review of such complaints, and assisting in answering any questions related to the Policy and Procedures. The Title IX Coordinators for each institution who have responsibility for sexual misconduct complaints are listed in the contact information at the end of this Policy and at the end of the Sexual Misconduct Complaint Procedures. See the [Sexual Misconduct Complaint Procedures, Part I – Responsibility](www.csbsju.edu/sexualmisconductprocedure).
II. THE LAW

Sexual harassment, sexual assault, and other forms of sexual misconduct are forms of sex discrimination. Not only are they prohibited by this Policy and the Policy on Human Rights, but they are also prohibited by various laws, including Title IX of the Educational Amendments of 1972 (https://www.justice.gov/crt/title-ix-education-amendments-1972) and the Minnesota Human Rights Act (http://mn.gov/mdhr/yourrights/mhra.html). The College of Saint Benedict and Saint John’s University are guided in their resolution of sexual misconduct allegations by their mission and values, as well as by law.

In addition, some forms of sexual misconduct are crimes. The College of Saint Benedict and St. John’s University strongly encourage individuals who have experienced sexual violence (i.e., sexual assault, dating or domestic violence, stalking) to notify law enforcement. The institutions will promptly assist an individual who reports having experienced an incident of sexual violence with making a report to law enforcement. The institutions do not report incidents of sexual violence to law enforcement without the consent of the complainant unless the incident involves a minor or presents a serious risk to the health and safety of individuals or the campus community.

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

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

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

Victims of domestic abuse also have the right to terminate a lease without penalty. Victims of sexual assault have the right to undergo a confidential sexual assault examination at no cost, make a confidential request for HIV testing of a convicted felon, and are not required to undergo a polygraph examination in order for an investigation or prosecution to proceed. In cases of domestic abuse and violent crime where an arrest has been made, victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency.
Complete information about crime victims’ rights can be found at: https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx.
Information about victims’ rights is also available from the Dean(s) of Students or Deputy Title IX Coordinator(s) or from the Minnesota Department of Public Safety, Office of Justice Programs.

III. REPORTING SEXUAL MISCONDUCT

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

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

1. Complainants. Any community member who believes that he or she has experienced sexual misconduct in violation of this Policy is strongly encouraged to report the alleged violation to a Title IX Coordinator, the CSB Department of Security, or SJU Life Safety Services as soon as possible. (See contact information below.) CSB and SJU understand that it can be difficult for victims of sexual misconduct to come forward. Victims of sexual misconduct are NOT to blame for what has occurred.

The purpose of reporting allegations of sexual misconduct is so that CSB and SJU can investigate and respond appropriately. This includes providing support to the complainant and taking other actions as necessary to stop sexual misconduct, prevent its recurrence, and address its effects.

An individual who is not prepared to make a report, but who still seeks information and support, is encouraged to contact a confidential resource. Confidential resources include medical and mental health professionals at CSB and SJU, including designated staff members in Counseling and Health Promotion and CSB Health Services, ordained clergy (when bound by the seal of sacramental confession), the Central MN Sexual Assault Center (320-251-4357), and the Employee Assistance Program (Vital WorkLife at 800-383-1908).

Conversations with confidential resources are privileged, meaning that legally they cannot be disclosed to another without the reporter’s consent, except in certain limited circumstances such as allegations involving the physical or sexual abuse of a person under 18 or an immediate and serious threat to any person or property. Confidential resources may submit non-identifying information about violations of the Policy to CSB Security and/or SJU Life Safety Services for purposes of anonymous statistical reporting under federal and state law. See Section VI below for additional information on confidentiality.

An individual who reports an incident of sexual assault to CSB or SJU, at his or her request, shall be provided access the report as it was reported to the institution(s) consistent with state and federal laws governing privacy of education records. Such requests should be made to CSB or SJU Dean of Students Office or Human Resources as appropriate.
2. All Community Members. All community members who have observed others experiencing what they believe to be an incident of sexual misconduct or who have received a report of sexual misconduct are expected to report this information to a Title IX Coordinator, the CSB Security, or SJU Life Safety Services at once. Similarly, any community member who receives a report of sexual misconduct (with the exception of those listed as confidential resources) is also expected to report this information to a Title IX Coordinator, CSB Security, or SJU Life Safety Services at once.

