

# **COLLEGE OF SAINT BENEDICT AND SAINT JOHN'S UNIVERSITY NON-DISCRIMINATION AND HARASSMENT POLICY**

## **I. PURPOSE**

The College of Saint Benedict ("CSB") and Saint John's University ("SJU") (collectively the "Institutions") are committed to working toward a workplace and educational environment, as well as other benefits, programs, and activities, which are free from discrimination, harassment, and retaliation. Discrimination, harassment, and retaliation of any form are a violation of a person's rights, dignity, and integrity. Such acts debase the integrity of the educational process and work environment and are contrary to the mission and values of CSB and SJU. The Institutions value the right to free speech and the open exchange of ideas and views in their learning and working environment. Acts of harassment and discrimination obstruct the open exchange of ideas. This Policy outlines the Institutions' expectations to promote a campus free from discrimination, harassment, and retaliation, the steps for recourse for those individuals who have been subject to such conduct, and the procedures for determining whether a violation of CSB or SJU policy has occurred.

## **II. NOTICE OF NON-DISCRIMINATION**

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

## **III. SCOPE**

This Policy applies to all forms of discrimination and harassment, except sexual misconduct. Incidents of sexual misconduct, including Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, will be handled through the Institutions' [Title IX and Sexual Misconduct Policy](#).

This Policy applies to all CSB and SJU community members, including students, employees, faculty, administrators, staff, applicants for admission or employment, and third parties, such as trustees, volunteers, vendors, independent contractors, visitors, and any individuals or entities regularly or temporarily employed, studying, living, visiting, conducting business, interacting with a member or members of the CSB or SJU community, or having any official capacity with CSB or SJU or on CSB or SJU property.

This policy applies to all education programs and activities, as well as all employment practices and terms and conditions of employment, including but not limited to promotions, transfers, compensation, terminations, training and participation in CSB and/or SJU sponsored benefits or programs. This policy applies to conduct occurring on CSB and SJU property or at CSB and/or

SJU sanctioned events or programs that take place off campus, including study abroad and internships. This policy also applies to off-campus conduct that may cause an unacceptable disruption at CSB and/or SJU or which may interfere with an individual's right to a non-discriminatory educational or work environment.

#### **IV. DEFINITIONS**

- **Protected class status:** As used in this Policy, protected class status includes race, religion, creed, color, national origin, citizenship, sex, sexual orientation, gender identity, pregnancy, age, marital status, disability, veteran status, familial status, genetic information, status with regard to public assistance, or any other legally protected category or characteristic.
- **Complainant:** An individual who is alleged to be the victim of conduct that could violate this Policy.
- **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

#### **V. PROHIBITED CONDUCT**

This Policy prohibits discrimination, discriminatory harassment, retaliation and interference with process, as each of those terms is defined below. Aiding another in acts of prohibited conduct also violates this Policy.

##### **A. Discrimination**

Discrimination is conduct based upon an individual's protected class status that treats the individual differently, excludes the individual from participation in, denies the individual the benefits of, or otherwise adversely affects a term or condition of the individual's employment, education, living environment or participation in a program or activity.

Examples of unlawful discrimination include:

- Consideration of an applicant's protected status as a negative factor in deciding whether to offer the applicant a job interview.
- Giving prohibited consideration to an individual's protected status in deciding whether to offer an employee a promotion.
- Requiring that members of protected classes meet higher standards for advancement or promotion than employees who are not in protected classes.
- Denying a student the opportunity to participate in an educational activity because of his or her protected class status.

##### **B. Discriminatory Harassment**

Discriminatory harassment is conduct (including verbal, nonverbal, or physical conduct) based on an individual's protected class status, when:

- submission to that conduct is made, either explicitly or implicitly, a term or condition of an individual's educational experience or employment, or the individual's submission or rejection of such conduct is used as the basis of an educational program or activity decision or employment decision affecting such individual; or

- such conduct would be determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment ("hostile environment" harassment).

