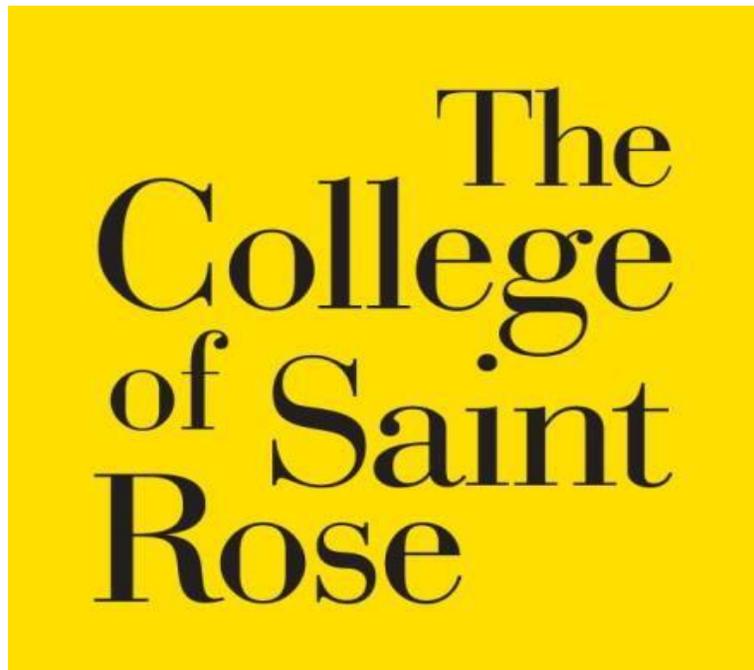


Annual Public Safety Report: 2020



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## **Purpose of the Annual Security Report**

This Annual Security Report (“Report”) is intended to inform all current and prospective students and employees (faculty, staff, and administrators) about safety and security at The College of Saint Rose (“Saint Rose”). This Report is in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended (“Clery Act”).

Saint Rose is concerned about the safety and welfare of all campus members and guests and commits itself to promoting a safe and secure environment. Because no campus can totally isolate itself from crime, Saint Rose has developed a series of policies and procedures designed to ensure that every possible precaution is taken to protect the campus community. Saint Rose has one of the best safety records of colleges of its size in New York State and, together, we can maintain a safe and secure campus environment.

### **What is the Clery Act?**

The Clery Act is a federal law that requires colleges and universities to disclose information about crime on and around their campuses. The Clery Act is named in memory of Jeanne Clery, a 19-year-old Lehigh University freshman who was assaulted and murdered in her residence hall room on April 5, 1986.

### **To Review Crime Statistics for All Colleges and Universities:**

In accordance with the Clery Act, the College provides its campus crime statistics to the U.S. Department of Education. Statistics for the College and other institutions are available at: <http://ope.ed.gov/security>.

### **Saint Rose’s Report Preparation:**

The Report is prepared by representatives from the Office of the President, the Office of Safety and Security, and Student Development at the College. The crime statistics are compiled from reports and reviewed by the Office of Safety and Security, Campus Security Authorities, Albany Police Department, and the University Police Department for the University at Albany.

### **To Obtain a Printed Copy of the Report:**

Saint Rose’s Report may be accessed and printed online at: [www.strose.edu/securityreport](http://www.strose.edu/securityreport). In addition, a printed copy of the Report is available as follows:

- Request a copy in person at the Office of Safety and Security during regular business hours at 340 Western Avenue;
- Call Steve Stella, Director of Safety and Security at 518-454-5139; or
- Send a written request by mail to:  
The College of Saint Rose  
Office of Safety and Security  
340 Western Avenue  
Albany, NY 12203

# **Procedures for Reporting Criminal Actions and Other Emergencies**

## **On Campus Reporting:**

All crime victims and witnesses are strongly encouraged to immediately report crimes to Security and/or the appropriate police agency. Security is committed to working with the Saint Rose community to resolve all criminal matters in a timely fashion. Prompt reporting will help Saint Rose appropriately warn and protect the campus community.

## **Security:**

Security is charged with ensuring the safety and security of the entire Saint Rose community. Everyone is encouraged to report all crimes, emergencies, accidents/injuries and unusual occurrences to Security immediately as follows:

- Go directly to a Security Post in either the Lobby of Lima or Brubacher Halls, Picotte Hall, or at the Security Headquarters located at 340 Western Avenue (Corner of Western Avenue and Partridge Street).
- Dial **518-454-5187** from your mobile phone.
- Dial **911** or extension **5187** from any campus extension.
- Push the “security” button from any campus extension.
- Operate one of the many emergency blue light call boxes strategically located throughout the campus.

Security Officers will meet individuals anywhere on campus to investigate and inquire about any crime or concern on campus. Crimes reported to Security will be recorded and may be referred to the appropriate law enforcement agency for investigation.

## **Campus Security Authorities:**

In addition, individuals may report crimes to a Campus Security Authority (CSA). At Saint Rose, designated administrators and faculty who have significant responsibilities for student and campus activities are CSAs. If a crime is reported to a CSA, that individual is obligated to provide information about the crime to Security and others at Saint Rose as necessary. If the crime is reportable under the Clery Act, it will be included in this Report.

CSAs are instructed to report crimes they become aware of to the Department of Safety and Security or the Albany Police. Other members of the Saint Rose community are encouraged to report information about crimes on campus to Security.

Although this list does not include every CSA, you may contact any of the following Saint Rose employees to obtain immediate assistance if you are the victim or otherwise aware of a crime on campus. These CSAs are generally available Monday through Friday during regular business hours. Victims are encouraged to call Campus Security at 518-454-5187 (or 911 from any campus phone) at all other times.

<b>Name</b>	<b>Title</b>	<b>Telephone Number</b>	<b>Address</b>
Steven Stella	Director of Safety and Security	518-454-5187	Safety & Security Room 104 340 Western Avenue
Amanda Bastiani	Director of Prevention Education & Response, Title IX Coordinator	518-454-5170	Wellworth Hall, Room 3 963 Madison Ave.
Craig Tynan	Registrar	518-458-5464	St. Joseph's Hall Room 416
Gerald Lorentz	Dean, School of Arts & Humanities	518-454-2800	Arts & Humanities Room 103 1006 Madison Avenue
Ian MacDonald	Dean, School of Mathematics and Sciences	518-454-5266	Science Center Room 255 993 Madison Avenue
Jeffrey Knapp	Associate Vice President for Human Resources	518-454-5138	Cabrini Hall, Room 205 399 Western Avenue
Jennifer Richardson	Assistant Vice President for Student Development	518-454-2023	Events and Athletic Center, Room 210, 420 Western Avenue
Lori Ancil	Associate Vice President and Director of Athletics	518-454-5282	Events and Athletic Center, Room 216 420 Western Avenue
Phylcia Coley	Director of Residence Life	518-454-5295	204 Partridge Street, Room 5
Rajarshi Aroskar	Dean, Huether School of Business	518-454-2122	Huether School of Business, Room 210 994 Madison Avenue
Alex Wheeler	Assistant Director of Student Conduct	518-485-3658	Wellworth Hall, Room 4, 963 Madison Ave.
Shai Butler	Vice President for Student Development & Chief Diversity Officer	518-454-5299	The Center for Student Success 2 <sup>nd</sup> Floor St. Joseph's Hall
Steven Ralston	Provost and Vice President for Academic Affairs	518-454-5160	Administration Building 1000 Madison Avenue
Theresa Ward	Acting Dean, Thelma P. Lally School of Education	518-454-5208	Lally School of Education 1009 Madison Avenue

Other CSAs include the following: Security Officers, Student Development staff, Resident Assistants,

Athletic Coaches and advisors to student groups and organizations, as is anyone else so designated by the College due to the nature of their responsibilities.

**CSA training requirements:**

All CSA's are required to complete an annual training. The College utilizes both online and in-person training programs in order to comply with the annual training requirements.

- Clery Act Basics (Online course through EverFi, LawRoom-for all CSA's, annual requirement)
- Title IX and Clery: How to respond and report (In-person training for all new employees-orientation/onboarding process)
- Harassment and Discrimination for Faculty and Staff (Online course for all employees, annual requirement)

**Anonymous Reporting:**

Anyone can report a crime anonymously by calling the College's Anonymous Hotline at 518- 454-5275 or by submitting a report via the College's online form (<https://onlineforms.strose.edu/anonymous-report/submit>). Individuals may also email reports to [anonymous@strose.edu](mailto:anonymous@strose.edu) and note that they want to remain anonymous in the text of the email message.

**Off Campus Reporting:**

To report a crime off campus, you may dial **911** from a mobile phone or **9911** from a Saint Rose phone. You may also contact the following police departments:

Albany Police Department and Fire Department Dispatch  
Western Ave., Albany, NY 12203  
518-438-4000

NYS Police 24-hour  
hotline 1-844-845-7269

University Police Department for the University at Albany  
1400 Washington Ave., Albany, NY  
518-442-3130

**Confidential Reporting:**

Reporting to certain offices is kept confidential in accordance with established professional and legal guidelines and pastoral and professional counselors do not file incident reports. However, Saint Rose encourages its pastoral and professional counselors to inform the person being counseled of any procedures to report crimes for inclusion in the annual disclosure of crime statistics. Confidential reports may be made to the following individuals and offices:

On Campus Health Provider	Dr. Mark Parisi Health Services 190 Partridge St., Albany, NY 12203 (518) 454-2044 <a href="http://www.strose.edu/officesandresources/academic_and_student_support_services/health_services">http://www.strose.edu/officesandresources/academic_and_student_support_services/health_services</a>
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<p>On Campus Mental Health Provider</p>	<p>Dr. Mark Parisi  Counseling Center  St. Joseph's Hall; 3<sup>rd</sup> floor., Albany, NY 12203 (518) 454-5200  <a href="http://www.strose.edu/officesandresources/academic_and_student_support_services/counseling_services">http://www.strose.edu/officesandresources/academic_and_student_support_services/counseling_services</a></p>
<p>On Campus Pastoral Counselor</p>	<p>Joan Horgan  Hubbard Interfaith Sanctuary  (518) 454-5250  <a href="http://www.strose.edu/officesandresources/spiritual_life">http://www.strose.edu/officesandresources/spiritual_life</a></p>
<p>Off Campus Mental Health Care Provider</p>	<p>Albany County Crime Victims and Sexual Violence Center  112 State St., Albany, NY 12207  24 Hour Sexual Assault Hotline – (518) 447-7716  <a href="http://www.albanycounty.com/cvsvc/">www.albanycounty.com/cvsvc/</a></p>
<p>Off Campus Domestic Violence Provider</p>	<p>Equinox Domestic Violence Services  518-432-7865 (24-hour hotline)  102 Hackett Blvd.  Albany, NY 12209  (518)434-6135</p>

**If you are the victim of a crime:**

- Report the incident to Security and/or the police if you feel comfortable doing so.
- File a complaint following the campus conduct process if the alleged perpetrator is a member of the Saint Rose community. An investigation for appropriate disciplinary action under Saint Rose's policies for the incident will be pursued.
- Tell your story soon to avoid forgetting details. Alternatively, write out the details or use a tape recorder.
- Seek counseling. Professional counseling is available, free of charge, through the Counseling Center. Counseling can be beneficial as you work through your reaction to being the victim of a crime.

**Saint Rose Security Advisory Committee:**

The Security Advisory Committee is comprised of faculty, students, staff, and administrators who examine policy and procedures and make recommendations to the President of the College in an effort to maintain the safest campus environment possible. The Committee reviews the following current campus security policies and procedures and makes recommendations for improvement:

- Educating the campus community, including security personnel and employees who advise or supervise students, about sexual assault in accordance with New York State law;
- Educating the campus community about personal safety and crime prevention;
- Reporting sexual assaults and dealing with victims during investigations;
- Referring complaints to appropriate authorities;
- Counseling victims, and
- Responding to inquiries from concerned persons.

## **Saint Rose Security Policies**

### **Office of Safety and Security Information:**

Security works closely with all departments, units, and offices at Saint Rose to ensure that safety policies and procedures are uniformly executed and conveyed in a clear and consistent manner to all current and prospective students and employees.

The Security Office is located at **340 Western Avenue** and staffed **24 hours a day, 365 days a year**. Uniformed Security Officers provide around-the-clock patrol, select fixed post access control, and other services to the Saint Rose campus community.

### **Enforcement Authority:**

- The Office of Safety and Security includes the following positions:
  - Security Director
  - Security Lieutenant
  - Security Sergeant
  - Security Corporal
  - Security Officer
  - Security Driver
  
- All individuals who hold the positions of Security Officer or higher are licensed in the State of New York as unarmed private security officers and are trained in basic first aid and CPR. All Security supervisors and select Security Officers receive additional Campus Public Safety Officer Training through the Zone Five Regional Law Enforcement Training Academy.
  
- Saint Rose values well-trained and informed Security staff. Security Officers attend various training seminars and informative conferences throughout the year.
  
- Security Officers are responsible for a full range of safety services at Saint Rose, including, but not limited to, responding to reports of crimes, medical emergencies, fire emergencies, traffic accidents, and enforcement of all Saint Rose policies including those relating to alcohol use, drug use, and weapons possession. Security Officers submit incident reports on all crimes and incidents of note on campus reported to the Office by victims, witnesses, and others including Campus Security Authorities.
  