3. Supervisors. Institutional supervisors (See Section I, Definitions) have the further responsibility to use their best efforts to assure that sexual misconduct does not occur and that sexual misconduct is reported if it does occur. When a supervisor receives a report of, or otherwise identifies a problem as being one involving a potential claim of sexual misconduct in violation of this Policy, the supervisor shall report the alleged incident to a Title IX Coordinator.

4. Anonymous Reporting. The institutions will accept anonymous reports to a Title IX Coordinator, the CSB Department of Security, or SJU Life Safety Services of conduct alleged to violate this Policy. Anonymous reports can also be made online at www.csbsju.edu/report-sexual-misconduct. The individual making the report is encouraged to provide as much detail as possible to allow the institution(s) to investigate and respond as required by this Policy. The institution(s) may be limited in their ability to effectively investigate and respond to an anonymous report.

5. Confidentiality of Reports. When a Title IX Coordinator, the CSB Security, SJU Life Safety Services, or a Supervisor receives a report of sexual misconduct, they cannot guarantee complete confidentiality because they may have a legal obligation to respond to the report. See Part VI – Confidentiality below for further information on steps CSB and SJU will take to protect confidentiality when reports are made and about confidential resources available to faculty, staff, and students who want to discuss an incident confidentially.

6. Response of CSB and SJU to Reports. Reporting a sexual assault or sexual misconduct incident to campus security, a Title IX Coordinator, or law enforcement authorities does not require the complainant to initiate or participate in the complaint process. When CSB or SJU receives a report of sexual misconduct, the institutions have a legal obligation to respond in a timely and appropriate manner. The response of the institution(s) will vary depending on the circumstances, including the seriousness of the alleged offense, the facts reported, and the complainant’s preferences on responsive actions. A reporting party’s preferences cannot be followed in every circumstance, but the institution(s) will consider and will take reasonable steps to accommodate the reporting party’s preferences to the extent possible consistent with the legal obligations of the institutions. However, based on information gathered, one or both institutions may determine that the institution(s) have a responsibility to move forward with the complaint process (even without the complainant’s participation). See Part VI – Confidentiality below for additional information. In accordance with the Sexual Misconduct Complaint Procedures
(www.csbsju.edu/sexualmisconductprocedure), CSB and/or SJU will respond to all reports of sexual misconduct received.

7. **Support Resources and Accommodations.** CSB and SJU will seek to support any person adversely impacted by sexual misconduct that violates this Policy. Support services that may be available include, but are not limited to:

   a. connecting the individual with appropriate, fair, and respectful on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services.

   b. making changes to academic, living, transportation, and/or working arrangements,

   c. assistance in filing a criminal complaint, and

   d. providing information about restraining orders and other available protections and services.

Individuals may request such accommodations and protective measures by contacting any official listed in the contact information section.

An individual does not need to report sexual misconduct to law enforcement in order to receive support services from CSB or SJU. CSB and SJU will strive to maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality will not impair the ability of the institutions to provide the accommodations or protective measures.

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

http://www.csbsju.edu/human-rights/sexual-misconduct/resources
http://www.csbsju.edu/human-rights/sexual-misconduct
http://www.csbsju.edu/chp/sexual-assault-survivors-guide

8. **Waiver of Drug, Alcohol and Open House Policy Violations.** CSB and SJU strongly encourage students to report instances of sexual misconduct. Therefore, any student who makes a good faith report about sexual misconduct and/or who participates in an investigation into allegations of a violation of the Policy will not be disciplined by CSB or SJU for any violation of the institutions’ drug, alcohol, or open house policies in which they might have engaged in connection with the reported incident.

**B. Reports of Criminal Sexual Misconduct to Law Enforcement**

Members of the community who believe they have been subject to criminal sexual misconduct (or who believe that another crime has occurred) are strongly encouraged to notify Campus Security at CSB or Life Safety Services at SJU and/or local law enforcement authorities immediately so that the alleged perpetrator can be apprehended if still in the area and so that law enforcement is able to gather
evidence. Time is a critical factor for evidence collection and preservation. Victims should be aware of the importance of preserving evidence, which may be necessary to the proof of criminal sexual assault, domestic violence, dating violence, or stalking, or to obtain an order of protection. CSB Campus Security Office and SJU Life Safety Services are available to assist an individual who wants to make a report to law enforcement. In addition, the CSB Campus Security Office, SJU Life Safety Services, or local law enforcement can ensure that the individual has access to appropriate medical treatment and tests, crisis counseling, information, and other support services.

