



<i>SUBJECT: Sexual and Gender-Based Misconduct Policy Governing Students</i>		<i>Standard Operating Procedure #</i>
<i>Date: September 20, 2016</i>	<i>Prepared by: Office of the Dean of Students In collaboration with: Title IX Team, Department of Public Safety</i>	<i>Student Affairs – Dean of Students’ Administrative Series</i>
<i>Page 1 of 25</i>		<i>APPROVED BY: Office of the Dean of Students In collaboration with: Title IX Team, Department of Public Safety</i>

I. POLICY STATEMENT

New Jersey City University is a diverse, safe, and nondiscriminatory academic community whose existence depends on respect and civility, as well as a strict adherence to the standards of conduct set by its members. New Jersey City University expects that all members of the University community, students, faculty, administrators, or staff, conduct themselves such that they do not infringe upon the rights of others. Sex/Gender harassment, discrimination and misconduct, including sexual violence, sexual gender-based misconduct, domestic violence, dating violence, and stalking are serious violations of these standards and will not be tolerated. New Jersey City University not only regards these actions to be violations of the standards of the Student Code of Conduct required of all persons associated with the institution (members of the University community, guests, and visitors), but also recognizes that these are violations of state and federal laws.

The University fully complies with all civil and/or criminal laws prohibiting harassment, discrimination, and sexual misconduct. Sexual misconduct is a violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. The University is required to comply with Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities; the Violence Against Women Reauthorization Act of 2013 (VAWA), which requires prompt, fair and impartial investigation and resolution of allegations of sexual assault, stalking, dating violence and domestic violence; and Title VII of the Civil Rights Act of 1964 (as amended in 1991).

Please note:

- A. This policy will be reviewed and updated on an annual basis and as necessitated by changes/additions to local, state and federal laws.***
- B. This policy will be disseminated on an annual basis to all students, faculty, and staff via email; to new and transfer students via USB flash drives during New and Transfer Student Orientations, as well as within specific Title IX workshops and online trainings.***

II. SCOPE

- A. This policy covers all New Jersey City University students, and in particular students who:**
 - Are Reporters of any form of sexual misconduct, including sexual assault and sexual misconduct, by any other person (student, employee, or others outside of the University community); and/or

- Are reported as allegedly engaging in behavior prohibited by this policy.
- B.** Please note that the term "student" includes all persons for whom the University maintains educational records, as defined by the Family Educational Rights and Privacy Act of 1974 and related regulations; who have not yet been awarded his or her degree from the University, and includes undergraduate, graduate, professional, and non-matriculated students at the University. Additionally, this policy applies to participants in any University-related program or activity.
- C.** Throughout this policy, "Reporter" refers to the person making the allegation(s) of prohibited conduct and "Respondent" refers to the person alleged to have committed the prohibited conduct. When the Reporter is someone other than the victim of the alleged conduct, the victim also will be deemed the Reporter for purposes of the rights and options available under this policy.
- D.** Complaints Against Faculty, Staff and Third Parties – If the Respondent is a faculty or staff member, or third party who does business with the University, or is otherwise affiliated with the University, but not a University student, please refer to the NJCU Policy Prohibiting Discrimination and Harassment, 60.1.12, and Discrimination and Harassment Complaint Process for Complaints against University Employees and Individuals Who Do Business with the University, or contact the University's Office of Employment Equity.
- Students are entitled to appropriate support from the University and to be treated with respect, dignity, and sensitivity in connection with all incidents of conduct prohibited by this policy including where the Respondent is a faculty member, staff member, or other party affiliated or doing business with the University.
 - In all cases, the University shall strive to ensure that students receive all the rights and protections set forth in this policy, to the extent applicable.

III. JURISDICTION

According to the University Student Code of Conduct, this policy covers both on-campus and off-campus conduct, as described below:

- A. On-Campus Violations:** The campus includes the geographic confines of the University, including its land, institutional roads and buildings, its leased premises, the property, facilities and leased premises of organizations affiliated with the University, including University housing.
- B. Off-Campus Violations:** Off campus violations that affect a clear and distinct interest of the University are subject to disciplinary sanctions. As examples, sexual and gender based misconduct are within the University's interests when the behavior:
- Involves conduct directed at or by a University student or other member of the University community (e.g., private house party, outside employment);
 - Occurs during University-sponsored events (e.g., field trips, social or educational functions, University-related travel, student recruitment activities, internships and service learning experiences);
 - Occurs during the events of organizations affiliated with the University, including the events of student organizations;
 - Occurs during a Study Abroad Program or other international travel;
 - Poses a disruption or threat to any members of the University community; or
 - Creates a hostile environment for any members of the University community.

IV. COMPLIANCE

The University's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct. The Coordinator reports directly to the President of the University and is housed in the Office of Equal Employment Opportunity/Affirmative Action/Diversity. Questions about related policies should go to the Office of Equal Employment Opportunity/Affirmative Action/Diversity.

There is a Title IX team that has been created to ensure that the University's learning environment is free from all forms of sexual misconduct. It is the obligation of these units to be familiar with this policy and, where appropriate and possible, to participate in continuous trainings to guarantee that they are able to fulfill these responsibilities.

A. On Campus Resources

Title IX Coordinator

Lisa Norcia
Director, EEO/AA/Diversity
Hepburn 306
Office of Equal Employment Opportunity/Affirmative Action/Diversity
lnorcia@njcu.edu; Tel: 201-200-3075

Deputy Title IX Coordinators

Dr. Lyn Hamlin (students)
Dean of Students
Gilligan Student Union 127
lhamlin@njcu.edu; Tel: 201-200-3525

Dr. Anne Mabry (faculty)
Associate Dean
William J. Maxwell College of Arts and Sciences
Karnoutsas 605
amabry@njcu.edu; Tel: 201-200-2289

Alice DeFazio (gender-equity)
Director of Athletics
John J. Moore Athletic & Fitness Center
adefazio@njcu.edu; Tel: 201-200-2243

Robert Piaskowsky (staff)
Director of Human Resources
Hepburn 105
рпиaskowsky@njcu.edu; Tel: 201-200-2067

The University encourages all members of the University community to be aware of not only the consequences of sexual misconduct as governed by the provisions of the Student Code of Conduct, but also the options available to Reporters. Reporters are urged to seek assistance using any of the additional resources provided below. All incidents will be taken seriously regardless of gender identity or expression, immigration status, disability or sexual orientation.

B. Additional On Campus Resources

The Counseling Center

Tel: 201-200-3165

Gilligan Student Union, Room 308

The Center provides both immediate crisis intervention and therapy to recent or past survivors of sexual violence. Students are seen either individually or in a group with others who have experienced similar trauma. Therapists can be accessed by appointment, walk-in, or after-hours emergency.

The Health and Wellness Center

Tel: 201-200-3456

Vodra Hall, Suite 107

The Center provides information and makes referrals to off-campus clinics, specialists, testing facilities, and pharmacies.