- Security Officers have the authority to ask persons for identification and to determine whether individuals have lawful business at Saint Rose. Security Officers have the authority to issue parking to anyone parked on campus in violation of the parking rules and regulations.
  
- Security Corporals, Sergeants, Lieutenants and the Director have authority to make warrantless arrests when they have reasonable cause under the aegis of the Albany Police Department.

### **Relationship with Local Police Departments:**

- Criminal incidents are referred to the Albany Police Department or the University Police Department for the University at Albany, both of whom have jurisdiction on Saint Rose's campus through Memoranda of Understanding. Security at Saint Rose maintains a highly professional working relationship with both of these law enforcement agencies.
- Off campus incidents involving Saint Rose students are shared with Saint Rose Security and these agencies when this status is relevant and known. Saint Rose maintains the right to pursue judicial sanctions against students violating student conduct policies off campus.

### **Security Awareness & Crime Prevention:**

- Saint Rose Security encourages members of the Campus community to take personal responsibility for their own safety by offering services designed to increase Security awareness and opportunities to be proactive.
- Security crime prevention services include:
  1. ***Escort Service:*** Security Officers provide on-campus escorts 24 hours a day, seven days a week to students and employees upon request. Members of the campus community arriving from off-campus may contact Security to arrange for an escort when they arrive at the Saint Rose campus.
  2. ***Emergency Blue Light Phone System:*** These phones are located on campus walkways and in parking lots. They can be used to contact Saint Rose Security in an emergency situation or to request a security escort.

### **Security Programming:**

- The goals of Saint Rose's crime prevention programming are to minimize criminal opportunities whenever possible and encourage individuals to take their own security and the security of others into consideration. Numerous presentations are made throughout the year to various campus constituencies including resident and commuter students, Resident Assistants, and employees. In addition, any office, department or unit may request additional training through the Security Director.

- Campus Security makes students and employees aware of the availability of its services through articles and/or announcements in the student newspaper, sending out emails, and by having staffed information tables in the Events and Athletics Center (EAC) periodically throughout the year at events such as orientation. In addition, Campus Security provides safety and security workshops to first year and transfer undergraduate students during orientation and to the general campus population at least twice during each Fall and Spring semester.
- Campus safety and crime prevention programs for commuter students are held each semester during daytime and evening class hours, so the training reaches both full- and part-time undergraduate and graduate students.
- Residence Life staff members undergo thorough safety and security awareness, crime prevention and fire prevention training provided by Security at least once each academic year. In addition, applicable local and/or state agencies may provide Saint Rose's Resident Assistants with supplemental programming in these areas.
- All new employees are required to attend a mandatory workshop on Sexual Assault/Harassment and the Clery Act. There is on-going training and awareness programming to provide current students and employees information on personal safety, sexual and relationship violence, stalking, and bystander intervention strategies.

## Access to Buildings Policy:

### I. Purpose

The College of Saint Rose (the “College”) is interested in creating and maintaining a safe and secure campus. Accordingly, access to buildings and facilities at the College is controlled and monitored by the Department of Safety and Security (“Security”). The College is a private institution of higher education and, as such, its buildings are not generally open to the public and are available for students, employees, contractors, and invited guests. This Policy provides information for who has access to College buildings and facilities at various times of the day and days of the week.

### II. Definitions

- A. Academic Buildings – Buildings where classes are held. In addition, the Library and Saint Joseph Hall are Academic Buildings.
- B. Campus Buildings – All buildings owned, leased, and/or operated and maintained by the College. A map of Campus Buildings is available at <http://map.strose.edu/>.
- C. Campus Facilities – All Campus Buildings, parking lots, and open areas owned, leased, and/or operated and maintained by the College. This term does not include public sidewalks or streets.
- D. Card Access – Access to buildings is obtained by scanning a Saint Rose issued identification card on the pad outside of the building. Card Access may also be provided to third parties, on an as needed basis. The One Card Office provides access with proper permissions utilizing the Card Access Procedures & Request Form, attached as Appendix A. The Office of Human Resources is responsible for collecting identification cards from Employees at the conclusion of their employment with the College.
- E. Employee – Any faculty, staff member, or administrator, whether full-time, part-time, or temporary, employed by the College.
- F. Key Access – Access to buildings is obtained by using a key that is provided to an Employee or Resident student with proper permissions utilizing the Key Access Procedures & Request Form.
- G. Office Buildings – Buildings which are used to provide office space for Employees, but do not have classrooms.
- H. Residence Halls – Any dormitories, houses, or apartments owned, leased, and/or operated and maintained by the College.
- I. Resident Student – A student enrolled at the College who lives in one of the College’s Residence Halls.
- J. Trustee – A member of the College’s Board of Trustees.

### **III. Policy**

This Policy provides information about which buildings have Key Access and which have Card Access (as defined below). Security reserves the right to restrict access to buildings and facilities when there is a safety concern or threat.

### **IV. Procedures**

#### **A. Access to Campus Buildings:**

- a. Residence Halls – All Residence Halls are secured 24 hours a day, 7 days a week by Card Access, except for Lima Hall which is locked from 5:00 pm to 7:00 am each day. Lima Hall has a security guard posted in the front lobby where students will need to swipe their identification cards at the door by the Security Desk. Brubacher Hall has a security guard posted in the front lobby from 4:00 pm to 8:00 am where students will need to swipe their identification cards at the Security Desk to access the building, additionally there is a second set of card access doors beyond the Security Desk. In addition, all rooms in Residence Halls are secured by Key Access.
- b. Academic Buildings –
  1. Security works with applicable Deans and administrators to determine when these buildings will be accessible by card access. These buildings will only be available to individuals who have Card Access or Key Access. For example, students who are enrolled in evening classes at the Huether School of Business will have card access to that building.
  2. Other Academic Buildings may be open for events such as those held at the Massry Center for the Arts or Hearst Center for Communications and Interactive Media.
  3. The Neil Hellman Library is accessible by card access at varying times throughout the year based upon the needs of the students and as decided by the Director of the Library and the Provost. The Library's hours are posted on the website at: <http://library.strose.edu>.
  4. The Picotte Center for Art & Design is only available through Card Access. There is a security guard stationed at Picotte from Sunday nights from 4:00pm – 11:00pm and Monday and Wednesday nights from 6:00pm – 10:00pm during the academic year.
- c. Office Buildings –
  1. Designated Office Buildings are locked 24 hours, 7 days a week at the discretion of the Director of Security and only accessible with Card Access. Saint Joseph's Hall has a single door facing the center of campus which is open business days from 8:30 am until 5:00 pm. Campus staff are stationed at a desk in the lobby for sign in purposes and to direct students and visitors to the appropriate locations.
  2. In addition, some Office Buildings and offices within other Office Buildings are equipped with Burglary Alarms and/or Panic Buttons, at the discretion of the Director of Security.
- d. Other Campus Buildings –
  1. The Events and Athletics Center (EAC) – The EAC is accessible by Card Access from 6:00am to 12midnight to provide students with access to specific services such as the dining hall and a fitness center. The EAC is closed from midnight to 6:00 am; however, the EAC may be open for extended hours during athletic events or other functions.

2. Hubbard Interfaith Sanctuary – During weekdays and other days when the College is open, Hubbard is on card access from 8:00am – 4:00pm, but may vary depending upon the needs of the College.
  3. Plumeri Sports Complex – The fields at Plumeri are open at all hours, but should not be visited unless there is a valid educational or business reason to do so, including attending or participating in athletic events. During the academic year, the buildings at Plumeri are available for certain employees via Card Access only, unless one or more buildings are open for events or other activities. The College does not maintain Plumeri during the summer months when control shifts to the City of Albany Parks Department.
- e. Parking Lots – Parking lots are available at the times posted on signs in the lot. Parking Permits are required. Some parking lots are available Monday through Friday while others are open on the weekends as well. Residents may park in assigned lots 24 hours a day, 7 days a week. If an individual, other than a resident student, needs to park in a lot overnight, this information must be shared with Security.
- B. Lockout Procedures: Security or Residence Life staff will respond to valid, verifiable lockout requests. The individual requesting access to a Campus Building will be required to provide proper identification and authorization before being permitted to access the Campus Building or a specific room in an Office Building.
- C. Building Lockdown: In emergency situations, Security may remotely lock Campus Buildings with Card Access so no additional individuals may enter the building. Security does not have the ability to lock individual rooms remotely.

**Maintenance of Campus Facilities:**

The College conducts maintenance of the Saint Rose campus facilities on a regular basis. This includes the following:

- A. Security conducts comprehensive annual exterior lighting inspections to ensure that pathways and parking lots are well lit. Security monitors campus lighting adequacy during scheduled patrols.
- B. Security conducts monthly lock down tests of the entire Card Access system and monthly tests covering specific sections of the College campus.
- C. The College monitors the condition and usable life of security systems, including cameras, card access, emergency blue light callboxes, and alarms, to ensure that security systems are functional and appropriate to their specific applications.

**Off-Campus Student Organizations:**

Saint Rose does not recognize any off campus student organizations.

## **Saint Rose Alcoholic Beverages and Illegal Drug Policies**

(Please go to the Student Handbook for other information concerning alcohol and drugs.)

<http://assets.strose.edu/handbook/StudentHandbook.pdf>

### **A. General College Policy**

The College of Saint Rose prohibits the unlawful possession, use or distribution of alcohol and illicit drugs by students and employees on its property or as part of any of its activities.

### **B. Alcohol Policy**

Small amounts of alcohol (i.e. no more than a six pack of beer, a liter of wine, or half liter of alcohol, etc.) for personal consumption are allowed in a student's bedroom if the student is at least 21 years of age. The collection, displaying or storing of empty alcohol containers is prohibited.

#### ***Alcohol as it Relates to Underage Students***

If a student is under the age of 21 (hereafter referred to as an "underage student"), the possession, consumption, or distribution of any amount of alcohol is prohibited.

- a. Underage students shall not possess, consume or distribute alcoholic beverages.
- b. Underage students shall not furnish or sell any alcoholic beverage.
- c. Underage students shall not be in the presence of alcohol.
- d. Underage students shall not allow guests to bring alcohol into the residence halls.
- e. Underage students shall not be incapacitated by the influence of alcohol or another drug or substance.

#### ***Alcohol as it Relates to Of-Age Students***

If a student is at least 21 years of age (hereafter referred to as an "of-age student"), they are permitted to possess and consume a "reasonable amount" of alcohol in their College-assigned room, or in the College-assigned room of another of-age student. A reasonable amount of alcohol is defined here as no more than a six pack of beer, a liter of wine, or a half-liter of liquor.

- a. Of-age students shall not possess, consume, or distribute any alcoholic beverage(s) if any underage person is present.
- b. Of-age students shall not furnish or sell any alcoholic beverage to any person not 21.
- c. Of-age students shall not possess, consume, or distribute large quantities of alcohol, including, but not limited to, kegs or beer balls.
- d. Of-age students shall not possess or consume alcohol in any common area of the residence halls including suite living rooms and kitchens.
- e. Of-age students shall not allow guests to bring alcohol into the residence halls.
- f. Of-age students shall not be incapacitated by the influence of alcohol or another drug or substance.

#### ***Alcohol as it Relates to Excessive Drinking***

Excessive drinking (or "binge-drinking") is prohibited. Of-age students are expected to drink responsibly and never in excess.

### ***Alcohol as it Relates to Paraphernalia***

- a. Underage Students: Underage students shall not possess any drinking paraphernalia. This includes, but is not limited to: funnels, beer mugs, flasks, game tables, shot glasses, steins, margarita glasses, and wine glasses.
- b. Of-Age Students: Although Of-age students are permitted to possess and consume alcohol on campus, they shall not possess drinking paraphernalia that is intended to be used for, or otherwise could be used for, excessive drinking. This includes, but is not limited to: funnels, flasks, game tables, and shot glasses.
- c. All students: Regardless of age, students shall not collect, display, or store empty alcohol containers.
- d. Disposal: All unauthorized alcohol containers and paraphernalia will be confiscated and disposed of.

### ***Penalties***

Resident students may be removed from campus housing after their third violation of the alcohol policy or earlier depending upon the severity of the violation.

### ***Events***

- a. Student and other College groups, including offices cannot serve alcoholic beverages at events at which students will be present without prior approval from the Director of Student Conduct. Alcohol beverage request forms should be completed a week prior to the event. Alcohol shall not be provided to individuals who are underage, appear to be intoxicated or under the influence of other psychoactive drugs.
- b. For student sponsored events a designated area for the serving and consumption of alcohol must be utilized. Only those of age with appropriate proof may enter the area and no one may take beverages out.
- c. Individuals or groups having events in a facility covered by the NYS liquor license serving Saint Rose may not legally bring alcoholic beverages into those areas; therefore, such beverages must be ordered from Campus Dining.
- d. Saint Rose community members are responsible for the alcohol-related actions of their guests, including any related damage.
- e. Neither the advertisement nor emphasis of an event can promote alcoholic beverage(s) as the sole or main purpose of that event. In addition, no specials for alcoholic beverages are allowed.
- f. Whenever an alcoholic beverage is served, a non-alcoholic beverage and food must also be available.
- g. No member of the College community may possess an open container in common areas, such as the lawn, lounges, hallways, kitchens etc.

h. Proofing:

1. Proofing is to be done at the entrance to the drinking area and only one alcoholic beverage is given to any one person.
2. Saint Rose identification cards are not valid for proof of age. Governmental proof, such as a driver's license, passport or original birth certificate is required.
3. It is the responsibility of the Campus Dining Services staff to proof, enforce and report violations of the College alcohol policy. The sponsoring group is equally responsible to enforce the College alcohol policy and to report violations to the Director of Student Conduct.