Reporting an incident of sexual misconduct to law enforcement is not necessary for the institutions to proceed with a complaint process under this Policy.

Members of the community who are aware of criminal sexual misconduct involving a minor must make reports as required by the Joint Policy on Reporting Suspected Child Abuse: http://www.csbsju.edu/human-rights/child-protection/reporting-suspected-child-abuse.

IV. FAIR AND EQUITABLE TREATMENT OF THE PARTIES

A. CSB and SJU recognize that community support for both the complainant and the respondent is essential to a fair and just response to a sexual misconduct report. Therefore, CSB and SJU strive to provide parties involved in a sexual misconduct incident the following:

1. Privacy and treatment of sensitive information in a confidential manner, to the extent possible;

2. Treatment with dignity and nonjudgmental assistance and, with regard to complainants, treatment that does not suggest that he or she is a fault for sexual assault or that he or she should have done something differently to avoid becoming a victim;

3. Meaningful support from CSB and SJU departments and individuals, as appropriate (i.e., counseling, campus ministry, residential life, dean of students, department chairs, etc.);

4. Prompt, fair, and impartial investigation and resolution of a sexual misconduct report;

5. An explanation of the complaint procedures for sexual misconduct complaints;

6. An explanation of the allegations made against a party under this Policy;

7. The ability to participate or not participate in a complaint process regarding a sexual misconduct incident and an explanation of consequences if a party chooses not to participate;

8. Information about the identity of witnesses who have been interviewed during the investigation;
9. The opportunity to speak on his or her own behalf during the complaint process;

10. An advisor during the complaint process as outlined in Part V.-1 of the Sexual Misconduct Complaint Procedures – Right to an Advisor [http://www.csbsju.edu/sexualmisconductprocedure];

11. A complaint process conducted by officials, selected in accordance with the Sexual Misconduct Complaint Procedures [www.csbsju.edu/sexualmisconductprocedure], who do not have a conflict of interest for or against a complainant or respondent;

12. Privacy during the complaint process regarding his or her irrelevant past sexual/relationship history;

13. Timely written notification about the outcome of any complaint process, to the extent allowed by law;

14. The opportunity to appeal the outcome of a complaint process under certain conditions.

B. In addition, a complainant who alleges sexual assault, domestic violence, dating violence, or stalking has the following rights:

1. The right to be informed by the institutions of options to notify proper law enforcement authorities, including on-campus and local police, of a sexual assault incident, or to decline to notify such authorities;

2. The right to the prompt assistance of campus authorities, at the request of the complainant, in notifying the appropriate law enforcement officials and CSB and/or SJU officials of a sexual assault incident;

3. The right to the complete and prompt assistance of campus authorities, at the complainant’s request, in filing criminal charges with local law enforcement officials in sexual assault cases;

4. The right to the prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a sexual assault incident;

5. The right to assistance of campus authorities in preserving materials relevant to a campus complaint process for a sexual assault complainant;

6. The right to the assistance of campus personnel (during and after the complaint process) in shielding the complainant, at his or her request, from unwanted contact with the respondent, including but not limited to a campus issued no-contact order, transfer to alternative classes or to alternative college-owned housing, if alternative classes or housing are available and feasible, change in work location or schedule, or reassignment, if available and feasible; and to receive assistance with academic issues.

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

V. COMPLAINT PROCEDURE

A victim of sexual assault or other crime that violates this Policy has the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue a complaint through CSB and/or SJU through appropriate Procedures, or to pursue both processes simultaneously. Regardless of the option chosen, CSB and/or SJU will respond to reports made to Campus Authorities or a Supervisor in accordance with the Sexual Misconduct Complaint Procedures (www.csbsju.edu/sexualmisconductprocedure).

When a complaint involves allegations of sexual misconduct, the complaint will be processed according to the Sexual Misconduct Complaint Procedures www.csbsju.edu/sexualmisconductprocedure. Allegations of retaliation, violations of interim measures, or violation of sanctions should be reported to the CSB or SJU Dean of Students, CSB Security or SJU Life Safety.

CSB and SJU strive to treat all who are involved in an internal complaint process in a fair and equitable manner.