Department of Public Safety Department

Tel: 201-200-3128 or call 55 Emergency

Rossey Hall, Room 114/115

Available 24 hours a day, 7 days a week

Open 24 hours, this is the office where individuals who have been violated can file a formal complaint. Appropriate Department of Public Safety staff can discuss available options and assist Reporter(s) to decide on a course of action. (For resident students, course of action can include a change in academic and/or living situations; for faculty, course of action can include change in office).

Speicher-Rubin Women's Center for Equity and Diversity

Tel: 201-200-3189

Gilligan Student Union, Room 318

This Center provides advocacy, support services, information, and referrals to individuals who have, or who think they may have experienced sexual assault, sexual misconduct, stalking, and dating or domestic violence.

C. Off Campus Resources

Hudson S.P.E.A.K.S Against Sexual Violence assists survivors of sexual assault, ages 12 and above, in Hudson County. Hudson S.P.E.A.K.S. provides free and confidential services such as a 24-hour crisis hotline; 24-hour accompaniments to hospitals, courts, and law enforcement agencies, and individual counseling for survivors and their significant others; Christ Hospital, 179 Palisade Ave., Jersey City; 24-hour hotline, 201-795-5757

The Jersey City Police Department and Hudson County Prosecutor's Office Sexual Assault Response Team (SART), receive reports of incidents, investigates and makes decisions regarding arrest and prosecution. Emergency, 911

D. Inquiries may be made externally to:

Office for Civil Rights (OCR)

(180 day statute of limitations)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: [Http://www.ed.gov.ocr](http://www.ed.gov.ocr)

U.S. Department of Civil Rights Division
950 Pennsylvania Avenue, N.W.
Educational Opportunities Section, PHB
Washington, D.C. 20530
Telephone: (202) 514-4092 or 1-877-292-3804 (toll-free)
Facsimile: (202) 514-8337
Email: education@usdoj.gov

Section I: SEXUAL AND GENDER-BASED MISCONDUCT

Sexual and gender-based misconduct offenses include, but are not limited to:

- **Sexual Harassment**
- **Sexual Exploitation**
- **Sexual Assault**

A. Sexual Harassment is defined as any sexually oriented behavior of a deliberate or negligent nature which adversely affects one's academic performance or work environment. It may involve conduct or comments that are unintentional as well as intentional. It may include the use of authority to emphasize the sexuality or sexual identity of an individual in a manner, which prevents the individual's access to the educational benefits and/or opportunities at NJCU. Sexual harassment will not be tolerated in any context including student/student, faculty/student, staff/student, or other relationship. This policy prohibits all forms of sexual harassment. It includes, but is not limited to: quid pro quo harassment, hostile environment harassment, gender-based harassment.

- **Quid Pro Quo Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes Sexual Misconduct when submission or rejection of such conduct is made a condition of academic evaluation or the conferral of any benefit. It involves an implicit or explicit threat that if the student does not accede to the sexual demands of someone in authority he or she will suffer adverse consequences.
- **Hostile Environment Harassment** – Harassment that is unwelcome or pervasive enough can create an intimidating, hostile, and objectively offensive environment. It can limit a student's ability to participate in or benefit from academic, athletic and/or other programs. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. For instance, a single incident of rape is sufficiently severe to create a hostile environment. Although quid pro quo harassment, by definition, requires that the harasser be someone in a position of authority over the student, hostile environment harassment can occur when anyone in the campus community, including a student, harasses another person. An individual's intent or lack of intent to harass is not relevant to the determination of whether harassment occurred.
- **Gender-Based Harassment** includes harassment based on actual or perceived gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation, or

hostility, whether verbal or non-verbal, graphic physical or otherwise, even if the acts do not involve conduct of a sexual nature. Submissions to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities, or is used as the basis for University decisions affecting the individual (often referred to as quid pro quo harassment).

- **Examples of Sexual and Gender-Based Harassment**

The following examples illustrate conduct that, if proven, the University would consider sexual harassment in either an employment or an academic setting:

- Pressure for a dating, romantic, or intimate relationship;
- Unwelcome, unnecessary and/or inappropriate touching, such as patting, pinching, hugging, or brushing against an individual's body;
- Pressure for or forced sexual activity;
- Demeaning remarks about a person's gender or sexual orientation;
- Inappropriate sexual innuendoes or humor;
- Offensive sexual graffiti, pictures, or posters (about another individual or posted in common areas with the intent to offend);
- Responsibility for incapacitation of another person (through alcohol, drugs, or any other means) for the purposes of compromising that person's ability to give consent to the alleged sexual activity;
- Observation of private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g. FaceTime, Snapchat, Skype, livestreaming of images) without the consent of the participant(s);
- Engagement in voyeurism (e.g. watching private sexual activity without the consent of the participants or viewing another person's intimate parts, including genitalia, groin, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy;
- Recording, photographing, disseminating, or transmitting intimate or sexual utterances, sounds, or images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breast or buttocks) without the consent of the participants;
- E-mail and Internet use that violates this policy;
- Unsolicited, unwelcome flirtations, advances, and/or propositions of a sexual nature;
- Insults, jokes, or anecdotes that belittle or demean an individual or a group's sexuality or gender;
- Unwelcome sexually-oriented and/or obscene gestures, verbal expressions, or comments of a sexual nature about an individual's body, clothing, or sexual experience;
- Inappropriate displays of sexually suggestive objects or pictures;
- Leering or ogling;
- Uninvited letters, e-mails and telephone calls of a sexual nature; and
- Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, or status, salary, academic standing, grades, receipt of financial aid and/or letters of recommendation, etc.;
- Excluding a person from a program or activity based on pregnancy; and/or
- Excluding a person from a program, activity, or facility based on sexual orientation or gender identity.

B. Sexual Exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit or the benefit anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation may include:

- Invasion of sexual privacy;
- Prostituting of 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;
- Engagement in voyeurism;
- Going beyond the boundaries of consent;
- Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; and/or
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

C. **Sexual Assault** includes unwelcome, sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct. It can consist of **non-consensual sexual contact or intercourse, including, but not limited to:** (according and to the New Jersey criminal statute, http://www.nj-statute-info.com/getStatute.php?statute_id=1564):

- Sexual contact – intentional touching, either of the Reporter or when the Reporter is forced to touch, directly or through clothing, another person's genitals, breasts, thighs, or buttocks;
- Sexual penetration – vaginal intercourse, cunnilingus, fellatio, or anal intercourse whether by an acquaintance or a stranger without consent;
- Attempted rape;
- Sodomy – oral sex or anal intercourse; and
- Sexual penetration with insertion of the hand, finger, or object into the anus or vagina either by the actor or upon the actor's instruction; the depth of insertion is not relevant.

D. **Retaliation** is the intentional action taken against an individual or a group because the individual or group made a report concerning sexual misconduct, was the subject of such a report, or otherwise participated in the University's investigation of such a report.

The University 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 Reporter or a third party. The University will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate. The Title IX Coordinator will review all reports of retaliation and determine whether to impose immediate corrective action or whether to refer the report for investigation. In making this determination, the Title IX Coordinator may consult with the Title IX Team or members of the Title IX Team.