**C. Drug Policy**

- a. Possessing, consuming, distributing or selling illicit drugs is prohibited.
- b. Being present where illegal drugs are being used, had been used, or were suspected of being used is prohibited.
- c. The odor of marijuana in corridors, lounges, public areas or student rooms in conjunction with the possession of a fan, towel, or any other element used to mask the smell will result in participation in the Student Conduct process.
- d. Students shall not possess any items that are designed for the use of drugs (bowls, bong, hookahs, pipes, etc.). Any items that are fashioned for the purpose of facilitating or disguising drug use will also be considered a violation of this policy.
- e. All drugs and drug paraphernalia will be confiscated and disposed of by Security.
- f. Incapacitation by the influence of alcohol or another drug or substance is a violation of College policy.
- g. Violators of the drug policy may be removed from campus housing and/or the College after their second violation or earlier depending on the severity of the incident.

**D. Sanctions for Alcohol/Illicit Drug Violations**

Students found in violation of the College's policies on alcohol and illicit drugs are subject to a hearing and possible disciplinary action. Sanctions will be assigned in accordance with the Student Conduct procedures of the College and may vary depending upon the particular circumstances surrounding an infraction, up to and including suspension or expulsion.

**E. New York State Law and Sanctions Governing Alcohol Include:**

- a. The use of alcoholic beverages is subject to the New York State Alcoholic

Beverage Control Law and certain provisions of the New York Penal Law. It is important to understand these laws clearly, as they pertain to the possession, sale or serving of alcoholic beverages.

- b. It is illegal for individuals under the age of 21 to possess alcoholic beverages. Underage drinkers are subject to a \$50 fine.
- c. An underage drinker who uses fraudulent identification is guilty of a violation punishable by a fine of up to \$100 and community service of thirty hours. If the fraudulent identification is a New York State driver's license, the revocation of the license will be added to the above penalty.
- d. No person may sell, deliver or give any alcoholic beverage to a person under the age of 21 (the law does not apply to the parent of a minor). Individuals violating this law are guilty of a "Class B misdemeanor," and may be subject to a fine not exceeding \$500 and a term of imprisonment not to exceed three months.
- e. A person who misrepresents the age of a person under 21 for the purpose of inducing the sale of alcohol to the "underage" person is guilty of an offense and is subject to a fine of not more than \$200 and imprisonment not to exceed five days, or both.
- f. Any person who shall be injured in person, property, means of support or otherwise by reason of intoxicated person, or by reason of the intoxication of any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor to such intoxication; and any such person shall have the right to recover actual damages.
- g. Any person who shall be injured in person, property, means of support or otherwise by reason of intoxication or impairment of any person under the age of 21 years old shall have a right of action against any person who knowingly causes such intoxication or impairment by unlawfully furnishing to or assisting in procuring alcohol for such a person with knowledge or cause to believe that such person was under the age of 21 years.
- h. Any event or function at which alcoholic beverage(s) are being sold or, an admission fee or donation is charged or requested, requires a license from the state.

#### **F. New York State Law and Sanctions Governing Illicit Drugs**

##### Marijuana

Article 221 of the Penal Law of the State of New York is a special section of the law dealing with offenses involving marijuana. In total, there are 12 subsections which deal with the definition, possession and sale of marijuana. Possession of marijuana in any amount is illegal.

Sale of marijuana will, at minimum, be considered a misdemeanor and, at maximum, will be considered a "Class C felony," carrying with it a minimum jail sentence from five to 15 years. Keep in mind that being convicted under these statutes results in a permanent criminal record which may have a serious impact on a person's future educational or professional plans.

## Controlled Substances

Section 220 of the Penal Law defines those drugs considered "Controlled Substances," including narcotic drugs, narcotic preparation, hallucinogens (LSD, "hallucinogenic mushrooms," etc.), stimulants, depressants and concentrated forms of cannabis. Individual statutes deal with the criminal possession or sale of these substances and are categorized as misdemeanors or felonies depending on the specific substance, the amount of the substance in question, or the circumstances surrounding the possession or sale of the substance. Possession or sale (or possession with intent to sell) of even a very small amount of some substances is considered a felonious offense and may result in a lengthy jail sentence. In fact, with the exception of "criminal possession of a controlled substance in the seventh degree," which is considered a misdemeanor, all other statutes in Section 220 of the Penal Law are felonies. In New York State, felonies are ranked from category A-1, the most serious, to category E, the least serious. First offenders convicted of a category A-1 felony are subject to a minimum sentence of from 15-25 years and a maximum of life imprisonment. At the other end of the scale, for the first offender, category E felony convictions carry with them a jail sentence of from one to three years, with a maximum of three to four years. First-degree criminal sale or possession of controlled substances is placed in the same category as first degree arson, first degree kidnapping, or first-or-second degree murder.

### **G. Health Risks Associated with Alcohol and Drug Use/Abuse**

**Alcohol.** Alcohol consumption causes a number of changes in behavior and physiology. Even low doses significantly impair judgment, coordination, and abstract mental functioning. Statistics show that alcohol use is involved in a majority of violent behaviors on college campuses, including acquaintance rape, vandalism, fights, and incidents of drinking and driving. Continued abuse may lead to dependency, which often causes permanent damage to vital organs and deterioration of a healthy lifestyle.

**Cannabis (Marijuana, Hashish).** The use of marijuana may impair or reduce short-term memory and comprehension, alter sense of time, and reduce coordination and energy level. Users often have a lowered immune system and an increased risk of lung cancer. The active ingredient in marijuana, THC, is stored in the fatty tissues of the brain and reproductive system for a minimum of 28 to 30 days.

**Hallucinogens.** Lysergic acid (LSD), mescaline, and psilocybin cause illusions and hallucinations. The user may experience panic, confusion, suspicion, anxiety, and loss of control. Delayed effects, or flashbacks, can occur even when use has ceased. Phencyclidine (PCP) affects the section of the brain that controls the intellect and keeps instincts in check. Because the drug blocks pain receptors, violent PCP episodes may result in self-inflicted injuries.

**Cocaine/Crack.** Cocaine users often have a stuffy, runny nose and may have a perforated nasal septum. The immediate effects of cocaine use include dilated pupils and elevated blood pressure, heart rate, respiratory rate, and body temperature followed by depression. Crack, or freebase rock cocaine, is

extremely addictive and can cause delirium, hallucinations, blurred vision, severe chest pain, muscle spasms, convulsions, and even death.

**Amphetamines.** Amphetamines can cause rapid or irregular heartbeat, tremors, loss of coordination, collapse, and death. Heavy users are prone to irrational acts.

**Heroin.** Heroin is an opiate drug that causes the body to have diminished pain reactions. The use of heroin can result in coma or death due to a reduction in heart rate.

### **H. Immunity Statement**

The College of Saint Rose strongly encourages students who witness another student in physical or mental distress (i.e. sick, overdosing, injured, etc.) to immediately contact the Department of Safety and Security at 518-454-5187 or 911 from a campus phone. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that they are a witness to another student in physical distress may be hesitant to call for help during such incidents due to fear of potential consequences for their own conduct. However, as the health and safety of every student at the College is of utmost importance, a reporting student acting in good faith who alerts the College to a student in distress will not be subject to the College's Student Conduct process for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the incident.

### **I. Substance Abuse Prevention Program**

- a. The College provides training on alcohol and drug abuse prevention to all new undergraduate students either through face to face sessions or online programming. The Office of Residence Life also offers programming over the course of the academic year that addresses substance abuse issues for resident students.
- b. The “Late Knight” Programs via the Office of Student Life are Alcohol/ Drug Free Alternative Programs.
- c. Students may seek assistance with issues surrounding substance abuse at the Counseling center which provides free short-term psychological services to students, and provides consultation and referral to community services as appropriate for chronic, long-term issues. All counseling is strictly confidential in accordance with established professional guidelines. Services are provided or supervised by licensed professionals. The Center is a training site for masters and doctoral students from related professional fields.
- d. The College has contracted an independent agency to provide an Employee Assistance Program (EAP). The goal of the program is to help individuals and, when necessary, their families to resolve issues which may have a negative impact on job or school performance. It is a confidential service designed for the use of employees at Saint Rose. The EAP provides early identification, motivation, referral to treatment and follow-up of employees experiencing a deterioration of work performance. The EAP can address such issues as alcoholism, alcohol/ substance abuse, emotional problems, stress, depression and marital/family problems. Resource people may be able to help on their own or may refer you to a specialized professional agency. The EAP is a voluntary program.

## **Sexual Harassment and Misconduct Policy and Title IX Grievance Policy Statement**

The College of Saint Rose is committed to creating and maintaining a safe environment for all of its students and employees. All forms of sexual misconduct offenses and other non-consensual sexual contact by members of the Saint Rose community will not be tolerated by the College and represent a violation of College policy and the law. Violation of the College's Sexual Harassment and Misconduct Policy will result in the responsive action, as prescribed under Title IX including investigation of what occurred; action to stop the prohibited conduct; remedial support for the victim of the conduct and, as necessary, for the broader community; and action to reasonably prevent the re-occurrence of the behavior. This may result in possible suspension, dismissal or termination from the College.

A full copy of the College's Sexual Harassment and Misconduct Policy and Title IX Grievance Policy is at the end of this Annual Security Report as Appendix A and is available on the College's website at [www.strose.edu/titleix](http://www.strose.edu/titleix).

# **Emergency Response and Evacuation Procedures**

## **I. Introduction**

The College is committed to providing a safe educational and work environment. One measure of an organization's strength is its ability to respond well in an emergency. Since every emergency scenario cannot be predicted, an emergency response plan must be able to quickly adapt to events as they unfold. The following Emergency Response Plan (ERP) designates areas of responsibility and defines for The College of Saint Rose (the "College") the framework necessary to respond to emergency situations.

The purpose of an ERP is to provide an effective means of communicating contingency and emergency plan responses and evacuation procedures to all campus constituencies in the event of natural, man-made or other disasters and potential emergencies. The implementation of an emergency action plan is essential to ensuring the safety and well-being of students, faculty, staff and visitors. Unforeseen events of all types occur despite all efforts to prevent them; therefore, it is necessary to develop effective emergency procedures to respond to these situations.

Campus officials and responding organizations should know what is expected of them when emergency responses are necessary. Being aware of one's responsibility in the event of an emergency will increase the likelihood of responding to critical situations effectively and efficiently.

## **A. Comprehensive Emergency Management Process**

Emergency management is a continuous process, which includes activities to prevent occurrences and includes planning and response activities to ensure that the College is prepared to respond to and recover from occurrences.

### **a. Planning, Prevention, and Mitigation**

Planning refers to the periodic risk assessment of potential hazards at the College, plus a historical review of emergency situations in the area, which inform the development and refinement of an ERP. Planning activities should also include discussions with off-campus providers of emergency services, such as local emergency responders. The plan should also include contingency planning for critical services and incident recovery, including cleanup.

Prevention refers to those short or long-term activities that eliminate or reduce the number of occurrences of emergencies and disasters.

Mitigation refers to all activities that reduce the effects of emergencies and disasters when they do occur.

### **b. Response**

Most response activities follow the immediate impact of an emergency or disaster. Generally, they are designed to minimize casualties and protect property to the extent possible through emergency assistance. They also seek to reduce the probability of secondary damage and to speed recovery operations.

A response is required when:

1. The College is damaged or exposed in some way
2. Evacuation or special sheltering of all or part of the College may be required because immediate and ensuing threats are uncontrollable

Response activities include:

1. Assessing and monitoring the hazard
2. Alerting and warning endangered populations
3. Alerting response forces to stand by
4. Evacuating or special sheltering of threatened populations
5. Dispensing and/or relocating critical equipment and resources

c. Recovery

Recovery activities are those following an emergency or disaster to correct adverse conditions, and to protect and return the quality of life to the campus.

Recovery activities will include measures to:

1. Prevent or mitigate a recurrence of the emergency
2. Implement contingency plans
3. Provide psychological support
4. Address public health needs
5. Activate support services such as the American Red Cross
6. Reinstate College services
7. Restore private and public property
8. Repopulate evacuated areas

## **B. Levels of Emergencies**

Emergencies can occur on many levels. The emergency response may be as simple as a departmental response to repair a building component or complex involving the coordination of multiple campus operations and community response organizations.

The College has adopted a three tier system of incident severity levels to structure the College response. The Emergency Management Team will convene in Level II or III situations.

a. Level I – Minor Emergency

A Minor Emergency situation involves an event that is occurring or may occur that could negatively affect one or more college students, employees or visitors. The response may involve calling in personnel and notifying the department where the problem occurred.