Discriminatory harassment may occur in situations where there is a power differential between the parties or where the persons share the same status (i.e., student-student, faculty-faculty, staff-staff).

The criteria for determining whether an environment is "hostile" include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the mental or emotional state of the person subject to the conduct;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the educational or work performance of the person subject to the conduct;
- Whether the statement was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protections of academic freedom.

Examples of discriminatory harassment include, but are not limited to:

- verbal abuse, offensive innuendo or derogatory words or slurs, stereotyping, threats, intimidation, epithets or comments based upon or motivated by the person's protected class status;
- threats or intimidation based upon or motivated by the person's protected class status;
- negative stereotyping based upon or motivated by the person's protected class status;
- jokes and/or comments directed at a protected class status;
- gossip about someone's protected class status;
- obscene gestures or leering based upon or motivated by the person's protected class status; and
- written or graphic materials or objects, pictures, or other media placed on or circulated within CSB or SJU premises (walls, bulletin boards, computer terminals, vehicles, email, text messages, etc.) that show hostility or aversion toward an individual or group or which create a hostile working/learning environment based on or motivated by a person's protected class status;
- cyber or electronic harassment based on or motivated by a person's protected class status.

One type of harassment is sexual harassment. Sexual harassment and other forms of sexual misconduct are covered under the Institutions' [Title IX and Sexual Misconduct Policy](#).

### C. Retaliation

Retaliation is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured under this Policy or because the individual has made a report or complaint, served as a witness, assisted, or participated or refused to participate in any manner in a process under this Policy. Retaliation may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation may be present against a person even when the person's allegations of other policy violations are unsubstantiated. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered retaliation/interference with process and violate this Policy.

## VI. REPORTING PROHIBITED CONDUCT

The Institutions strongly encourage individuals to report incidents of prohibited conduct to CSB or SJU. In addition, all employees who obtain or receive information regarding a possible violation of this Policy must report that information to the appropriate Designated Person ("DP") identified below.

Designated Person for Reports by a **Student** ("Student DP"):

Mary Geller, Associate Provost for Student Success  
[mgeller@csbsju.edu](mailto:mgeller@csbsju.edu)  
320-363-5601

Designated Person for Reports by **Staff** ("Human Resources DP"):

Chantel Braegelmann, Sr. Human Resources Partner  
[Cbraegelm001@csbsju.edu](mailto:Cbraegelm001@csbsju.edu)  
320-363-5071

Designated Person for Reports by **Faculty** ("Faculty DP"):

Pam Bacon, Associate Provost and Dean of the Faculty  
[pbacon@csbsju.edu](mailto:pbacon@csbsju.edu)  
320-363-5401

Reports can be made by telephone, mail, email, in person and online through the [Incident Report Form](#). Individuals also have the option to file an anonymous report using the Bias Incident Report Form. Reports to the Institutions should include as much information as possible, including the names of the complainant, respondent, and other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the Institutions to respond appropriately.

For incidents involving an emergency situation where there exists an immediate threat of physical harm to any person or property or medical attention is required, community members should call 911 and either CSB Department of Security (320-363-5000) or SJU Life Safety Services (320-363-2144) immediately. In addition, if you believe a crime has occurred, avoid touching objects or areas where the incident or crime has occurred. For example, CSB Department of Security or SJU Life Safety staff will photograph vandalism and graffiti for future record.

## **VII. PROCEDURES FOR RESPONDING TO COMPLAINTS OF PROHIBITED CONDUCT**

The process is designed to provide a fair and reliable gathering of facts. All individuals will be treated with appropriate sensitivity and respect.

To file a complaint of prohibited conduct, an individual should contact the appropriate DP identified in Section VI above and indicate that the individual wants to file a complaint.

If the respondent in the complaint is a student, the Student Conduct Process for the institution (CSB or SJU) in which the respondent is/was registered will be followed, including the determination of the outcome and appeal.