Section II: CONSENSUAL RELATIONSHIPS

Consensual relationships, as defined in this policy, potentially create inconsistencies and perceptions of impropriety that can impair the integrity of academic, educational, and employment decisions. Such relationships can result in other claims, including sexual misconduct, and subject employees and NJCU to risks. Consensual relationships may implicate the ***New Jersey City University Policy Prohibiting Discrimination in the Workplace*** and the ***Uniform Ethics Code of the State of New Jersey*** [New Jersey Conflicts of Interest Law and New Jersey City University Code of Ethics Policy], as well as Title IX.

Managers, in supervisory roles, as well as staff and faculty entrusted with advising and educating students, are often placed in relationships of trust and power. These relationships should not be jeopardized by the appearance of or behaviors which result in favoritism or unfairness in the exercise of professional judgment or management. It is the expectation of NJCU that employees with teaching, supervisory, advisory or evaluative responsibility over other employees and/or students maintain the ethical, legal, behavioral and professional boundaries that should exist in such situations.

Therefore, NJCU strongly discourages consensual relationships between employees and students. Should an inappropriate consensual relationship develop, NJCU encourages the employee or involved persons to discuss its existence with the appropriate departments and examine alternative arrangements for the supervision, evaluation, teaching, grading, or advising of the employee or student.

Section III: DEFINITIONS

A. Consent is a mutual and understandable exchange of affirmative words or actions which indicate permission to engage in mutually agreed upon sexual activity. Consent must be informed, voluntary, and actively given. Consent is free of force – including physical violence, threats, intimidation and coercion. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual engagement. The absence of a negative response is not consent. An individual who is incapacitated by alcohol and/or other drugs both voluntarily or involuntarily consumed may not give consent. Past sexual activity does not imply ongoing future consent. If any of the following are present, consent cannot be given:

- **Incapacitation** is a state where someone cannot make rational, reasonable decisions because s/he lacks the capacity to give knowing consent (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction).
 - Sexual activity with someone who is mentally or physically incapacitated by alcohol or drug use, unconsciousness, or blackout
 - A person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the consumption of rape drugs
 - Alcohol related incapacity results from a level of alcohol ingestion that is more severe than impairment, being under the influence, drunkenness or intoxication. Evidence of incapacity may be detected from context clues, such as:
 - Slurred speech
 - Bloodshot eyes
 - The smell of alcohol on his/her breath
 - Shaky equilibrium
 - Vomiting
 - Unusual behavior
 - Unconsciousness
 - Please note that these signs alone do not necessarily indicate incapacitation.
- **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and/or coercion that overcome resistance.
- **Coercion** is unreasonable pressure for sexual activity. Coercion is the use of emotional manipulation to persuade someone to do something they may not want to do such as being sexual or performing certain sexual acts. Being coerced into having sex or performing sexual acts is not consenting to having sex.

B. Acquaintance rape and date rape are terms used to describe a rape in which the Reporter knows the rapist. They may have dated previously, had a class together, met at a party or be relatives or friends. Regardless of any prior relationship that may have existed, if one person forces another to submit to sexual contact, the act is still a form of sexual assault.

C. Intimate Partner Violence (dating and domestic violence) is a pattern of behavior in an intimate relationship that is used to establish power and control over another person through fear and intimidation.

A pattern of behavior is typically determined based on the repeated use of words and/or actions and inactions in order to demean, intimidate, and/or control another person. This behavior can be sexual, verbal, emotional and/or physical. Examples of intimate partner violence include, but are not limited to:

- Slapping
- Pulling hair
- Punching
- Damaging one's property
- Driving recklessly to scare someone
- Name calling
- Humiliating one in public
- Harassment directed toward a current or former partner or spouse
- Threats of abuse such as threatening to hit, harm, or use a weapon on another (whether reporting party or acquaintance, friend, or family member of the reporting party), or other forms of verbal threats

D. Stalking involves any behaviors or activities occurring on more than one occasion that collectively instill fear in the Reporter and/or threaten her/his safety, mental health, and/or physical health. Such behaviors or activities may include, but are not limited to non-consensual communications (face to face, telephone, e-mail), threatening or obscene gestures, surveillance, or showing up outside the targeted individual's classroom or workplace. **Stalking may precede sexual assault.**

E. Confidentiality - Anyone who wishes to report sexual misconduct of any kind (including a past rape or abuse) can be assured that confidentiality will be maintained to the extent possible. Reporting a rape or an assault does not mean formal disciplinary or court action has been initiated. A permanent record of the receipt of complaint will be filed with the appropriate Title IX/Deputy Coordinator with an indication of the disposition of the complaint, and shall remain confidential, subject to court subpoena.

- The record of any complaint that is upheld shall be made part of the Title IX personnel file of the Respondent for employees or the Office of the Dean of Students' disciplinary records for students.
- All formal hearing proceedings and all evidence introduced will be on the record and must be confidential, subject to court subpoena, pending the outcome of any disciplinary proceedings against the Respondent.

F. Retaliation is defined as any adverse action taken against a person participating in a protected activity because of his/her participation in that protected activity (subject to limitations imposed by the 1st amendment and/or Academic Freedom). Retaliation against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a serious violation of University policy.

Section IV: GROUNDLESS OR MALICIOUS ALLEGATIONS

It is a violation of this policy for anyone to knowingly make false accusations of sexual misconduct. Failure to prove a claim of sexual misconduct, however, is not equivalent to making a false accusation. Sanctions may be imposed for making unwarranted or vindictive accusations of sexual misconduct.

Section V: CONFIDENTIALITY

All University employees have a duty to report violation of this policy, unless they are Confidential Reporters as indicated below. Complaints of the policy violation may be made by any member of the University community who has been directly affected by this behavior or who has reasonable cause to believe that a violation of the policy has taken place.

In order to make informed choices, it is important to understand confidentiality and mandatory reporting requirements. At NJCU, some resources may maintain confidentiality, which means they are not required to

report actual or suspected discrimination or harassment to the appropriate University officials. This also means that they can offer options and advice without any obligation to inform an outside agency or individual unless the Reporter has requested that information be shared. Other resources exist for a Reporter to report crimes and policy violations; these resources will take action when an incident is reported to them:

a. On Campus Confidential Reporters

- Licensed professional counselors and staff (The Counseling Center)
 - The Counseling Center
Tel: 201-200-3165
Gilligan Student Union, Room 308
- Health service providers and staff (The Health and Wellness Center)
 - The Health and Wellness Center
Tel: 201-200-3456
Vodra Hall, Suite 107
- Advocates (Speicher-Rubin Women's Center for Equity and Diversity)
 - Speicher-Rubin Women's Center for Equity and Diversity
Tel: 201-200-3189
Gilligan Student Union, Room 318

B. Off-campus resources include: licensed professional counselors, local rape crisis counselors, domestic violence resources, local or state assistance agencies, and/or clergy. These individuals are required to file a report of the incident with the Title IX Coordinator and Department of Public Safety. The report will contain no information that would directly or indirectly identify the individual who experienced sexual misconduct.