These situations are characterized by the following:

1. No immediate danger or emergency exists, but the potential is present
2. The incident appears to be of short duration
3. The situation is limited in scope, such as a broken water pipe, and can be managed by the appropriate administrative area of the College
4. The situation is usually a one dimensional event that has a limited duration and little impact to the campus community beyond those using the space/building in which it occurred

Examples of a Minor Emergency situation include:

1. A severe storm watch issued by the National Weather Service
2. A fire or hazardous materials incident within two (2) miles of an owned facility
3. A minor building system problem
4. A local power outage
5. A minor fire at the College confined to a small area with no hazardous material exposure
6. Minor chemical or fuel spills at the College
7. A loss of heat and/or electricity to a single or few small buildings, which is expected to last no longer than a few hours

b. Level II - Major Emergency

A Major Emergency situation indicates a risk exists or a situation is about to occur that will impact one or more of the College buildings, students, and/or employees. The presented risk requires that a preparatory status be adopted.

A Major Emergency situation is characterized by the following:

1. The potential danger is real and College personnel should be prepared to react
2. The situation has the potential for expanding beyond a specific physical area
3. The situation may continue for an extended period
4. Resolving the situation may require a response by multiple College departments and/or response by an outside agency

Examples of a Level II situation include:

1. A severe storm warning issued by the National Weather Service
2. A major fire or hazardous materials incident within one-half (1/2) mile of a College owned facility
3. A major building system failure

c. Level III - Disaster

Disaster Level situations impact a sizable portion or all of the campus and/or outside community. These situations tend to be people focused. Responses to these emergencies often require considerable and timely coordination both within and, at times, outside of the College. A Disaster Level indicates that a situation is occurring and requires a response by the College.

A Disaster Level situation is characterized by the following:

1. College students, employees and guests are in danger and/or facilities and equipment are at risk. Immediate action is necessary
2. The incident is on College property, or it is off College property but close enough to affect a facility or involve College student, employee or guest
3. The situation requires the coordination of College resources or coordination with outside agencies

Examples of a Disaster situation include:

1. A fire or hazardous materials incident occurring at a College facility
2. A major storm or weather event that is causing or has caused injury/damage
3. Active shooter

4. Death on campus
5. Serial sexual assaults
6. Hate crimes
7. Bomb threats
8. Extended power outage
9. Contagious disease outbreak (global or regional epidemic or pandemic)
10. Civil disorder on or contiguous to campus-owned or leased property

### **C. Entities Involved In the College Response**

#### a. Incident Commander (IC)

The first arriving EMT member at an emergency will assume Incident Command until relieved by appropriate emergency first response personnel or when relieved by the IC appointed by the Emergency Management Team as noted below. The Incident Commander function is frequently assumed by a member of the College's Safety and Security Department.

Priority tasks include:

1. Limit the growth of the incident
2. Ensure the safety of the community and first responders
3. Stabilize the scene
4. Determine threat level
5. Establish communications and control
6. Identify any "danger zones"
7. Establish an inner perimeter to secure the "danger zone"
8. Establish an outer perimeter to control access to the entire scene
9. Establish a staging area
10. Request needed resources

#### b. Emergency Management Team (EMT)

The EMT provides strategic oversight of the College's emergency response. The EMT makes policy determinations regarding response actions. *Appendix A* lists the EMT members.

1. Any member of the EMT may convene the EMT. If the nature of the emergency warrants the convening of the EMT, the convener contacts the team via group text message with a conference call number, a zoom link, or in-person location to meet. Members can be directed to meet immediately or notified that the EMT and EOG may be activated in the near future. The 6 EMT members have the authority to convene the EMT to activate the College response to an emergency as follows:
  - i. Determine/confirm the level of emergency;
  - ii. Determine whether to convene the EMT and/or EOG;
  - iii. Set the direction as to how the emergency will be managed;
  - iv. Make key executive decisions; and
  - v. Notify the President
2. The role of the EMT includes:
  - i. Determine if "state of campus emergency" is necessary
  - ii. Assign individuals from available personnel to assist with any evacuations

- iii. Based on the severity and extent of the emergency, determine whether to recall evacuated personnel or release them.
- iv. Appoint an Incident Commander (IC) to lead the operational response to the emergency. The IC may be a member of the EMT or EOG or other College employee outside of these groups and is the individual with primary responsibility for implementing the College response to the emergency
  - v. Convene the EOG if necessary
  - vi. Brief the College President at regular intervals during the incident
- vii. Notify students/employees of the emergency condition via the emergency notification systems
- viii. Approve overall priorities & strategies
- ix. Approve public information reports & instructions
  - x. Gather information for Communications so that College statements for the media can be prepared. Ensure that electronic and print media services are available and operational for use by Communications
  - xi. Provide for counseling and spiritual intervention
- xii. Liaison with applicable federal, state or local government agencies and/or external organizations

c. *Emergency Operations Group (EOG)*

The EOG provides operational oversight to aid in the College's emergency response by onsite implementation of the decisions of EMT, including but not limited to, coordinating evacuations, interacting with first responders, and managing the College's facilities and technology. *Appendix A* lists the EOG members/alternates.

The role of the EOG is to:

- 1. Request that additional College employees be temporarily assigned to the EOG if necessary
- 2. Gather, confirm and evaluate incident information
- 3. Identify resource needs and shortfalls and advise EMT on technical needs
- 4. Develop an incident action plan to resolve specific priority situations
- 5. Ensure the Associate Vice President for Facilities Operations, Projects and Services has overseen the shutdown of necessary equipment
- 6. Determine the College needs for temporary class, faculty, business operations space and/or housing
- 7. Report findings and action plan to the EMT
- 8. Request additional resources as needed
- 9. Reassign/deploy individuals in support of critical needs
- 10. Serve as the link to local, state, and federal emergency coordination centers

**D. Outside Agencies and Response Coordination**

Federal, state, and/or local government agencies and emergency service organizations play an essential role as the first line of defense in responding to some high-impact emergencies. Some emergencies will initiate an immediate response for outside agencies and, in other scenarios, the College may request the involvement of outside agencies. In responding to an emergency or disaster, the College will initially rely on the full use of the College's facilities, equipment, supplies, personnel, and resources, as well as the resources of private entities (e.g. contractors) as needed to resolve the emergency or disaster as quickly as

possible to minimize its impact on the College community.

When an emergency or disaster is beyond the local management capability of the College and local resources are inadequate, the President may obtain assistance from other governmental agencies with jurisdiction and/or other colleges and universities.

The EMT has the authority to direct and coordinate campus disaster operations and may subrogate this authority to an outside agency. Alternately, in disaster level scenarios, outside agencies will typically exercise their authority to assume command and control of the emergency response. In this scenario, the EMT and/or the College's designated IC will be the primary liaison with the outside agency. Outside agencies, which may exercise command and control, include the Albany Fire Department, the Albany Police Department, County or State Health Departments, as well as the state or federal emergency management offices.

#### **a. Additional Roles and Responsibilities**

Additional College offices/departments are expected to assume various roles at the request of the EOG in an effort to provide a coordinated response to an emergency. In some circumstances, the EOG may direct faculty or staff to assume temporary roles outside the normal scope of their duties. In these situations, the EOG will consider the skills and abilities of individuals to carry out those temporary roles prior to making the assignment. Any employees in departments that do not have specific roles related to the emergency response will become part of a "pool" of reserve personnel to assist as assigned by those coordinating the specific emergency.

Some individuals have specific responsibilities during an emergency. A list of those departments and individuals with a partial notation of their responsibilities is included in *Appendix B*.

#### **b. Training**

Proper training is a key element enabling employees to respond to emergency situations. Effective emergency management includes interaction between campus officials and local emergency responders. Emergency plans should be in place and rehearsed internally through "tabletop" exercises with key campus personnel and local emergency responders to ensure their ability to function in the event of an actual emergency or disaster. The EMT schedules tabletop exercises to allow the members of both the EMT and EOG to apply the knowledge gained from actual experience and prior training to simulated emergency situations.

The members of the EMT continually survey training resources and make available training to members of the EMT and EOG, as appropriate.

The Federal Emergency Management Agency (FEMA) makes available a number of training resources. A list of on-line courses offered by FEMA is available at <http://training.fema.gov/IS/crslist.asp>.

#### **c. Response Framework**

##### **1. Direction and Coordination of an Emergency**

The College will follow a series of steps initiated with the identification of an emergency situation.

- i. With the identification of an emergency situation or with information indicating a potential for a future emergency, an employee should contact the Department of Safety and Security (Security) immediately. All employees have the responsibility to report emergency conditions immediately to the Security. The Security may be contacted at 518-454-5187, via internal extension at 5187, or by dialing 911 on any College phone.
- ii. The Security will dispatch Security Officers and make calls for appropriate law enforcement and/or emergency services to respond to a situation. For any emergency call, the Dispatcher will notify the on-duty Security supervisor, who will contact the Director of Safety and Security to apprise him/her of the emergency. The Security will assume the lead role for scene control until emergency aid responders arrive on-site.
- iii. The Security will notify the Conveners of the EMT when emergency information is received, except for most Level I emergencies, which will be communicated through routine channels to the appropriate departments for response.

Level I emergencies do not warrant the assembly of the Emergency Management Team. The Security will assume the lead role until the emergency situation is no longer determined to exist or until outside emergency aid responders arrive on-site.

With Level II or III emergencies, the Security Dispatcher will notify the Director of Safety and Security who will then notify the EMT Conveners.

- iv. If the nature of the emergency warrants the convening of the EMT, the convener contacts the team via group text message with a conference call number, a zoom link, or in-person location to meet.
- v. The EMT will assemble as quickly as possible in the Emergency Operations Center (EOC).

Normally, the EOC will be located at Security Headquarters, 340 Western Ave., but under certain conditions (including power outage) the EOC may be set-up at a selected back-up location where necessary telecommunication and data support facilities exist.

- vi. Once the emergency has been resolved, the EMT and EOG will:
  - Develop and implement a plan for a smooth transition to normal operations by coordinating with other applicable college offices/departments, or federal, state, county, and local organizations.
  - Initiate a complete review of the incident under the direction of the IC.
  - Direct all personnel involved in the incident to prepare an after-action report
  - Provide report to the President and keep with the incident file.
  - Arrange for counseling support to any staff involved in the incident.

## 2. Direction and Coordination of a Potential Emergency

When conditions permit and an impending emergency situation (example: anticipated major snow or ice storm, large campus gathering, etc) provides ample time, the EMT may assemble the EOG to formulate an incident action plan for recommendation to the EMT, or if time is of the essence, to the

President or designee.

3. Declaration of an Emergency Condition

An EMT convener shall declare a state of emergency (an action possible for some Level III emergencies), upon recommendation of the EMT. The EMT determines that emergency procedures should be implemented and/or all or part of the College should be closed. EMT conveners or their designees shall declare an end to the state of emergency when appropriate.

The EMT conveners, in addition to declaring a state of emergency, may also initiate other actions to ensure safety during emergency situations. Those actions include:

- a. **Shelter in Place** – Students, employees and campus visitors are directed to remain in or report to a sheltered area, such as any College building. This action may be taken when a threat is imminent, such as a tornado, or to prevent exposure, in the case of a chemical spill. Individuals should close window blinds and stay away from windows.
- b. **Lock-down** – All doors on College buildings are locked to prevent access from the outside. College ID cards will not open doors. Individuals finding themselves outside during a lockdown are instructed to leave campus rather than attempt to enter a locked building. In a lock down situation, individuals should not open doors unless police and/or other authorities are present. Individuals should close window blinds and stay away from windows.
- c. **Evacuation** – Students, employees and campus visitors will be directed to evacuate all or a portion of the College campus. If an evacuation is initiated, specific instructions will be provided through the internal community notification systems. An evacuation may be initiated for a long-duration power outage, flood or other emergency situation.

4. Emergency Communication

a. **Internal Community Notification**

Timely and accurate communication with the campus population during an emergency situation is very important. The EMT will be responsible for providing the campus community with regularly updated information regarding the emergency.

Media (i.e., radio, television, social media), the College website, College e-mail system, and the RAVE emergency communication system are used to update the campus community based on the severity of the emergency. Announcements may be made via email from the President and coordinated by the Chief of Staff.

Periodic updates will be provided, as time permits, through the same means. Should both the phone and College and regional data network be unavailable, staff will be dispatched to alert resident students and employees in each College building. Emergency communications, both on and off-campus, will be coordinated by Safety and Security and Marketing and Communications, and the President's Office.

In the event that the College's internal communications system is disrupted, the RAVE Alert System and social media outlets will be used. The Security will set-up a "command post" for the

EOG at 340 Western Avenue. Members of the Security will operate the command post communications system and are responsible for maintaining a written log of the emergency event for post incident debriefing, analysis and reporting.

**b. External Community Notification**

In the event of campus emergencies requiring notification of the media, all information collected by College employees is given to the Crisis Communications Team who will prepare official statements prior to meeting with the media. Other College employees will refrain from speaking with the media to avoid giving inaccurate, contradicting or incomplete information.