If the respondent in the complaint is a faculty member, the Faculty DP (or their assignee) will be responsible for coordinating the responsive process. If the respondent in the complaint is a staff member, the Human Resources DP (or their assignee) will be responsible for coordinating the responsive process. The DP assigned to the complaint has discretion to determine an appropriate responsive process based on the facts and circumstances. Receipt of the complaint, the process applied, and the outcome will be documented.

Every complaint or report of discrimination or harassment made to any individual listed above will be investigated either by the DP (or their assignee), the Institutions' Compliance Investigator, a third-party, or a combination of the above. If the investigation is initiated by a DP, it may be referred to the Institutions' Compliance Investigator or a third-party investigator at any point in time. Reasons for referral may include, but are not limited to, the scope or complexity of the investigation, or a potential or actual conflict of interest.

The timing, nature and scope of the investigation will be determined by the party investigating the complaint. Determination of whether a written fact-finding report is necessary will be determined on a case-by-case basis and in consultation with the DP (or their assignee). If a fact-finding report is prepared by the Compliance Investigator or third-party investigator, the report will be provided to the DP (or their assignee). The DP (or their assignee) will consider the facts discovered in the investigation (whether in a written report or otherwise) and make a determination on whether a policy violation has occurred. The Institutions will notify the parties of the outcome of the process.

In circumstances when the conduct at issue does not constitute a violation of this Policy, but nevertheless does not meet the Institutions' expectations for our community, the Institutions reserve the right to take appropriate responsive action.

The following general provisions apply to any responsive process under this Policy.

### **A. Supportive/Interim Measures**

When CSB or SJU receives a report of alleged prohibited conduct, it will assess the allegations to determine whether supportive/interim measures are appropriate. The DP, or their designee, may initiate supportive/interim actions, accommodations, or protective measures as necessary to protect the parties and the broader CSB and SJU community. Such supportive/interim actions, accommodations, and protective measures are available to the complainant, respondent, and others adversely impacted by prohibited conduct or the process under this Policy, if requested and appropriate under the circumstances.

Examples of supportive/interim measures include, without limitation:

- Establishing a “no contact” directive prohibiting the parties involved from communicating with each other;
- Changing an individual’s on-campus residency, dining, or transportation arrangements;
- Changing an individual’s student or employee status or job responsibilities;
- Changing an individual’s work or class schedule or job assignment;
- Providing academic accommodations or providing assistance with academic issues;
- Allowing a voluntary leave of absence;
- Providing security escorts.

The Institutions determine which measures are appropriate on a case-by-case basis based on the particular facts and circumstances of the situation. Not all supportive/interim measures are appropriate in all cases. To request a supportive/interim action or protective measure, individuals should contact the DP.

#### **B. Requests for Reasonable Accommodations**

Individuals who need a reasonable accommodation should contact a DP. The Institutions will consider requests for reasonable accommodations submitted to the DP on a case-by-case basis. Accommodations the Institutions may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the process.
- Providing an interpreter for individuals who are limited English-language proficient.

#### **C. Conflicts of Interest**

If a complainant or respondent has any concern that any individual acting for the Institutions under this Policy has a conflict of interest or bias, such concern should be reported in writing to the DP. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person’s involvement in the process. The Designated Person will review the concerns and take appropriate steps to resolve conflicts of interest related to a complaint under this policy.

If complainant or respondent has any concern that the DP has a conflict of interest or bias, such concern should be reported in writing to the Institution’s Provost. If the DP has a conflict of interest or bias with respect to a matter, the President shall appoint another person to oversee adherence to the Policy with respect to the matter at issue.