Please note: In such cases where confidentiality is maintained, the University will be unable to conduct an investigation into the incident or take action against the alleged perpetrator.

Section VI: REPORTING OPTIONS

- A.** Individuals are encouraged to bring forward complaints as soon as possible after the incident(s) in order that the most thorough and fair consideration of the matter may occur. Although there is no time limit on the reporting of formal charges with the University, the University may ultimately be unable to investigate if too much time has passed or if the accused student has graduated.
- It is recommended that complaints be initiated within one calendar year of the alleged incident.
 - Early resolution of complaints can benefit the Reporter, the Respondent, and the University.
 - Factors that could negatively affect the University's ability to investigate include the loss of physical evidence (e.g., prompt medical examinations are critical to preserving the physical evidence of sexual assault), the potential departure of witnesses, or loss of memory.
 - If the reporting student or a witness has concerns that his or her own alcohol or drug use, or the fact that other prohibited activity was involved, the Office of the Dean of Students will not pursue disciplinary actions toward a student in violation of alcohol or drug use if the student is making a valid report of sexual misconduct.
- B.** Any individual, not just the Reporter, may make a report under this policy, including a student, employee, visitor, guest, or other third party.
- C. For student complaints against other students,** the Student Code of Conduct and/or the Sexual and Gender-Based Misconduct Policy govern the complaint, investigation, and adjudication process through the Office of the Dean of Students (DOS) and/or a member of the Title IX Team.

- D. For student complaints against faculty or staff**, the Policy Prohibiting Discrimination in the Workplace (Human Resources/State Policy), the Faculty Handbook, and/or the Staff Handbook, govern the complaint, investigation, and the adjudication process through the appropriate offices and/or a member of the Title IX Team.
- E.** Upon notification, the Office of the Dean of Students, as well as the Department of Public Safety, may take immediate interim actions to protect the safety of the University community, to enable students with complaints and witnesses to continue academic programs, and to ensure the integrity of an investigation.
- These actions may include the interim suspension of the accused student and/or no-contact notices between the individuals involved.
 - The Office of the Dean of Students and the Department of Public Safety may make arrangements for additional actions, if indicated, including, but not limited to:
 - Modifying class or work schedules;
 - Making alternate housing arrangements;
 - Addressing other academic concerns (e.g., absences, assignments, grades, leaves of absence, withdrawal); and/or
 - Safety planning.
- F.** For emergencies or if criminal behavior is expected, the student should contact 911. For non-emergencies, students are encouraged to contact the Department of Public Safety by phone at 201-200-3128 or in person at Rossey Hall, Room 114/115. The Department of Public Safety can advise students of available options. NJCU encourages those who have experienced sexual misconduct to speak with somebody about what happened so s/he can get the help and support s/he needs and the University can respond appropriately and effectively.
- H. Amnesty for Students Who Report Sexual Misconduct
(Immunity for Reporters and Students Providing Assistance)**

NJCU encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting an incident of sexual misconduct transparent. The University recognizes that students who have been drinking or using drugs at the time of an incident also may be hesitant to make a report because of potential disciplinary consequences for their own conduct. Thus, students who report sexual misconduct, either as a Reporter or a third party witness, will not be subject to disciplinary action by the University for Code of Conduct violations, such as their own personal consumption of alcohol or drugs at or near the time of the incident (provided that any such violations did not and do not place the health or safety of any other person at risk). The University may, however, initiate an educational discussion or pursue other educational remedies regarding these other violations. The amnesty policy applies to the university's student conduct process which addresses student misconduct other than sexual misconduct subject to this Policy.

The University encourages the reporting of violations of this policy. Sometimes, victims are hesitant to report to University officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that as many victims as possible choose to report to University officials. To encourage reporting, Clark University pursues a policy of offering victims of sexual offenses limited immunity from being charged for policy violations related to the incident. While violations cannot be completely overlooked, the University will provide educational options, rather than punishment, in such cases.

G. Bystander Intervention

NJCU strongly encourages all community members to take reasonable and prudent actions to prevent or stop sexual misconduct, including relationship violence, stalking and sexual assault. Taking action may include directly or indirectly confronting the situation, taking steps to interrupt the situation, or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the university and protected from retaliation.

H. Individuals who choose to pursue action under this policy should make a report to the Title IX Coordinator or any of the following options:

- **Title IX Coordinator**

- Lisa Norcia
Director, EEO/AA/Diversity
Hepburn 306
Office of Equal Employment Opportunity/Affirmative Action/Diversity
lnorcia@njcu.edu; Tel: 201-200-3075

- **Deputy Title IX Coordinators**

- Dr. Lyn Hamlin (students)
Office of the Dean of Students
Gilligan Student Union 127
lhamlin@njcu.edu; Tel: 201-200-3525
 - Dr. Anne Mabry (faculty)
Associate Dean
William J. Maxwell College of Arts and Sciences
Karnoutsas 605
amabry@njcu.edu; Tel: 201-200-2289
 - Alice DeFazio (gender-equity)
Director of Athletics
John J. Moore Athletic & Fitness Center
adefazio@njcu.edu; Tel: 201-200-2243
 - Robert Piaskowsky (staff)
Director of Human Resources
Hepburn 105
rpaskowsky@njcu.edu; Tel: 201-200-2067
 - Department of Public Safety Department
Rossey Hall, Room 114/115
Tel: 201-200-3128 or call 55 Emergency
- **Confidential Resources** are those offices who report to the University without personally identifying information. If a student speaks with one of their staff members, the incident will not be reported to anyone at the University without the student's express permission, except in instances in which there is an immediate and serious concern about his/her safety or the safety of others in the community.
 - The Counseling Center
Gilligan Student Union, Room 308
Tel: 201-200-3165

- The Health and Wellness Center
Vodra Hall, Suite 107
Tel: 201-200-3456
- Speicher-Rubin Women's Center for Equity and Diversity
Gilligan Student Union, Room 318
Tel: 201-200-3189

I. Reporting to Responsible Employees/Community Members:

- A responsible employee/community is a member of the NJCU community who has an affirmative duty to report all instances of sexual misconduct that come to his/her attention to a Title IX Coordinator or Deputy Coordinator. All employees, other than those noted above (Counseling, Health and Wellness and the Women's Centers), fall into this category and are considered responsible employees/community members.
 - When the Reporter or a third party (friend, family, coach, faculty or staff member, etc.) tells a responsible employee/community member about an incident of violation of this policy, s/he can expect the University to take immediate and appropriate steps to stop the harassment, remedy the effects, and prevent any reoccurrence.
 - Once the information has been reported to a responsible employee, the Title IX Coordinator and/or Deputy Coordinator will be notified. The responsible employee/community member must report all relevant details of the allegation of policy violation, including the names of the Reporter, the alleged Respondent, and witnesses, as well as any other relevant facts, such as date, time, and specific location of the incident. Depending upon the nature of the policy violation and the individuals involved, the case will be assigned to an investigator.
- J.** The staff member to whom the report is made will assist the student to identify concerns and consider options. S/he shall provide a copy of this policy (and other relevant policies) to the student and make him/her aware of the availability of counseling and other resources.
- K.** In all cases, the staff of the Office of the Dean of Students endeavors to respond promptly and effectively to investigate the allegations. Typically investigations can take up to sixty (60) university business days following receipt of the complaint. Factors that could impair the timing of the investigation include the complexity and severity of the conduct, the number and availability of witnesses, or the need to identify and acquire physical or other evidence.