In cases where press briefings are necessary, a press area will be established.

In cases where families are brought to campus, a gathering area will be established. Student Development and Spiritual Life will have primary responsibility for interacting with the families and keeping them updated on the emergency.

**c. Plan Distribution and Access**

This plan is distributed to members of the EMT and department heads. A master copy of the document is maintained by the Chair of the EMT or designee. The plan is available for review by all employees on Sharepoint.

## **Emergency Response and Evacuation Procedures Appendix A**

### **EMT members/alternates**

Chief of Staff (Convener)

Associate Vice President for Human Resources and Risk Management (Convener)

Alternate: Director of Human Resources

Associate Vice President for Marketing and Communications (Convener)

Alternate – Senior Assistant Director for Marketing and Communications

Associate Vice President for Student Development (Convener)

Alternate – Vice President for Student Development

Director of Safety & Security (Convener)

Alternate – Assistant Director of Safety & Security

Dean of the School of Mathematics and Science (Convener)

Alternate – Provost/Vice President for Academic Affairs

Designated member of the EOG (as needed or available)

### **EOG members/alternates**

Assistant Director of Safety & Security (Leader)

Alternate – Assistant Director of Safety and Security

Assistant Director of Student Conduct

Director of Risk Management & Environmental Safety

Director of Purchasing

Associate Vice President for Facilities Operations, Projects and Services (Leader)

Alternate – Facilities Manager

Associate Vice President for IT

Director of Marketing and Communications

Director of Residence Life

Alternate – Assistant Director of Residence Life

**Emergency Response and Evacuation Procedures Appendix B  
Departmental Roles and Responsibilities**

Office of the President	Executive decision-maker With Communications Department, spokesperson for communicating with media
Provost, Academic Deans & Chairs	Identify and resolve instructional and research issues Coordinate necessary faculty resources
Athletics	Coordinate use of the Nolan Gym, EAC Complex and the Plumeri Sports complex as staging areas and temporary shelters
One Card Access	Create temporary identification/access credentials as requested
Counseling Center, Spiritual Life	Assist students and employees with support and mental health counseling in coping with trauma Outreach to parents/families, when necessary
Health Services	Treat immediate injuries Assist/provide onsite medical triage, if requested Assist in providing services to those with minor injuries and provide trauma support Coordinate with first aid services
Registrar, Conferences & Events	Reschedule classes and public events to include off campus accommodations
Facilities Department	Provide site and building information Coordinate radio support with Safety & Security Mitigate facility and grounds damages and restore to functional level Assist Safety & Security with creating a safety perimeter at the site of the emergency Provide structural evaluations and repair estimates for damaged structures
Safety & Security Department	Coordinate with law enforcement; assist with crowd control, evacuation, site security, and mobile communications Liaison with on-site fire and medical command personnel Provide transportation services as required
Purchasing	Obtain emergency goods and services; including delivery to site of emergency Arrange for temporary quarters for displaced students
Residence Life	Coordinate with Facilities to provide housing options (including any temporary shelters)
Risk Management	Identify cause and scope of loss, coordinate insurance adjustment. Support Emergency Operations Center Link with State and Federal Environmental Authorities when necessary
Student Development	Coordinate student notification and response Liaison with parents
Information Technology Systems	Coordinate temporary telephone, fax, and computer hookups communications Provide "broadcast" capability for voice mail (RAVE) Arrange phone bank for necessary student call-outs to family. Update digital signage and other modes of communication as needed

Crisis Communications Team	Media coordination and spokesperson Update website as needed
Dining Services	Coordinate dining services for dislocated personnel and emergency workers

# **Policy on Timely Warnings and Emergency Notifications**

## ***I. Policy***

This Policy provides information about when a timely warning and/or an emergency notification will be issued by The College of Saint Rose (“Saint Rose”).

## ***II. Definitions***

- A. Clery Crime – A crime that must be reported under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. These crimes are: murder/non-negligent manslaughter, manslaughter by negligence, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, a hate crime (consisting of theft, simple assault, intimidation, or criminal mischief), domestic violence, dating violence, and/or stalking.
- B. Emergency Notification – A notice to the Saint Rose community that there is a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on or near the campus. Emergency Notifications may be sent to a targeted portion of the Saint Rose community that is at risk. Emergency notifications will be issued as soon as possible and without delay unless doing so would compromise efforts to assist a victim or respond to the emergency.
- C. Timely Warning – A warning to the Saint Rose community that a Clery Crime was reported and there is a potentially serious or continuing threat to students and/or employees on or near the campus.

## ***III. Issuing Emergency Notifications***

- A. When there is an emergency situation that is or could be perceived as an imminent threat to the Saint Rose campus and/or community, that information should be reported to Security immediately. The Saint Rose Director of Safety and Security (“Security Director”), or the ranking Security Officer in charge, will confirm the existence and scope of the emergency.
- B. If the emergency is confirmed and there is an imminent threat to the Saint Rose campus and/or community, the Security Director, or the ranking Security Officer in charge, has the authority to issue Emergency Notifications without delay and taking into account the safety of the community to determine the content of the notification. This may be done without consulting with other members of the Saint Rose community. However, the Security Director or designee shall notify the Chief of Staff, Vice President for Student Development, Vice President for Finance and Administration, and General Counsel as soon as practical.
- C. Emergency Notifications will be distributed as follows:
  - a. Through Saint Rose’s RAVE system where messages are sent via cellular telephones, voicemails, text messages, and email systems;

- b. Through AXIS TV digital signage where messages are posted to several large screen televisions in strategic locations around campus;
- c. On Saint Rose’s website – <http://www.strose.edu>;
- d. Broadcast over the Emergency Blue Light Call Boxes on the Saint Rose campus.

If any portion of the Saint Rose campus is closed due to the emergency situation that closure will be posted on the Saint Rose’s emergency closing number at 518-458-5377.

If a campus emergency requires notification of the media, all information collected by employees is given to the College’s Office of Marketing and Communications. Public Relations will prepare official statements prior to meeting with the media. Other College employees will refrain from speaking with the media to avoid giving inaccurate, contradicting or incomplete information.

Members of the Saint Rose community are automatically enrolled in the RAVE system through their assigned Saint Rose email addresses. Individuals who wish to add another email address and/or telephone numbers, can do so logging on through Saint Rose’s Secure Area at <https://bannerweb.strose.edu> and going to “Personal Information.”

***IV. Issuing Timely Warnings***

- A. The decision to issue a Timely Warning is made on a case by case basis by the following administrators or their designees: Chief of Staff, Security Director, Vice President for Student Development and Vice President for Finance and Administration.
- B. The decision will be based on whether the reported Clery Crime represents a serious and continuing threat to students and/or employees at Saint Rose.
- C. Reports made to Pastoral and Professional Counselors as confidential information in their roles as counselors will not result in the issuance of a Timely Warning unless the counselors are required to report a crime.
- D. If the decision is to issue a Timely Warning, it will include the following information:
  - a. A brief statement of the incident,
  - b. Any possible connections to previous incidents, when applicable,
  - c. A physical description of the suspect,
  - d. A composite drawing of the suspect, when available,
  - e. The date and time the Timely Warning was released, and
  - f. Any other relevant information including prevention tips, when appropriate.
- E. Timely Warnings will be distributed as follows:
  - a. Through the Saint Rose email system;

- b. Through AXIS TV digital signage where messages are posted to several large screen televisions in strategic locations around campus;
  - c. On Saint Rose's website – <http://www.strose.edu>; and
  - d. In hard copy on special red framed announcement boards located in various conspicuous locations on campus.
- F. All decisions on Timely Warnings will be appropriately documented by the Security Director or designee using the Timely Warning Documentation Form.

V. **Annual Testing**

- A. The College will conduct tests of its emergency response and evacuation procedures on an annual basis.
- B. The tests may be announced through RAVE or unannounced and will include all of the following components:
- a. Be scheduled;
  - b. Contain drills, exercises, and follow-through activities; and
  - c. Be designed for assessing and evaluating the College's emergency plans and capabilities.
- C. At the conclusion of the test, the College shall maintain a record indicating:
- a. A description of the exercise that was conducted;
  - b. Whether the test was announced or unannounced; and
  - c. The date and time of the test.

## **Missing Residential Student Notification Policy and Procedures**

### I. Policy

In accordance with the Higher Education Act of 2008 (20 U.S.C. §1092(j)), The College of Saint Rose (“Saint Rose”) has established these Policy and Procedures. This Policy applies to all Saint Rose Resident Students (as defined below).

### II. Definitions:

- A. Emergency Contact – Anyone designated by the student who can be contacted in case of an emergency, such as if the student is missing. A student may update his/her Emergency Contact(s) through MyStudentHousing on the Secure Site (<https://bannerweb.strose.edu>).
- B. Missing Student – A residential student who is absent from Saint Rose without any known reason and a preliminary investigation fails to locate the student. In most instances, a student will not be deemed a Missing Student for at least 24 hours.
- C. Residential Student – A currently enrolled Saint Rose student who lives on campus in a dormitory/residence hall, apartment, or house.
- D. Security – Saint Rose’s Office of Safety and Security.

### III. Information for Students:

- A. A student has the option to identify an Emergency Contact who can be contacted by Saint Rose not later than 24 hours after it is determined that the student is a Missing Student.
- B. A student may register confidential contact information that can be used if the student is a Missing Student for more than 24 hours. Depending upon the circumstances, the College may contact the student’s confidential contact without waiting for 24 hours.
- C. If any student who is under 18 years of age and not emancipated is determined to be a Missing Student, then Saint Rose is required to notify that student’s custodial parent or guardian not later than 24 hours after the student is determined to be a Missing Student.
- D. Saint Rose will initiate Emergency Contact procedures in accordance with the student’s designation if Security is notified and makes a determination that the student is missing for more than 24 hours and has not returned to campus.

### IV. Procedures:

- A. A report of a Missing Student, from any and all sources, should immediately be provided to the Security Director or designee who shall initiate a preliminary investigation which will include the following:

- B. The Security Director or designee shall notify the Director of Residence Life and the Vice President for Student Development. The Vice President for Student Development, in consultation with the Security Director shall initiate whatever action he or she deems appropriate under the circumstances in the best interest of the missing student.
- C. The preliminary investigation by Security shall include one or more of the following, as required by the circumstances:
  - a. Checking the residence of the student, ordinarily with a representative from Residence Life, and talking with known associates;
  - b. Calling any phone numbers the student has on file with Saint Rose;
  - c. Searching on campus public locations;
  - d. Contacting known friends, family or faculty members for last sighting or additional contact information;
  - e. Contacting Student Affairs or academic departments to seek information on last sighting or other contact information;
  - f. Reviewing card access logs to determine last use of the card and track the card for future uses;
  - g. Reviewing vehicle registration information for the student's vehicle location and distribution to appropriate authorities; and/or
  - h. Looking up College Network logs for last login and the use of the Saint Rose email system.
- D. Either concurrently with the preliminary investigation or if the preliminary investigation fails to yield the location of the Missing Student, Security and/or the Vice President for Student Development shall contact the student's emergency contact person. If the Missing Student is under the age of 18 and not emancipated, the student's custodial parent or guardian as noted in Saint Rose's records will be notified within 24 hours of the determination that the student is missing.
- E. If these contacts fail to yield the location of the student, Security will file a missing person's report with the Albany Police Department. At his/her discretion, the Security Director may notify the Albany Police Department immediately upon a report of a Missing Student.
- F. Saint Rose employees will immediately report any suspicious findings to the Albany Police Department during any step of this process.

## **Disclosure of Crimes and Crime Statistics**

### **Daily Crime Log**

Campus Security maintains a daily crime log that lists all reported crimes, whether or not they are Clery crimes. The log provides information about the reported crime including the incident type, location, date/time of the report, location of the crime, the disposition of the crime, and a brief narrative describing the crime. The Daily Crime Log is available to anyone at the Campus Security front desk located at 340 Western Avenue, Albany, New York 12203.

### **Crime Statistics**

Security gathers and compiles Saint Rose's crime statistics. The statistics include information reported to Security or Campus Security Authorities, the Albany Police Department, and the University Police Department for the University at Albany. The 2020 Annual Security Report includes crime statistics from the 2017, 2018, and 2019 calendar years.

In accordance with the law, Saint Rose reports the following Clery Crimes, VAWA Offenses, and Arrests/Disciplinary Referrals:

### **Clery Crimes**

- A. **Murder/Non-Negligent Manslaughter** – The willful (non-negligent) killing of one human being by another.
- B. **Manslaughter by Negligence** – The killing of another person through gross negligence.
- C. **Sexual Assault -** An offense that meets the definition of rape, fondling, incest, or statutory rape as defined by the FBI's Uniform Crime Reporting (UCR) program. The statistics for sexual assault offenses are included under each of those Clery crimes.
  - a. **Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - b. **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - c. **Incest** – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. **Statutory Rape** – Sexual intercourse with a person who is under the age of consent.

N.B. At the conclusion of the campus process, the alleged victim and the alleged perpetrator will receive simultaneous written notification of the findings.