#### **D. Advisors**

A staff or faculty member who is a complainant or respondent in a disciplinary proceeding is permitted, but not required, to select an Advisor from either of the CSB or SJU communities. (For students, the allowability of an Advisor is set forth in the applicable Student Conduct Process.) The Advisor to a staff or faculty member may be a CSB or SJU faculty member, administrator or staff member. The Advisor must be free of conflict of interest and may not be a witness. The role of the Advisor is to advise and assist the complainant or respondent during the course of the proceeding. The Advisor may accompany the complainant or respondent to all meetings relating to the proceedings under this policy. The Advisor may confer

with the advisee but may not actively participate in the complaint resolution process. The Advisor may not appear in lieu of the complainant or respondent or speak on his or her behalf. If a hearing takes place, the Advisor may not address the hearing officer or the committee (if a committee is utilized) and may not interrupt or otherwise delay the proceedings. In selecting an advisor, the party must consider the potential advisor's availability to attend interviews and meetings. Under no circumstances will the Institutions delay any proceeding to accommodate the schedule of an Advisor. Parties must notify the DP who they have selected as an Advisor three business days prior to attendance by the Advisor. The Institution(s) will notify the other party to the complaint resolution process if another party has obtained an Advisor. The Advisor will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements and a Confidentiality Agreement prior to being allowed to serve as an Advisor. Violations of the Advisor Agreement, the Confidentiality Agreement, or other forms of interference with the proceedings by the Advisor may result in the immediate disqualification of an Advisor, discipline of the Advisor and/or the party may be required to proceed without the privilege of an Advisor. The Institutions reserve the right to dismiss an Advisor.

## **VIII. SANCTIONS AND REMEDIES**

The Institutions reserve the right to take whatever measures they deem necessary in response to an allegation of prohibited conduct in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other CSB and SJU community members. When a determination is made that the policy was violated, sanctions will be addressed in the following manner:

- If the respondent is a student, sanctions will be determined in accordance with the Student Conduct Process.
- If the respondent is faculty and the Faculty DP (or their assignee(s)) concludes that it is more likely than not that the faculty member has violated the Non-Discrimination Policy, the matter will be referred to the Provost for appropriate sanctions.
- If the respondent is staff and the Human Resources DP (or their assignee(s)) concludes that it is more likely than not that the staff member has violated the Non-Discrimination Policy, the Director of Human Resources and divisional leader will determine sanctions.

Sanctions and remedies may be imposed alone or in combination. Examples of possible sanctions and remedies may include, but are not limited to:

- Education, training, counseling;
- Remedies including those listed above in the supportive/interim measures section of this Policy;
- Probation, warning, suspension, expulsion, demotion, or discharge.

## **IX. APPEAL OF DECISION**

Appeals may be made as follows:

**A.** For appeals in which the respondent is a **student**, the appeal process set forth in the Student Conduct Process for [CSB](#) or [SJU](#), whichever is applicable, will be applied.

**B.** For appeals in which the respondent is **faculty** or **staff**, the following appeal process applies:

The respondent may appeal the outcome on one or more of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter;
- The DP, investigator(s), or decision-maker(s) had a conflict of interest or bias that affected the outcome of the matter.

Appeals by faculty or staff must be submitted writing (not to exceed 2000 words) to the Chief Human Resources Officer within two (2) business days of the date the written decision was sent to the parties and should outline the basis for the appeal. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The Chief Human Resources Officer will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Chief Human Resources Officer may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the process.

If the Chief Human Resources Officer determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Chief Human Resources Officer within two (2) calendar days of receiving notice of the appeal.

The Chief Human Resources Officer will appoint one or more appeal officer(s) to consider the appeal. The appeal officer(s) will not rehear the case but will consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The appeal officer(s) may choose to request additional information, in the appeal officer(s)' sole discretion. If the appeal officer(s) determines that the appealing party has demonstrated that it is more likely than not that one of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and/or deliberations, as determined by the appeal officer(s). If the matter is remanded, the determination made on remand will be appealable under the procedures in this section.

If the appeal officer(s) determines there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer(s) will dismiss the appeal. This dismissal decision is final and is not appealable. The appeal officer(s) will simultaneously issue an appropriate written decision to the parties.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty or staff grievance policies or processes.