Section VII: INVESTIGATION

During an investigation, the investigator meets separately with the Reporter, the Respondent, and the witnesses, giving everyone the chance to submit, identify, and/or gather related information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person) and other electronic records as appropriate.

Following the interview, each person will be provided with a draft summary of his/her statement so that s/he can review to ensure its accuracy and completeness. The Reporter or Respondent may, under limited and extenuating circumstances, make a request to submit a written statement instead of participating in an interview. However, the final decision to do this rests with the Title IX or Deputy Coordinator. The Reporter or

the Respondent may provide other relevant materials; however, it is the responsibility of the University to gather pertinent evidence as appropriate. The University's review will be thorough, reliable and impartial.

- A. Notice of the Investigation.** Once a report has been given to the investigator, both the Reporter and the Respondent will be informed in writing of the initiation of the investigation. The written information will include the identities of the parties, if known, a concise summary of the prohibited conduct, and alleged policy violations.
- B. Assumption of Good Faith Reporting.** The University presumes that reports of prohibited conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this policy or that there is insufficient evidence to conclude that the incident occurred as reported does not mean that the report was made in bad faith. The University encourages all individuals who have experienced or witnessed behavior they believe violates this policy to report the matter so that it may be addressed, without fear of consequences from the University.
- C. Presumption of Non-Responsibility and Standard of Proof.** The investigation is a neutral, fact-gathering process. The Respondent is presumed to be not responsible. This presumption may be overcome only where the investigator and/or subsequently a Hearing Board conclude that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the Respondent violated the policy. A preponderance of the evidence means that it is more likely than not based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated this policy.
- D. Participation by the Parties and Witnesses Is Voluntary.** Reporters, Respondents, or witnesses may choose to participate or decline to participate in the formal resolution process. However, even if a Reporter or Respondent declines to participate, the University may continue to investigate the report and issue findings based on available information.
- E. Acceptance of Responsibility.** The Respondent may, at any time, elect to resolve the formal resolution process by accepting responsibility for the prohibited conduct, in which case, the matter will be referred to the Office of the Dean of Students to determine the appropriate sanctions.
- F. Evidence.** The investigator is responsible for gathering relevant evidence to the extent reasonably possible. However, the Reporter and the Respondent will be asked to identify witnesses and provide all relevant information (documents, communications, photographs, etc.) as promptly as possible.
- G.** The investigator will review all information identified or provided by the parties and will determine the appropriateness and relevance of the information developed or received during the investigation. All information considered relevant by the investigator will be provided to the parties for their review and comment, with respect to FERPA regulations.
- H. Prior or Subsequent Conduct of the Respondent** will never be used to prove character, but may be considered for other purposes, such as determining pattern, knowledge, intent, or the Respondent's reasons for taking the action. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was similar to the conduct under investigation or indicates a pattern of similar prohibited conduct. The investigator will determine the relevance of this information and both persons will be informed if evidence of prior or subsequent conduct is deemed relevant.

- I. Prior Sexual Contact Between Reporter and Respondent.** This will not be used to prove character or reputation. Moreover, evidence related to the prior sexual history between the parties is generally not relevant to the determination of a policy violation and will be considered only in limited circumstances.
- J. Witnesses.** Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual's character. Witnesses will have the opportunity to discuss the investigation process and participate in an interview. Following the interview, a witness will review the draft summary to ensure its accuracy and completeness. As appropriate, the investigator will give this summary to the Reporter and Respondent for their review and comment. This information will be included in the investigation report.
- L. Coordination with Law Enforcement.** If the University is made aware that there is a concurrent criminal investigation, the investigator will inform any law enforcement agency that is conducting its own investigation that a University investigation is also in progress; ascertain the status of the criminal investigation; and determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.
- At the request of law enforcement, the University may agree to temporarily defer part or all of the investigation until after the initial evidence-gathering phase of the law enforcement investigation is complete.
 - The investigator will communicate with the parties, consistent with the law enforcement request and the University's obligations, about resources and support, procedural options, anticipated timing, and the implementation of any necessary interim measures for the safety and wellbeing of all affected individuals.
 - Standards for criminal investigations are different than the standards for a violation of this policy, and therefore, the University will not base its decisions under this policy solely on law enforcement reports and/or actions. The University will fulfill its legal and ethical obligation to take immediate and appropriate action in response to a report of prohibited conduct, even if there are other external processes or procedures pending in connection with that same report.
- M. Time Frame for Completion of Investigation.** The period from commencement of an investigation, which begins with notice of the investigation to the Respondent, through resolution (finding) typically should not exceed sixty (60) university business days.
- This time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by law enforcement for temporary delay to gather evidence, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for case complexities including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.
 - The investigator will notify the Reporter and Respondent in writing of any extension of this time frame and the reasons for such extension as soon as possible.
- N. Preliminary Investigation Report.** After each person has had the opportunity to comment on their own statement and to identify witnesses and other potential information, and the investigator has completed witness interviews and the gathering of evidence, the investigator will prepare a preliminary report. The preliminary report will include, as applicable, the Reporter's statement, the Respondent's statement, each witness statement and either a copy or written summary of any other relevant information collected during the investigation. The preliminary report will not contain any findings.
- The Reporter and Respondent may review the preliminary report and provide feedback. The Reporter and the Respondent must submit any comments, feedback, additional documents, evidence, requests

for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator within five (5) university business days after it is sent to them for review.

- In the event that new, relevant information is provided or identified by one of the parties, the information will be incorporated into the preliminary report and the parties will be provided a second opportunity to review and provide feedback before the investigator proceeds with the final report.

O. Final Investigation Report. After the five (5) university business day comment period has lapsed with/without comment, the investigator will address any relevant issues identified by the Reporter and/or Respondent, as appropriate, and pursue any additional investigative steps as needed. The investigator's final written report will contain all information from the preliminary report, as supplemented by the relevant feedback submitted; any additional information gathered; the investigator's findings; and a summary of the investigator's rationale in support of the findings.

The investigator's report and findings must be reviewed and approved by the Title IX and/or Deputy Coordinator.

P. Finding(s) of No Policy Violation. When the investigator (and/or the Title IX and/or Deputy Coordinator) determines that there is *insufficient* evidence, by a preponderance of the evidence, to support a finding of a policy violation on one or more of the allegations, the investigation will be closed and both the Reporter and the Respondent will be notified simultaneously of the outcome. If the Reporter chooses to appeal the finding, s/he must notify the Office of the Dean of Students within five (5) university business days of the notice of outcome. If the Reporter accepts the finding of No Policy Violation, the investigation will be closed.