- D. **Robbery** – The taking or attempting to take anything of value from the care, custody, or

control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

- E. **Aggravated Assault** – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or means likely to produce death or great bodily harm.
- F. **Burglary** – The unlawful entry of a structure to commit a felony or a theft.
- G. **Motor Vehicle Theft** – The theft or attempted theft of a motor vehicle.
- H. **Arson** – Willful or malicious burning or attempt to burn with or without intent to defraud a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Violence Against Women Act (VAWA) Offenses:**

- A. **Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- B. **Domestic Violence** – A felony or misdemeanor crime of violence committed by:
  - A current or former spouse or intimate partner of the victim;
  - A person with whom the victim shares a child in common;
  - A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
  - Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- C. **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

N.B. At the conclusion of the campus process, the alleged victim and the alleged perpetrator will receive simultaneous written notification of the findings.

N.B. If the alleged victim is deceased as a result of a non-forcible sex offense, the next of kin will be treated as the alleged victim to receive results of any disciplinary hearings against the alleged student perpetrator upon written request to the institution.

### **Arrests and Referrals for Disciplinary Action:**

- A. **Illegal Weapons Possession** – The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.
  
- B. **Drug Law Violations** – The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics – manufactured narcotics which can cause true addition (Demerol, methadone); and dangerous non- narcotic drugs (barbiturates, Benzedrine).
  
- C. **Liquor Law Violations** – The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence or drunkenness.

### **Bias Related/Hate Crimes:**

Under the Clery Act, Bias related or Hate Crimes are when any of the Clery Crimes or larceny theft, simple assault, intimidation, or destruction/damage/vandalism of property is based on one or more of the following categories: race, gender, gender identity, religion, sexual orientation, ethnicity, natural origin and disability.

Under New York State Penal Law, Article 485, a Hate Crime is any “specified offense” where victims were intentionally selected because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. Specified offenses include crimes such as menacing, assault, aggravated assault, criminal trespass, manslaughter, sexual offenses, unlawful imprisonment, burglary, larceny, robbery, and harassment. A full list of specific offenses under NYS Law is available at: <http://ypdcrime.com/penal.law/article485.htm#p485-00>. Penalties under NYS law are based upon the type of felony committed and can include imprisonment and completing training and/or counseling programs directed at hate crime prevention and education.

Examples of hate crimes may include, but are not limited to: threatening phone calls, hate mail (including electronic mail), physical assaults, vandalism, destruction of property, and fire bombings.

Any member of the Saint Rose community who is found to have committed a Bias Related or Hate Crime is subject to strict disciplinary action including possible suspension or dismissal from the College.

### **Bias Response Policy:**

#### **I. Purpose**

The College of Saint Rose is committed to the fundamental belief that all people should be treated with dignity and respect. Discrimination and harassment will not be tolerated in any

context but not limited to interactions between the following parties:

- Employee/Employee
- Faculty/Student
- Faculty/Faculty
- Student/Student
- Employee/Student
- Or any other affiliates of the College

All members of the College community have the protected right to work, learn and/or live in an environment that is free from derogatory remarks, unwelcome sexual advances and any other verbal or physical conduct constituting discrimination on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation, disability, veterans' status or any other category covered under federal, state and local law (protected classes). In order to actively live by these principles all parties experiencing or witnessing discrimination, harassment, or a hate crime are strongly encouraged to come forward anonymously or self-identified. The College provides a direct channel of communication through the Bias Response Team for a complete complaint resolution procedure. Individuals found to be in violation of this policy will be appropriately sanctioned, up to and including dismissal.

If you feel that you have been subject or witness to sexual harassment, assault, or misconduct, please seek immediate assistance. After you or the victim are safe, report the incident. To report, refer to the College's Policy and Procedures for Handling Complaints of Discrimination and Harassment for Employees and or the Student Handbook. You can find information on how to proceed in the College's Sexual Harassment and Misconduct Policy. See [www.strose.edu/titleix](http://www.strose.edu/titleix).

## **II. Definitions**

- A. **Bias**: Prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair.
- B. **Bias Behavior**: Hurtful or harmful conduct of an individual that is based on bias.
- C. **Bias Response Team (BRT)**: A team of administrators, faculty, staff, and students who receive, review, and respond to notifications of bias-related incidents, discrimination and harassment complaints.
- D. **Covered Individual**: All students, faculty, staff, volunteers, and contractors and other persons conducting business with the College.
- E. **Complainant**: The individual who makes the initial claim regarding bias and/or discrimination. If the actual complaint is anonymous, the BRT may act as the Complainant.

- F. Designated Official: The Bias Response Team and other College officials who are designated in other College policies to receive and investigate notification of bias incidents, discrimination, harassment or hate crimes.
- G. Discrimination: Treating a Covered Individual less favorably because of that individual's Protected Status. For purposes of this Policy, Discrimination includes biased behavior, harassment and hate crimes.
- H. Employee: In this Policy, Employee refers to individuals who hold full-time or part-time positions as faculty members, administrators, or staff members.
- I. Harassment: Severe, persistent, or pervasive conduct towards or about an Individual on the basis of that Individual's protected status that creates a hostile living, working, educational, or social environment.
- J. Hate Crime: A crime, typically one involving violence, that is motivated by prejudice on the basis of race, religion, sexual orientation, and all federally or state statutorily protected classes.

Examples of hate crimes may include, but are not limited to: threatening phone calls, hate mail (including electronic mail), physical assaults, vandalism, destruction of property, and fire bombings. As used in the College's policies, "bias-related crime" means the same as "hate crime" under New York Penal Law 485.05

- K. Respondent: The individual against whom a complaint is filed under this policy.
- L. Retaliation: Treating someone differently or subjecting that individual to an adverse action because the individual:
  - i. Filed a complaint alleging biased behavior, discrimination, or harassment,
  - ii. Reported an incident of biased behavior, discrimination, or harassment, or
  - iii. Participated in an investigation of biased behavior, discrimination or harassment
- M. Sexual Harassment: Severe, persistent, or pervasive and objectively offensive unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature that creates a hostile working environment.
- N. Student: An individual who is currently attending the College or has applied for admission to the College.
- O. Witness: An observer who was present at the time of the event that is the subject of the complaint and/or has firsthand knowledge of the event.

### **III. Policy**

- A. The College of Saint Rose does not discriminate nor permit discrimination on the basis of age, race, color, sex, religion creed, disability, national/ethnic origin, gender identity or expression, sexual orientation, familial status, marital status, military status, domestic violence victim status, or other protected statuses in the administration of its educational programs and policies, admissions policies, scholarship and loan programs, athletics and other school-administered programs. The College's Notice of Non-Discrimination is available at <https://www.strose.edu/wp-content/uploads/2016/09/Notice-of-Non-Discrimination.pdf>.
- B. Behavior or conduct based on bias that is hurtful or harmful to a Covered Individual is a form of prohibited Discrimination on the campus or at off-campus events that are sanctioned or sponsored by the College of Saint Rose.

### **IV. Procedures**

- A. Bias reports serve an important function even when the reporting and/or targeted party is not seeking an incident-specific response. They are a tool for assessing campus climate with regard to diversity, inclusion, and equity issues. While some expressions of bias may be overt, subtler forms of bias often go unnoticed. Bias reports can help our community to recognize and address the intended and unintended ways in which our words and actions may affect others.
- B. Reporting:
  - 1. All incidents of biased behavior, discrimination, harassment, or a hate crime should be reported by either the Complainant or any Witness. All are encouraged to submit a report, even if they are uncomfortable identifying themselves. Any information shared with the Bias Response Team (BRT) will be useful in identifying and addressing experiences and patterns of bias behavior in our community.
  - 2. Reports filed anonymously may be managed as though the BRT was the Complainant. Reports can be filed at [www.strose.edu/diversity](http://www.strose.edu/diversity)
  - 3. Once an individual discloses identifying information in a statement (verbal or written) about an alleged case of bias, harassment, or discrimination to a designated official or supervisor/area head, they will be considered to have filed a report with the College.
  - 4. Specific notifications brought to faculty, supervisors, or area heads will be referred to the BRT. All members of the Saint Rose community have the responsibility to ensure a report is filed with the BRT, who will work with appropriate campus officials and determine findings.

### C. Complaints:

1. Complaints should be filed promptly after an incident of alleged bias behavior, discrimination, harassment, or hate crime. To ensure the prompt and thorough review of a bias behavior, discrimination, harassment, or hate crime complaint, the Complainant should provide as much information as possible.
2. Within ten (10) business days of receiving the bias incident report, the Bias Response Team will assign two members to begin a review and determine if the complaint can be resolved informally, with education, counseling, mediation and other methods.
3. If it cannot be resolved informally, the Bias Response Team will initiate an investigation to gather evidence related to the complaint.

### D. Investigations:

1. The two assigned members will be known as the Bias Response Team for the investigation and will be present during all meetings with the complainant(s), respondent(s), and witness(es). If needed, the Bias Response Team will consult with the College's General Counsel or Human Resources Office throughout the review and/or investigation. The Bias Response Team will compile evidence related to the complaint.
2. The College of Saint Rose attempts to complete investigations within ninety (90) days excluding holidays. The Bias Response Team is responsible for ensuring that an impartial investigation begins within a reasonable time after the complaint has been filed. In certain circumstances, the investigation time frames may need to be extended and the BRT has full authority to extend or modify all time frames set forth in this Policy. In such instances, all parties to the complaint will be notified.
3. The Bias Response Team will contact the Respondent, give them a summary of the complaint, solicit the Respondent's account of the alleged incidents, and inform the Respondent that a findings report (summary of complaint, Respondent's response, statements/evidence gathered during investigation, findings of whether the policy was violated, and if so, the recommended sanction) will be prepared.
4. Generally, once contacted, the Complainant, Respondent and Witness have ten (10) business days to provide statements to the investigator. The College reserves the right to move forward with case resolution should parties fail to adhere to this time frame. In certain circumstances these time frames may need to be extended (e.g., during June, July and August students and faculty

members are often not available; significant number of witnesses to interview; multiple allegations in a single complaint.)

5. Every effort will be made to conclude the investigation as expeditiously as possible. The preponderance of evidence or “more likely than not” standard of review will be used during the investigatory process.
6. The complaint can be resolved with a discussion, counseling, mediation, suspension, dismissal, or other methods.
7. Additionally, in the event of an agreement, all parties to the agreement will receive copies of appropriate documents.
8. The BRT Team will complete a finding report (summary of complaint, Respondent’s response, statements/evidence gathered during investigation, findings of whether the policy was violated, and if so, the recommended sanction) of the investigation.
9. Complaints against Administrative or Support Staff:
  - a) In the case of complaints against administrative or support staff Employees, the report will be forwarded to the Associate Vice President for Human Resources, unless they are named in the complaint, then it will go to the Vice President for Finance and Administration.
  - b) After reviewing the BRT Report, The Chief Diversity Officer, the AVP for Human Resources and a member of the BRT, not involved with this investigation, will then determine agreement with the recommended disciplinary action.
  - c) The Respondent will receive notification of the findings and any disciplinary information.
  - d) The Complainant will receive notification of the findings; the notification will not include disciplinary information.
10. Complaints against Students:
  - a) In the case of complaints against students the report will be forwarded to the Assistant Vice President for Student Development, unless they are named in the complaint, then it will go to the Vice President for Student Development.
  - b) After reviewing the BRT report, the Chief Diversity Officer, the Assistant Vice President for Student Development, and a selected student will determine agreement with the recommended disciplinary action.
  - c) The Respondent will receive notification of the findings and any disciplinary information.

- d) The complainant will receive notification of the findings; the notification will not include disciplinary information.

11. Complaints against Employees serving as Faculty:

- a) In the case of complaints against faculty, the report will be forwarded to the appropriate Dean, unless they are named in the complaint, then it will go to the Provost.
- b) After reviewing the BRT report, The Chief Diversity Officer, a member of the BRT not participating in this investigation, the Dean and (The Faculty Review Committee ONLY if suspension or termination is determined) will agree on the final decision. The Dean will submit a letter indicating the decision.
- c) The Respondent will receive notification of the findings and any disciplinary information.
- d) The Complainant will receive notification of the findings; the notification will not include disciplinary information.

E. Appeals:

- 1. Appeals can be made by either the Complainant or the Respondent to the appropriate College Official
  - i. Students appeal to the VP of Student Development who will adhere to the applicable processes contained within the College's Student Handbook.
  - ii. Employees serving as Administrators or Staff to the VP of Finance and Administration who will follow appropriate provisions of the employee handbook or union contract.
  - iii. Employees serving as Faculty appeal through the Faculty Manual Process and follow the outlined process.

**V. Monitoring Compliance**

- A. The student conduct officer or supervisor/area head of an individual found to have violated this policy is responsible for monitoring the individual's future compliance with this Policy.

**VI. False Reports**

- A. Complainants found to have made intentionally false allegations or to have made allegations maliciously will be subject to disciplinary action.

**VII. Community Care**

- A. The Bias Response Team will assess the needs of The Saint Rose community.

An email may be sent to the appropriate affected individuals after the situation has been assessed and next steps identified.