VI. CONFIDENTIALITY AND REQUEST FOR NO ACTION

Members of the community who are aware of criminal sexual misconduct involving a minor must make reports as required by the Joint Policy on Reporting Sexual Child Abuse. http://www.csbsju.edu/human-rights/child-protection/reporting-suspected-child-abuse

Because of the sensitive nature of sexual misconduct complaints, the need to protect the privacy of the parties, and the interest in resolving complaints as quickly and effectively as possible, the institutions strive to protect the confidentiality interests of all parties involved in a sexual misconduct reporting and complaint process.

Notwithstanding the preceding paragraph, CSB and SJU have an obligation to respond to reports and complaints under this Policy in accordance with the process outlined in the Sexual Misconduct Complaint Procedures (www.csbsju.edu/sexualmisconductprocedure) and to take reasonable steps to prevent ongoing harassment, discrimination, sexual misconduct and related retaliation, so strict confidentiality cannot be guaranteed when a person makes a report or complaint to Campus Authorities, including the Human Rights Officer(s) or a Title IX Coordinator, or to a person considered a “Supervisor” under this Policy.

Individuals wishing to discuss an incident confidentially should speak to a confidential resource. In general, the law recognizes and protects the confidentiality of communications between a person seeking care and a medical or mental health professional. The medical and mental health professionals at CSB and SJU, including those designated staff within Counseling and Health Promotion, ordained clergy (when bound by the seal of sacramental confession), and representatives of the Employee Assistance Program, advocates at the
Central Minnesota Sexual Assault Center, and care providers at the St. Cloud Hospital respect and protect confidential communications from students, faculty, and staff to the extent they are legally able to do so. Conversations with confidential resources are privileged, meaning that legally they cannot be disclosed to another without the reporter’s consent, except in certain limited circumstances. Any of these professionals may have to breach a confidence, however, when he or she perceives an immediate and serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual or other abuse of a person under 18. For purposes of anonymous statistical reporting under federal and state law, confidential resources may submit information about violations of the Policy to CSB Security and/or SJU Life Safety Services, which does not personally identify any of the parties.

If a complainant or reporting party asks the Human Rights Officer, a Title IX Coordinator, or another Supervisor that his or her name or other identifiable information not be revealed or that the institution(s) take no action, CSB and/or SJU will evaluate the request in the context of their responsibility to provide a safe and nondiscriminatory environment for all students, faculty and staff. In some cases, a confidentiality request may hinder the investigation. Thus, CSB and/or SJU will weigh the request for confidentiality or for no action to be taken against the following factors: the ability to conduct an investigation without revealing identifiable information, the seriousness of the alleged conduct, whether there has been other discrimination, harassment, sexual misconduct, or retaliation complaints about the same individual, and the extent of any threat to the CSB and/or SJU community. While CSB and SJU cannot guarantee confidentiality, the institutions will strive to accommodate the complainant’s or reporting party’s requests to the extent possible consistent with the legal obligations of CSB and/or SJU to respond effectively to reports and complaints.

In addition, the requirement of confidentiality will not be interpreted as unduly limiting the ability of either party to a formal complaint to know the substance of the allegations being made against him or her and to have an opportunity to respond. Furthermore, the requirement of confidentiality will not be interpreted as unduly limiting the institutions’ responsibility to investigate and take corrective action in response to sexual misconduct complaints. Information regarding sexual misconduct incidents occurring on campus may be released to the campus community to allow members of the community to make informed decisions regarding safety and take appropriate preventive measures. The name of the complainant and other personally identifiable information will not be released in any such warning to the campus community.

Anyone with concerns about confidentiality issues is encouraged to speak with a Title IX Coordinator.

VII. RETALIATION

CSB and SJU strictly prohibit retaliation against any person who complains in good faith of a Sexual Misconduct Policy violation. In addition, CSB and SJU strictly prohibit retaliation against any person(s) because of their good faith involvement in an investigation or determination as part of the complaint process. Encouraging others to retaliate also violates this Policy.
Retaliation is any materially adverse action, or threat thereof, against an individual because of the individual’s good faith report or complaint of a potential Policy violation or their good faith participation in an investigation or adjudication. Retaliatory acts may include, but are not limited to: adverse changes in employment status or opportunities; adverse academic action; adverse changes to academic, educational and extra-curricular opportunities; harassment; intimidation; acts or comments intended to embarrass the individual; and seeking out or attempting to discover the parties and witnesses involved in a report or complaint process for the purpose of influencing their participation or testimony or taking adverse action against them. Retaliatory conduct by community members and third-parties is prohibited regardless of whether it occurs on or off campus, in person, or through social media, e-mail, or other form of communication.