R. Finding(s) of Policy Violation. When the investigator determines that there is *sufficient* evidence, by a preponderance of the evidence, to support a finding of a policy violation on one or more of the allegations, a recommendation for resolution will be made to the Title IX and/or Deputy Coordinator). The notice of the outcome of the investigation will be sent to the Reporter and Respondent simultaneously. The notice of outcome will include information about next steps, which may include the options the sanctioning and/or the appeal processes.

Section VIII: RESOLUTIONS

- A.** Resolutions of complaints based upon alleged policy violations within the University may be achieved by using a formal procedure or an informal resolution.
- B.** Alleged incidents of sexual and gender-based misconduct can be resolved by using any of the following procedures:
- **Informal resolution:** the informal proceeding requires voluntary agreement of the parties and focuses on conciliation rather than culpability.
 - **Formal hearing:** designated members of the Hearing Board in which the Reporter and the Respondent have the opportunity to provide testimonies, present witnesses and admit evidence on behalf of their case. It can also be dealt with through the review and recommendation of a single administrator, with the presence of a trained assistant.
 - **Withdrawal:** At any time, reporting parties may choose to withdraw from these complaint proceedings. Nevertheless, the University's legal commitment to provide an environment free from sexual and gender-based misconduct may obligate the University to proceed in the absence of a complaint from the person directly affected. In deciding whether to proceed in such cases, the University will take into

account all relevant circumstances including, but not limited to, the availability of evidence, the accessibility of witnesses, the need for protection against retaliation on the part of witnesses and the need for due process on the part of Respondents.

Section IX: INFORMAL RESOLUTION PROCEDURES

In certain cases, complaints of sexual and gender-based misconduct can be resolved through voluntary problem-solving between both the reporting and responding parties. The Reporter can be offered an informal resolution process as an alternative to the formal complaint procedure. In this case, the Office of the Dean of Students will attempt to intervene in order to reach a satisfactory resolution between the individuals directly involved. The informal proceeding requires voluntary agreement of the parties and focuses on conciliation rather than culpability. If informal attempts to resolve the complaint are unsuccessful, or if the reporting party or the Office of the Dean of Students believes an informal procedure is inappropriate, the formal complaint process can be utilized at any time. The filing of an informal complaint is not a prerequisite to a formal complaint.

- A. Designated staff of the Office of the Dean of Students and/or the Title IX Coordinator will determine if an informal resolution is an appropriate option for a reported incident.
- B. An informal resolution process will never be applied in a case involving violence or nonconsensual sexual intercourse or penetration.
- C. The informal written complaint must specify, in detail, the nature of the charge, dates of particular events, names of possible witnesses, Respondent's name and any other relevant information. The complaint must be signed and dated.
- D. In order to conciliate an informal complaint, the Office of the Dean of Students may meet with the parties and their respective advisors separately. The purpose of the meetings is to clarify issues and resolve complaints.
- E. If conciliation resolves the complaint, a conciliation agreement, stipulating the terms of the resolution, will be signed by the Reporter and the Respondent. Each party will be given a copy of the signed agreement.
- F. If the conciliation process is unsuccessful and the Reporter wishes to proceed with a formal complaint, she/he must file a formal written complaint.

Section X: FORMAL HEARING PROCEDURES

If the reporting party wishes to invoke a formal administrative action, a formal written complaint must be filed with the Office of the Dean of Students. A formal complaint can be heard by designated members of the Hearing Board or by a single administrator.

- A. The University has 60 business days from the time the formal complaint is filed to complete an investigation and render a decision of responsible or not responsible. Parties will be notified of any extensions as they are needed.
- B. The formal written complaint must specify, in detail, the nature of the charge, dates of particular events, names of possible witnesses, Respondent's name and any other relevant information. The complaint must be signed and dated.

- C. The Respondent must be notified in writing of the alleged sexual misconduct violation. The Respondent will be given the opportunity to respond to the complaint by filing a formal written response that must specify, in detail, dates of particular events, names of possible witnesses, and any other relevant information. This response must be signed and dated.
- D. Once a formal complaint has been made and a formal response has been obtained, the Office of the Dean of Students and/or the Title IX/Deputy Coordinator shall identify the possible violation of the sexual or gender-based misconduct policy (violation of Title IX), and assign the investigator.
- E. At this point a determination will be made whether to use the Hearing Board or a single administrator procedure.
 - When the Hearing Board is utilized, both the reporting and responding parties will be notified in writing of the date, time and location of the hearing.
 - Both parties will also be informed, in detail, of their rights as a Reporter and a Respondent. All Hearing Board decisions are made on a preponderance of evidence and as recommendations to the board chair.
 - Upon the conclusion of the Hearing, the Hearing Board chair will forward a recommendation (decision and sanction) to the Office of the Dean of Students.
 - The Office of the Dean of Students will review recommendations and make adjustments if needed. Within five (5) University business days, s/he shall notify both the reporting and responding parties, in writing, of the final decision in the case as well as the sanctions, penalties and other stipulations or special requirements.
 - In cases where a Single Administrator Process is used, the Administrator must be trained in both the Title IX and related NJCU policies and procedures and must be assisted by a second, trained staff member in all proceedings.
 - The Single Administrator of the Office of the Dean of Students will meet separately with both the Reporter and Respondent, examine all documentation, as well as review the evidence presented and collected during the investigation.
 - The Single Administrator will render a decision based on a preponderance of the evidence, and will forward that decision, including sanctions, to the Office of the Dean of Students.
 - The Office of the Dean of Students will review recommendations and make adjustments if needed. Within five (5) University business days, s/he shall notify both the reporting and responding parties, in writing, of the final decision in the case as well as the sanctions, penalties and other stipulations or special requirements.

Section XI: RIGHT OF APPEAL TO THE DEAN OF STUDENTS

Appeals – Students may appeal hearing decisions made as the result of an investigation or a formal/informal hearing in accordance with the following provisions:

- A. Students are entitled to no more than one appeal review per case.
- B. Students electing to appeal an investigation or hearing decision must file a written appeal, including the reasons for the appeal, with the Dean of Students, within five (5) University business days of notice of the sanction of the original hearing.
- C. Appeals must be in writing and must state specific grounds for the appeal. Grounds for appeal are limited to the following:
 - The sanction(s) imposed are significantly disproportionate to the offense

- Specified procedural errors or errors in interpretation of University regulations were so substantial as effectively to deny the student a fair hearing
 - New and significant information became available and could not have been discovered by a properly diligent student before or during the original hearing
 - The finding is unsupported by any information that was presented
- D.** The Dean of Students will review all documentation associated with the case and determine whether sufficient grounds exist to reopen the investigation/case. If sufficient grounds do not exist, the finding(s) and sanction(s) from the original investigation/hearing will stand and no further appeal is provided. If sufficient grounds exist to reopen the investigation/case, the Dean of Students may elect to hear the case in part, in total or de novo and is not bound by the finding(s) or sanction(s) of the original investigation/hearing body.
- E.** Once the appeal is granted, the Dean of Students will notify the all appropriate parties, in writing, of the continued investigation/new hearing date and of the new investigation/hearing conditions. The Dean of Students hears all appeals. This decision is final.