- B. The Bias Response Team may inform the larger community about what has transpired, if appropriate.
- C. The Bias Response Team may organize and hold open forums for affected individuals as well as the larger community to provide details of the incident which can be revealed outside of the investigation, to gather suggestions, to denounce such incidents, to reaffirm Saint Rose's values and standards and to educate about hate crimes and bias incidents.
- D. The Bias Response Team may also determine incident-related topic program areas for additional trainings for Students and Employees.
- E. All efforts should be made to identify and provide opportunities for the community that will enhance and encourage inter-group dialogue that focuses on relevant issues of bias, hate crimes, hate groups (their profiles, agendas and patterns of behavior), discrimination, and effective strategies for enhancing individual and community safety and well-being and reinforcing community values.

### **VIII. Confidentiality**

- A. All inquiries, complaints and investigations are private and any information obtained is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept private; however, the identity of the Complainant and Respondent usually is revealed to the Respondent and Witnesses.
- B. Witnesses will be directed not to disclose the fact that they have been interviewed or the nature of the inquiry to others.
- C. Violation of this directive shall be a basis for disciplinary action or other sanctions as may be determined by the College.
- D. A copy of the investigation report and the final decision is included in the Respondent's personnel or student file only if the investigation concludes that the Respondent violated this policy.
- E. A copy of the documentation will be provided to the appropriate official in which identifying information about an alleged Respondent has been disclosed (whether or not the harassment was found to be substantiated).
  - 1. For Employees > Associate Vice President for Human Resources and Risk Management
  - 2. For students > Assistant Vice President for Student Development

- F. These secure files will be kept separate from all other human resources and Student files maintained by the College. No record of a complaint is kept in the complainant's human resources or student file, unless the investigation concludes that the complaint was reckless or frivolous.
- G. All information pertaining to allegations and incidents under this Policy are maintained in secure files by Chief Diversity Officer.

**IX. Retaliation**

- A. The College condemns retaliation against anyone who participates in a review or investigation under this Policy and will take adequate steps to ensure that the Complainant and any Witnesses are protected from retaliation throughout the processes in this Policy.

**X. Right of Independent Action**

- A. Although the College hopes that all parties will avail themselves of the internal mechanisms provided to resolve complaints of discrimination and harassment, all individuals also have the right to file complaints with appropriate local, state and federal agencies, including the Office of Civil Rights of the U. S. Department of Education.

**XI. Bias Response Team - Roles and Responsibilities**

- A. It is the role of the Bias Response Team to address expressions of bias in our community.
- B. When appropriate, the Team provides educational opportunities for specific campus constituencies and/or the Campus to reflect on the nature, causes, and effects of bias.
- C. Moreover, the Bias Response Team coordinates interpersonal and campus-wide response to expressions of bias reported through the online reporting form.
- D. These reports allow the Team to:
  - 1. Assist those directly impacted by bias incidents and work with reporting and /or targeted parties to determine the kind of response, if any, that would be helpful.
  - 1. Though the Team will always reach out to reporting parties, reporting parties play a significant role in determining what the follow up to a specific incident entails. If a reporting party communicates that they are not interested in an incident-specific response, the Team will do its best to honor that.

2. Gather campus climate data regarding bias-motivated expressions and behaviors.
3. Maintain an updated incident log of all reported incidents, omitting all names and including a brief summary of the behavior/expression being reported.
4. Communicate with the campus about specific incidents and/or campus climate trends, when deemed appropriate.
5. Make data-informed policy recommendations.
6. Recommend and assist with data-informed educational programming, largely in collaboration with other campus entities addressing equity and inclusion.

## Crime Statistics

<b>CRIMINAL OFFENSES</b>					
<b>Offense</b>	<b>Year</b>	<b>Geographic Location</b>			
		<b>On-Campus Property (except Housing)</b>	<b>On-Campus Student Housing Facilities</b>	<b>Noncampus Property</b>	<b>Public Property</b>
Murder/ Non- Negligent Manslaughter	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	0
Manslaughter by Negligence	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	0
Rape	2019	0	3	0	0
	2018	0	3	0	0
	2017	0	0	0	0
Fondling	2019	2	1	0	0
	2018	0	0	0	0
	2017	1	0	0	0
Incest	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	0
Statutory Rape	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	0
Robbery	2019	0	0	0	1
	2018	0	0	0	1
	2017	0	0	0	0
Aggravated Assault	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	1
Burglary	2019	1	3	0	0
	2018	1	0	0	0
	2017	1	0	0	0
Motor Vehicle Theft	2019	0	0	0	0
	2018	0	0	0	2
	2017	0	0	0	0
Arson	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	1

VAWA OFFENSES					
Offense	Year	Geographic Location			
		On-Campus Property (except Housing)	On-Campus Student Housing Facilities	Noncampus Property	Public Property
Domestic Violence	2019	0	0	0	0
	2018	0	0	0	0
	2017	0	0	0	0
Dating Violence	2019	2	3	0	0
	2018	0	2	0	0
	2017	1	4	0	0
Stalking	2019	3	2	0	0
	2018	0	6	0	0
	2017	0	1	0	0

Offense		Year	Geographic Location			
			On-Campus Property (except Student Housing)	On-Campus Student Housing Facilities	Noncampus Property	Public Property
Arrests	Liquor Law Violations	2019	0	0	0	0
		2018	0	0	0	1
		2017	0	0	0	0
	Drug Abuse Violations	2019	0	1	0	0
		2018	0	0	0	3
		2017	0	0	0	3
	Weapons: Carrying, Possession, Etc.	2019	0	0	0	0
		2018	0	0	1	1
		2017	0	0	0	0
Disciplinary Referrals	Liquor Law Violations	2019	0	102	0	0
		2018	2	131	0	0
		2017	3	80	0	0
	Drug Abuse Violations	2019	0	58	0	0
		2018	2	28	0	0
		2017	0	19	0	0
	Weapons: Carrying, Possession, Etc.	2019	0	0	0	0
		2018	0	0	0	0
		2017	0	0	0	0

<b>HATE CRIMES</b>	
2019:	No Hate Crimes reported.
2018:	No Hate Crimes reported.
2017:	No Hate Crimes reported.

<b>UNFOUNDED CRIMES</b>	
2019:	No unfounded crimes.
2018:	No unfounded crimes.
2017:	One unfounded crime.

## **Disclosure of Fire Safety Standards and Measures**

Saint Rose's Fire Safety Report is published on an annual basis in this Annual Security Report. In accordance with the Disclosure of Fire Safety Standards and Measures requirement in the Higher Education Opportunity Act, the Fire Safety Report includes:

- A. Annual statistics;
- B. A description of each on-campus student housing facilities fire safety system, including the sprinkler fire system;
- C. The number of regular, mandatory, supervised fire drills;
- D. Policies or rules on portable electrical appliances, smoking, open flames, procedures for evaluation, policies regarding fire safety education and training programs, provided to students, faculty, and staff; and
- E. Plans for future improvements in fire safety, if necessary.

### **Fire Statistics:**

For the most recent calendar years for which data is available, Saint Rose is required to provide the following:

- 1) The number of fires and the cause of each fire in student residences;
- 2) The number of injuries related to a fire that resulted in treatment at a medical facility;
- 3) The number of deaths related to a fire; and
- 4) The value of property damage caused by a fire.

### **Fire Safety Systems in Each On-Campus Student Housing Facility:**

The following chart provides information about the fire safety system in each residence hall, apartment, and house used for student residences on Saint Rose's campus:

**All of these buildings have smoke detectors and sprinkler and fire alarm systems.**

<b>Residence Hall</b>	<b>Address</b>		<b>Occupancy Type</b>	<b>Capacity</b>	<b>Floors Occupied</b>	<b>Year of Fire</b>	<b>Cause of Fire</b>	<b>Injuries</b>	<b>Deaths</b>	<b>Property Damage Value</b>
178 Partridge	178	Partridge Street	Student Apartments	7	3					
186 Partridge	186	Partridge Street	Student Apartments	6	2					
188 Partridge	188	Partridge Street	Student Residence	18	3					
198 Partridge	198	Partridge Street	Student Apartments	4	2					
210 Partridge	208/210	Partridge Street	Student Residence	21	3					
401 Western	401	Western Avenue	Student Apartments	5	2					
912 Madison	912/914	Madison Avenue	Student Residence	18	3					
946 Madison	946	Madison Avenue	Student Apartments	9	3					
956 Madison	956	Madison Avenue	Student Apartments	11	2					
968 Madison	968	Madison Avenue	Student Residence	26	3					
972 Madison	972	Madison Avenue	Student Residence	13	2					
974 Madison	974	Madison Avenue	Student Residence	12	2					
Alumni Hall	366A	Western Avenue	Student Residence	86	4					
Borisenok House	1020	Madison Avenue	Student Residence, Offices	7	1					
Brubacher Hall	750	State Street	Student Residence, Campus Dining Facility	316	3					
Carey Hall	944	Madison Avenue	Student Residence	11	2					
Carondelet Hall	941	Madison Avenue	Student Residence	21	3					
Cavanaugh Hall	943	Madison Avenue	Student Residence	21	3					
Centennial Hall	930	Madison Avenue	Student Apartments, Campus Dining Facility	224	4	2017	Grease Fire	0	0	\$0
Charter Hall	923	Madison Avenue	Student Residence	25	3					
Collins Hall	356/358	Western Avenue	Student Residence	15	2					
Cullen Hall	376/378	Western Avenue	Student Residence	17	2					
Delaney Hall	368/370	Western Avenue	Student Residence	15	2					
Fontbonne Hall	935	Madison Avenue	Student Residence	18	3					
Gibbons Hall	971	Madison Avenue	Student Residence	7	2					

Golub Hall	212/214	Partridge Street	Student Residence	20	3					
Hahn Hall	372/374	Western Avenue	Student Residence	13	2					
Kateri Hall	352/354	Western Avenue	Student Residence	14	2					
Keeshan Hall	405	Western Avenue	Student Residence	9	2					
Kelly Hall	348/350	Western Avenue	Student Residence	16	2					
Lima Hall	366B	Western Avenue	Student Residence	187	5					
Lourdes Hall	384	Western Avenue	Student Residence	17	2					
Maginn Hall	921	Madison Avenue	Student Residence	34	3					
McCarthy Hall	908/910	Madison Avenue	Student Residence	18	3					
McCormick Hall	380	Western Avenue	Student Residence	15	3					
Medaille Hall	407/409	Western Avenue	Student Residence	13	3					
Morris Hall	568	Morris Street	Student Residence	37	3					
Quillinan Hall	953	Madison Avenue	Student Residence	15	3					
Riley Hall	939	Madison Avenue	Student Residence	21	3					
Rooney Hall	917	Madison Avenue	Office/Student Apartments	4	3					

### **Fire Drills:**

The College performs a minimum of four fire drills per year in all student residences as required by the NYS Uniform Fire Prevention and Building Code and by the NYS Education Department, subject to the following schedule each year: (1) at least one between September first and December first; (2) in buildings where summer sessions are conducted, one shall be held during the first week of such summer session; (3) at least one shall be through use of the fire escapes on buildings where fire escapes are provided; and (4) at least one during the hours after sunset and before sunrise. The College performs a minimum of three fire drills per year in all non-residential buildings, subject to the following schedule each year: (1) at least one between September first and December first; (2) in buildings where summer sessions are conducted, one shall be held during the first week of such summer session; and (3) at least one shall be through use of the fire escapes on buildings where fire escapes are provided. All drills are supervised with the results tabulated and evaluated for proficiency.

### **Reports of Fires:**

All fires, whether known or suspected, should be reported to Security immediately.

### **Policies on Items Allowed in Residence Halls:**

- Smoking shall not be permitted in any enclosed place, including private residential space within college housing. Smoking shall also not be permitted in the seating areas of outdoor arenas, stadiums, and amphitheaters, or in bleachers and grandstands used for spectators at sporting and other public events.
- Hot pots, electric coils, sun lamps, air conditioners, heaters, or any heat producing cooking appliances are prohibited. Electric percolators, halogen lamps, lava lamps, and any electrical appliance used to cook food is prohibited in the residence halls. Microwaves are permitted (1 per room) but may not exceed .7 cubic feet and 700 watts and must be UL approved. Refrigerators are permitted (1 per room) but may not exceed 3.1 cubic feet and 115 volts and must be UL approved. The kitchen is the primary place in the building where students are allowed to cook. Any illegal item will be confiscated and disposed of by Residence Life Staff or Security.
- The use of portable space heaters must be approved by the Director of Risk Management and must be of a type approved by an NRTL.
- Open flames such as candles are strictly prohibited.
- Power strips are allowed provided they are plugged directly into outlets and not ganged together.
- College policy requires all occupants (students and employees) to immediately evacuate the building in a fire drill, fire alarm or emergency.
- All new resident students receive fire safety training and training is available to all students on an annual basis.

### **Carbon Monoxide Detection:**

The College ensures compliance with National Fire Protection Association (NFPA) 720 on carbon monoxide detection and warning regulation requirements. Carbon monoxide detectors have been installed and inspected and are tested regularly.

### **Plans for Improvements in Fire Safety:**

The College currently uses a Keltron system-a proprietary radio monitoring network system for all fire monitoring and reporting. The current Fire Alarm Master plan is reevaluated and updated as

needed. The College will ensure that it performs the required number of fire drills on an annual basis.