CSB and SJU cannot stop retaliation unless they know about it. Allegations should be reported to a campus authority immediately. Reports of retaliation will be addressed in accordance with the process outlined in the Sexual Misconduct Complaint Procedures (www.csbsju.edu/sexualmisconductprocedure).

VIII. SANCTIONS

Upon a finding that a violation of the Policy has occurred, disciplinary action may be imposed pursuant to the procedures set forth in the Sexual Misconduct Complaint Procedures (www.csbsju.edu/sexualmisconductprocedure) and applicable Faculty/Staff/Student Handbooks. Likewise, a malicious false report will lead to disciplinary action, up to and including termination of employment and suspension or expulsion from the academic community. Sanctions will be issued in accordance with the appropriate handbook policy or procedure.

A. Sanctions for students: The purpose of sanctions will be to ensure the health and safety of our campus communities by preventing the recurrence of problematic behavior and addressing its effects including the effects of the violation on the complainant. In determining sanctions, the Deans of Students (or their designees) may consider a variety of factors, including but not limited to, the type and severity of misconduct, the weight of the evidence, and the respondent’s complete disciplinary record. Possible sanctions can include any one or more of the following:

i. **Expulsion:** the permanent disenrollment of the student from the institution.

ii. **Suspension:** the disenrollment of a student for a specific period of time. Students who are suspended from the institution(s) generally may not be present on the premises of the College of Saint Benedict or Saint John’s University for the period of the suspension or leave and may be subject to other conditions as well. Suspension is also an interim measure that may be taken while an investigation is being conducted.

iii. **Other sanctions include:** disciplinary probation, no contact or limited contact directive, required assessment and/or counseling, required attendance at educational programs, restitution, community service hours, restriction of privileges, administrative referrals, behavioral contracts, reflection paper, and/or written warning.
B. Sanctions for Faculty and Staff: The purpose of sanctions will be to ensure the health and safety of our campus communities by preventing the recurrence of problematic behavior and addressing its effects including the effects of the violation on the complainant. In determining sanctions, the Human Resources Director and appropriate administrator (or designees) may consider a variety of factors, including but not limited to, the type and severity of misconduct, the weight of the evidence, and the respondent’s employment/disciplinary record.

For a faculty member, sanctions will be implemented in accord with Section 2.13.6 of the Faculty Handbook on Discipline and/or Dismissal for Cause. Before taking action, the president will consult with the Provost as to the level of sanction to be imposed.

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

Suspension as a sanction for faculty and staff: Suspension is a sanction that may be used for faculty or staff. It is also an interim measure that may be taken while an investigation is being conducted.

i. For a faculty member, suspension as an interim measure refers to a temporary suspension of work duties and will be implemented in accordance with Section 2.13.6.4 of the Faculty Handbook. In accord with 2.13.6.4, and pending the results of the investigation, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the college [university], to its students, or to other individual members of the college [university] community is threatened by continuance. Before implementing 2.13.6.4, the president will consult with the Provost as to the length, and the other conditions of the suspension. Salary and benefits will continue during the period of the suspension.

For a faculty member, suspension as a sanction will be implemented in accord with section 2.13.6.3 of the Faculty Handbook. Again, the president will consult with the Provost as to the length, and the other conditions of the suspension.

ii. For a staff member, suspension as an interim measure is termed an Involuntary Leave of Absence and refers to a temporary suspension of work duties when the staff member is the subject of an investigation or when the staff member’s presence poses an immediate threat of harm within the institution. This interim measure will be implemented in accordance with the Involuntary Leave of Absence section of the appropriate Administrative and Support Staff Handbook. Before imposing the involuntary leave, the employee’s supervisor will consult with the Human Resources department.
and the appropriate Vice President as to the length, and the other conditions of the suspension. Salary and benefits will continue during the period of the suspension.

For a staff member, suspension as a sanction will be implemented in accord with the Disciplinary Action section of the Administrative and Support Staff Handbook. Before imposing the suspension as a sanction, the employee’s supervisor will consult with the Human Resources department and the appropriate Vice President as to the length, and the other conditions of the suspension.

IX. EXTERNAL COMPLAINTS

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

Web address:  http://www2.ed.gov/about/offices/list/ocr/index.html

Mailing address:  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

X. CONTACT INFORMATION

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