Section XII: RIGHTS OF REPORTING PARTY/RESPONDENT

The reporting and responding parties are entitled to receive support and assistance at all times during the resolution process. The Office of the Dean of Students is available and willing to provide such.

- A. Rights of the Reporting Party** – In addition to the rights outlined in the Student Code of Conduct and the Sexual and Gender-Based misconduct policies any student who believes that he/she has been a Reporter of sexual misconduct is urged to promptly pursue the matter and to file a complaint in accordance with the procedures described in this policy. The reporting party will not be reprimanded, retaliated against, and/or discriminated against in any way for initiating an inquiry or complaint in good faith.
- B. Rights of the Respondent** – In addition to the rights outlined in the Student Code of Conduct, a person against whom a complaint is lodged shall be presumed innocent of that charge unless and until there is a final administrative finding of responsibility or an admission to the charge by that person.

Section XIII: ROLES AND RESPONSIBILITIES

A. Student Conduct Administrator in the Office of the Dean of Students/Title IX Investigator

The role of the Investigator(s) is to:

- Provide information on the Sexual and Gender Based Misconduct Policy to members of the University community and third parties having connections to the University;
- Provide information on the Sexual and Gender Based Misconduct Policy to persons bringing forward a complaint;
- Advise and assist the members of the Hearing Board, administrators and others seeking direction in the handling of complaints;
- Assist persons wanting to initiate the informal resolution process or the formal hearing process and facilitate arrangements in connection with those procedures;
- In consultation with the Title IX team, develop and provide education to the University community on the prevention of Sexual Misconduct;

- In consultation with the Title IX team, coordinate and ensure appropriate and regular training for the Hearing Board;
- Maintain confidential records on all allegations of sexual and gender based misconduct; and
- Serve as a resource to the Sexual Misconduct Board.

B. Victim (reporter) Advocate

A trained staff member of the Speicher Rubin Women's Center for Equity and Diversity will be designated as the confidential, trained Victim (reporter) Advocate. As requested and specifically in sexual assault and violence cases, the Advocate is expected to provide emotional support and assistance with navigating reporting options, in addition to advocating for the Reporter's needs.

- The Advocate understands that his/her representation of the Reporter represents the interests of the student and therefore advocate cannot be retaliated against by the University in the event of a conflict.
- The advocate has no role in the investigation except to support and advocate for the Reporter. S/he may serve as a "process" advisor for the Reporter, but it should be clear that they serve different functions.
- Advocates are not expected to serve the responding parties (re: conflict of interest and safety and confidentiality concerns).

C. Advisor

Throughout the formal resolution process, a Reporter, Respondent, or witness may have an advisor of his/her choice. An advisor is an individual who is selected by a Reporter or a Respondent to provide support and guidance during the review of the policy violation report.

- An advisor may not be a witness or otherwise have any conflicting role in the process.
- An advisor may be an advocate and/or an attorney.
- Any person who serves as an advisor should plan to make him/herself available for meetings throughout the process.
- The advisor may assist with all written submissions made by a Reporter or a Respondent and may facilitate scheduling and other processes.
- During any meeting, the advisor may be present to observe and provide support and counsel to the participant.
- The advisor may not testify or obstruct the meeting.
- The advisor cannot discuss the report, arrange or attend related meetings without the Reporter and/or the Respondent in attendance.
- The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with the policy.

Section XIV: GUIDELINES FOR THE REPORTER TO FOLLOW

- A.** Get to a safe place as soon as you can.
- B.** Try to preserve all physical evidence. Do not wash, use the toilet, or change clothing, if you can avoid it. If you do change clothes, put all clothing you were wearing at the time of the attack in a paper bag, do not use a plastic bag.
- C.** Get medical attention as soon as possible. A medical examination will provide any necessary treatment and collect important evidence. Injuries may not be immediately apparent: you can ask to be tested for sexually transmitted diseases, and at a later time, you may want to be tested for pregnancy and/or HIV. You are not alone.

Section XV: GUIDELINES FOR FACULTY AND STAFF TO FOLLOW

Faculty and staff can refer to the sections on Reporting Options should an incident of sexual assault and gender based misconduct be reported to them. Additionally, any of the indicated on-campus resources can be contacted directly should faculty or staff have any questions or concerns.

Section XV: EDUCATION AND PREVENTION

Campus programs and training will be planned throughout the year to educate the community on how they can work toward the prevention of sexual assault as well as intimate partner violence and stalking. The offerings will include:

- A.** New Student Orientation
- B.** Opportunity Scholarship Program Orientation
- C.** Improvisational theatre presentations and discussions
- D.** Workshops on gender issues
- E.** Presentations to athletes, sororities, fraternities, OSP students, clubs, and resident students
- F.** Events sponsored through the Speicher-Rubin Women's Center for Equity and Diversity, Women & Gender Studies Department, Affirmative Action and Campus Life
- G.** A commitment by NJCU to make every effort to promote awareness among faculty, staff and students on these various issues, address its effects, and provide the Reporter resources and services

Section XVI: THE RIGHTS OF THE REPORTER AND THE RESPONDENT:

A. NEW JERSEY CAMPUS SEXUAL ASSAULT REPORTER'S BILL OF RIGHTS

A University or University in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the University community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. Respect for the individual and human dignity is of paramount importance in creating a community free from violence, sexual assault and non-consensual sexual contact.

The State of New Jersey recognizes that the impact of violence on its Reporters and the surrounding community can be severe and long lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to insure that the needs of Reporters are met and that the universities in New Jersey create and maintain communities that support human dignity.

BILL OF RIGHTS NJSA18A:61E-1 et.seq.:

The following Rights shall be accorded to Reporters of sexual assault that occur: on the campus of any public or independent institution of higher education in the State of New Jersey, and where the Reporter or alleged perpetrator is a student at that institution, and/or when the Reporter is a student involved in an off-campus sexual assault.

HUMAN DIGNITY RIGHTS:

- To be free from any suggestion that reporters must report the crimes to be assured of any other right guaranteed under this policy
- To have any allegations of sexual assault treated seriously; the right to be treated with dignity
- To be free from any suggestion that reporters are responsible for the commission of crimes against them
- To be free from any pressure from campus personnel
- To report crimes if the reporter does not wish to do so
- To report crimes as lesser offenses than the reporter perceives the crime to be
- To refrain from reporting crimes
- To refrain from reporting crimes to avoid unwanted personal publicity

RIGHTS TO RESOURCES ON AND OFF CAMPUS

- To be notified of existing campus and community based medical, counseling, mental health and student services for reporters of sexual assault whether or not the crime is formally reported to campus or civil authorities
- To have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling
- To be informed of and assisted in exercising: any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus and/or pregnancy any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases

CAMPUS JUDICIAL RIGHTS

- To be afforded the same access to legal assistance as the accused
- To be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused to be notified of the outcome of the sexual assault disciplinary proceeding against the accused

LEGAL RIGHTS

- To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported
- To receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities
- To receive full, prompt and reporter-sensitive cooperation of campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault

CAMPUS INTERVENTION RIGHTS:

- To require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of a reporter by the alleged assailant to be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available

STATUTORY MANDATES:

- Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation
- Each campus shall make every reasonable effort to ensure that every student at the institution receives a copy of this document
- Nothing in this act or in any "Campus Assault Reporter's Bill of Rights" developed in accordance with the provisions of this act shall be construed to preclude or in any way restrict any public or independent institution of higher education in the state from reporting any suspected crime or offense to the appropriate law enforcement authorities.

B. The Rights of the Reporter/Respondent (as per the revised 8.17.16 NJCU Student Code of Conduct):

- The right to written and oral explanation of the charges.

- The right to present his or her side of the story.
- The right to a written statement explaining the Hearing Board process.
- The right to file a no-contact order to prohibit harassment of the accused by the Reporter, friends, or supporters.
- The right to challenge the Hearing Board on conflicts of interest (e.g., if the Reporter is a member of a particular student organization, the accused may challenge the presence at the hearing of an advisor from that student organization).
- The right to know ahead of time the names of the witnesses to be called to the hearing.
- The right to have needs promptly addressed.
- The right to have a support person accompany him/her through the hearing. All participants will be bound by the rules of confidentiality governing the hearing. Subject to court subpoena, all participants have the right not to have their identity revealed outside the confidential proceedings, without consent.
- The right to a fair and impartial hearing.
- The right not to have past sexual history discussed during the hearing.
- The right to a closed hearing.
- The right to remain present for the entire proceeding.
- The right to have access to any information that will be used at the hearing.
- The right to a hearing without unnecessary delays.
- The right to be informed within five business days of the Board findings and of the outcome of the hearing.
- The right to appeal the decision of the Hearing Board in writing within five business days of notification.
- The right to know the status of the case at any point during the investigatory process.
- The right to remain silent.
- The right to testify on his/her behalf.

Section XVIII: SANCTIONS/ UNIVERSITY DISCIPLINARY ACTION

Any member of the NJCU campus community who participates in sexual and gender based misconduct can be subject to sanctions which range from a warning to expulsion. They can also face action through the criminal justice system. Recommendations for sanctions for students will be made to the Office of the Dean of Students, who will issue the sanction to the Respondent.

Sanction	Description
Warning	Notice in writing that continuation or repetition of prohibited conduct may be the cause for additional disciplinary action.
Disciplinary Probation	This is a specified period of time during which the student will be excluded from participation in University privileged and/or extracurricular activities. During the probationary period, the student shall not represent the University in any extracurricular activity, run for, or hold office in any student group or organization. Additional restrictions and/or conditions may also be imposed, such as loss of campus housing or other privileges. Notification will be sent to appropriate University offices, including the Office of Campus Life. Failure to comply with the conditions of probation and/or additional Code of Conduct violations may result in additional disciplinary sanctions.
Restitution	This constitutes reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service or an assessment to repair or otherwise compensate for damages. Restitution may not be in excess of the damage or loss incurred.
Suspension	This constitutes separation of the student from the University for a specified period. Exclusion from classes and other privileges and/or activities is instituted during the

Sanction	Description
	suspended period. The suspension shall continue until the Dean of Students determines that the conditions for reinstatement have been satisfied. A student who is suspended from the University is not eligible for the return of tuition, room, or board fees or other fees paid or owed to the University. The student shall not participate in any University-sponsored activity and will be barred from University premises.
Expulsion	A permanent dismissal from the University and exclusion from University premises, privileges, and activities. A student who is expelled from the University is not eligible for the return of tuition, room, or board fees or other fees paid or owed to the University. Expulsion requires administrative review and approval by the President.
OTHER SANCTIONS – In the judgment of University and as appropriate, other sanctions may be imposed, instead of, or in addition to, those specified.	
Community Service	Service to the University community for a specified number of hours until the date of completion; failure to complete all or part of a service project in a satisfactory manner by the completion date may automatically result in a fine being imposed by the hearing body that assigned the project. Such action does not preclude additional disciplinary sanctions being imposed subsequent to a hearing to determine the reasons for failure to comply.
Assessment, Counseling, Mediation (harassment, not assault) and/or Treatment	Referrals to an appropriate agency for assessment, mediation, counseling, and/or treatment of possible psychological, emotional or substance abuse problems may be required.
Educational Projects	Projects assigned for the educational benefit of the student, the organization, and/or the University community. Examples include enrollment in particular classes, participation in workshops or seminars, conducting research, writing papers, planning programs, etc.
Repeat/Aggravated Violations	Increased penalties may result from repeated or aggravated violations of any section of the Code of Conduct.
*Group Infractions	Every organization has the duty to prevent any infraction of University rules and state laws as they are related to its activities. This duty is applicable not only to members of the organization who are engaging in the activity, but also to every member, including those not engaging in the activity. When students violate policy, they should be aware that in addition to being adjudicated as individual offenses, there may also be sanctioning of the entire organization. In determining whether a group may be held collectively responsible for the individual actions of its members, all the factors and circumstances surrounding the specific incident will be reviewed and evaluated. As a guiding principle, groups will be held responsible for the acts of their members when those acts grew out of, or were in any way related to, group life.

XIX: RESOURCES

- A. Atixa Gender-Based Harassment, Discrimination and Sexual Misconduct Model Policy, www.atixa.com, Authored by the NCHERM Group LLC Partners: Brett Sokolow, J.D., W. Scott Lewis, J.D., Sandra K. Schuster, J.D., Daniel C. Swinton, J.D., Ed.D. www.ncherms.org. 2015. THE NCHERM GROUP/ATIXA.
- B. Policy 3.29.16, Student Code of Conduct
- C. Policy 7.2.2013. Sexual Harassment Policy (email address)
- D. Policy 6.11.2013. Sexual Assault Policy (email address)
- E. Workplace Violence Policy
- F. New Jersey Campus Sexual Assault Victim's Bill of Rights, N.J.S.A. 18A:61E-1 et seq.
- G. U.S. Department of Education, Office for Civil Rights, <http://www.ed.gov/ocr>

- H. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>
- I. U.S. Department of Justice, Office on Violence Against Women, <http://ovw.usdoj.gov>
- J. <http://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>
- K. 20 U.S.C. §§ 1681-1688; Dear Colleague Letter: Transgender Students (May 13, 2016), www.ed.gov/ocr/letters/colleague-201605-title-ix-transgender.pdf.
- L. <https://studentsexualmisconductpolicy.umich.edu/>
- M. <http://www.emerson.edu/policy/sexual-misconduct>
- N. <https://www.notalone.gov/assets/checklist-for-campus-sexual-misconduct-policies.pdf>
- O. http://www.rider.edu/sites/default/files/docs/source_antiharrass_nondiscrim_policy.pdf