**APPENDIX A:  
THE COLLEGE OF SAINT ROSE  
ALBANY, NEW YORK**

**The College of Saint Rose**

**Sexual Harassment and Misconduct Policy**

**Responsible Office: Title IX and Human Resources Origination**

**Date: August 14, 2020**

**Revision Date:**

**I. Policy**

The College of Saint Rose (the “College”) is a private, independent, coeducational institution that reflects the values and heritage of our founders, the Sisters of St. Joseph of Carondelet. The values instilled by our founders include: creating an inclusive community, responding to the needs of the times, educating the whole person, and striving for excellence in all endeavors.

The College is committed to creating and maintaining a safe environment for all of its students and employees. All forms of sexual harassment and misconduct by members of the Saint Rose community will not be tolerated by the College and represent a violation of College policy and the law. Violation of the College’s Policy on Sexual Harassment and Misconduct will result in the responsive action, as prescribed under federal and state laws, including investigation of what occurred; action to stop the prohibited conduct; remedial support for the victim of the conduct and, as necessary, for the broader community; and action to reasonably prevent the re-occurrence of the behavior. This may result in possible suspension, dismissal or termination from the College.

This Policy applies regardless of race, color, religion, creed, ethnicity, national origin, gender, age, sexual orientation, gender identity or expression, familial status, veteran status, disability, predisposing genetic characteristics, domestic violence victim status or other basis identified in federal or state law.

**II. Scope of Policy and Jurisdiction**

This Policy applies to all alleged instances related to sexual harassment and misconduct that do not fall under the Title IX Grievance Policy brought by the College’s students against any of the College’s students, employees, and campus visitors. This Policy applies on all property owned by the College, on all property at which the Colleges holds educational programs or activities, including alleged circumstances that occur off-campus, during an off-campus educational program or activity, on all airplanes, buses, or other vehicles used to transport the College’s students, or any activity occurring within computer and internet networks, digital platforms and computer hardware or software not owned or operated by, or used in the College’s programs and activities.

The jurisdiction of the College discipline system can include both on-campus and off- campus incidents at the discretion of the Title IX Coordinator or the Assistant Director of Student Conduct. This includes both College related Exchange and Study Abroad programs and College-sponsored events. This means that any incident involving a student that harms the College’s interest will be

reviewed to determine if College action is warranted. Any off-campus incident that endangers another member of the College community (i.e.: Sale or Dispensation of Illegal Drugs, Infliction or Threat of Bodily Harm, Sexual or other Related Misconduct, Assault, Aggravated Harassment, or Threat with a Deadly Weapon) may be considered harmful to the interest of the College.

Employees who have concerns or complaints about employee-employee sexual harassment should follow the College's Policy and Procedures for Handling Complaints of Discrimination and Harassment for Employees [insert link].

### **III. Definitions**

#### **A. *Affirmative Consent:***

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- a) Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- b) Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- c) Consent may be initially given but withdrawn at any time.
- d) Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- e) Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- f) When consent is withdrawn or can no longer be given, sexual activity must stop.

#### **B. *Incapacitated Sex:***

To have sex with someone whom you know to be, or reasonably should know to be, incapable of making a rational, reasonable decision about a sexual situation is a violation of College Policy and New York State Law. Incapacity to make rational decisions about a sexual decision might result from the taking of a date rape drug, other drugs, alcohol, or as a result of illness. Intoxication on the part of the initiator is not an excuse for the violation of this policy or the law.

### **C. No Contact Order:**

A safety measure where the College's Department of Safety and Security or Title IX Coordinator or designee prohibits a student, employee or third party from contacting another student, employee or third party on campus when there is a behavior that represents a risk of violence, threat, pattern, or predation.

### **D. Order of Protection:**

An order of protection is issued by a court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various types of safety issues, including, but not limited to situations involving sexual assault, dating violence, domestic violence, or stalking.

### **E. Relationship Violence:**

A pattern of abusive behavior that one person uses to obtain and maintain power and control over their intimate partner. Physical and/or sexual abuse may or may not be present. Coercive control is always present. Relationship Violence is purposeful and systematic, involves a fixed imbalance of power that has been created over time, and is driven by a sense of entitlement.

#### **a) Dating Violence**

(As defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.

#### **b) Domestic Violence**

(As defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New York State's (NYS) domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of NYS.

### **F. Responsible Employees:**

Responsible Employees are mandatory reporters and include all employees (faculty, administrators, and staff) as well as student employees such as Resident Assistants, unless exempted as outlined in the Confidential Reporting and Resources section of this Policy below. As mandatory reporters, Responsible Employees are required to report all details of an incident of sexual harassment, sexual assault, dating violence, domestic violence, stalking, and any other sexual misconduct, including the identity of the victim, the identity of the alleged perpetrator (if

revealed), the date and location of the incident and details regarding the incident if known, to the appropriate office for purposes of initiation of an investigation and appropriate action. Responsible Employees are trained to provide information and support and appropriate referral to confidential or private reporting resources. Responsible Employees are also required to provide Clery Act statistical information and/or information for a Timely Warning as warranted.

**Any failure to report an incident of sexual misconduct may result in disciplinary action being brought against the Responsible Employee, up to and including termination of employment.**

#### **G. Sexual Assault and Misconduct:**

- a) **Fondling:** Any intentional sexual touching without effective consent for the purpose of sexual gratification including instances where the victim is incapable of giving their consent because of their age or because of their temporary or permanent mental incapacity. This includes any contact with the breasts, buttocks, groin, genitals, mouth or other bodily orifice of a person upon another person, as well as the touching of another with any of these body parts, without effective consent; or other intentional contact of a sexual nature without consent or after consent is withdrawn.
- b) **Forced Sexual Intercourse:** Any sexual intercourse (anal, oral or vaginal), by any object or body part, by a person upon another person, that occurs as a result of force. The prohibited force may be physical in nature, or represented by threats, intimidation or coercion. Intercourse obtained by any form of force impacts the free will of the victim and thus removes the opportunity for effective consent.
- c) **Incapacitated Sex:** To have sex with someone whom you know to be, or reasonably should know to be, incapable of making a rational, reasonable decision about a sexual situation is a violation of the College's Code of Conduct and New York State Law. Incapacity to make rational decisions about a sexual decision might result from the taking of a date rape drug, other drugs, alcohol, or as a result of illness. Intoxication on the part of the initiator is not an excuse for the violation of this policy or the law.
- d) **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- e) **Rape:** Any sexual intercourse or penetration (anal, oral, or vaginal) however slight, with any object or body part, by a person upon another person without effective consent or after consent is withdrawn
- f) **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- g) **Sexual Exploitation:** Sexual exploitation occurs when an individual takes non- consensual, unfair, or abusive advantage of another for his/her own advantage or benefit, even though that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:
  - 1. Non-consensual photo-taking, video or audio taping of sexual activity.
  - 2. Stalking with a sexual component. Stalking may take many forms, including

persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the nature of the physical stalking is of a sexual nature sexual misconduct has occurred.

3. Voyeurism is a form of sexual exploitation in which one individual engages in

secretive observation of another for personal sexual pleasure or engages in non-consensual photo-taking, video or audio taping of sexual acts. Although the source for the secretive viewing or taping may be unaware of the observation, this behavior is a form of sexual misconduct and violates the integrity of the unaware student.

4. The disrobing or exposure of another person without their consent.
5. Inter-personal or intimate partner violence (relationship violence)

- h) **Sexual Harassment:** Sexual harassment is defined under this policy as severe or persistent or pervasive or objectively offensive unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature that limits or denies a student's ability to participate in or benefit from the college's educational programs or activities, or creates a hostile working environment. when:
- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's academic or other advancement (quid pro quo harassment);
  - Submission to, or rejection of, the conduct is used as the basis for academic decisions affecting the individual (quid pro quo harassment); or
  - Professional or educational performance, productivity, physical security, participation in living arrangements; or extracurricular activities, academic or career opportunities, services or benefits—or of creating an intimidating, hostile, or offensive learning environment.

## **H. Intimate Partner Violence (IPV):**

The term used to describe sexual assault, domestic violence, dating violence, and/or stalking.

### **I. Stalking:**

Stalking is an unwelcome pursuit. It is an effective tactic of control exerted by one party upon another. Stalking is a violation of the College's Sexual Harassment and Misconduct Policy, as well as the Title IX Grievance Policy. It is also a crime that can cause fear without physical injury as it has no real identified beginning and seemingly no end. Stalking often leads to physical contact and is generally on a trajectory toward violence. Stalking often includes the use of technology such as phones, texting, cameras, social networking sites, and email.

**Stalking**, as defined in the VAWA amendments to the Clery Act, means engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

a. Course of conduct: Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by an action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

b. Reasonable person: A reasonable person under similar circumstances and with similar identities to the victim.

- c. Substantial emotional distress: Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**J. Preponderance of the Evidence:**

This standard of evidence means that there must be a determination of whether the alleged sexual misconduct “more likely than not” to have occurred or 51% likely to have occurred.

**K. Title IX Coordinator**

1. The Title IX Coordinator manages the College’s response to reports of gender inequity

and discrimination, which includes reports of sexual violence including, but not limited to, sexual assault, sexual harassment, dating violence, domestic violence, and stalking. Informed by current federal and state law and guidance, the Title IX Coordinator aims to ensure that the College’s responses promptly and effectively stop problem behavior, prevent its recurrence, and remedy its effects.

2. The Title IX Coordinator’s responsibilities include:
  - a. Overseeing the College’s response to gender discrimination, which includes all forms of sexual violence, to ensure prompt and equitable resolution of all complaints.
  - b. Providing a central place to report an incident and overseeing the reporting process.
  - c. Providing information about College policies and procedures.
  - d. Providing referrals to campus and community resources and victim advocates.
  - e. Facilitating supportive and/or safety measures to address safety concerns and to support victims and complainants so that academic and professional pursuits may continue unimpeded.
  - f. Collaborating with community partners to assist with a resolution that balances the needs of the individuals involved with those of the larger community.
  - g. Keeping records to ensure patterns of behavior are identified.
  - h. Overseeing investigations of misconduct to ensure fairness, impartiality, and equity.
  - i. Coordinating and providing training, education, and prevention programs for the entire College community.
  
3. The Title IX Coordinator receives and responds to gender equity and sexual violence concerns. In addition to the Title IX Coordinator, the Deputy Title IX Coordinators have the responsibility for either coordinating the College’s Title IX compliance efforts and/or assisting in sexual misconduct investigations in collaboration with the Title IX Coordinator. Collectively, the Title IX Coordinator, Deputy Title IX Coordinators, and Trained Investigators serve as the College’s Title IX team. The Title IX Team is charged with handling known instances of gender-based misconduct or sexual violence with fair and efficient processes that are intended to support the entire College community.

Title IX Coordinator	Amanda M. Bastiani Director of Prevention Education & Response Wellworth Hall, Room 3 963 Madison Ave. Albany, New York 12203 <a href="mailto:bastiana@strose.edu">bastiana@strose.edu</a> (518) 458-5308
Deputy Title IX Coordinators	Jennifer Richardson Assistant VP for Student Development Events and Athletic Center, Room 210 420 Western Ave. Albany, New York 12203

	<p style="text-align: center;"> <a href="mailto:richardj@strose.edu">richardj@strose.edu</a>  (518) 454-2023  Jeff Knapp  Associate Vice President for Human Resources and  Risk Management  Cabrini Hall  399 Western Ave.  Albany, New York 12203  <a href="mailto:knappj@strose.edu">knappj@strose.edu</a>  (518) 454-5138 </p>
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**L. Trained Investigators:**

The College has identified members of the Administration who have gone through extensive training to serve as investigators of Sexual Misconduct complaints. The investigators receive annual training on issues related to:

1. The four types of cases: domestic violence, dating violence, sexual assault, and stalking, as well as other forms of sexual misconduct as outlined in this policy.
2. How to conduct an investigation “that protects the safety of victims and promotes accountability”.
3. How to conduct an investigation (hearing) “process that protects the safety of the victim and promotes accountability”.

**M. Verbal Harassment:**

Verbal Harassment, without accompanying physical contact, is not sexual assault, but may fit the criteria for sexual harassment. Sexual harassment is also prohibited by the College’s Student Responsibility and Social Conduct and the Policy and Procedures for Handling Complaints of Discrimination and Harassment for Employees.

**IV. Information and Resources for Victims of Sexual Violence**

**A. If you are the victim of sexual violence:**

Get to a safe place - a friend’s house or any place where people can give you emotional support and physical care. Call the Rape Crisis Hot Line.

Do not clean up. It may be difficult to keep from cleaning yourself up, but if you do you may destroy evidence that could be useful should you decide to report the assault to the police. Don’t wash up, douche, change clothes, eat, brush your teeth, go to the bathroom or brush your hair. Even if you are not sure about reporting the assault, it makes sense to preserve the option of reporting until you make a final decision.

Seek medical help immediately for the treatment of any injuries and for tests to check the

possibility of pregnancy or sexually transmitted diseases. If you do plan to report the incident to authorities, there is an additional reason to seek medical attention. Medical evidence can be collected. Don't douche, bathe, shower or change your clothes before seeking medical attention

Report the incident to a campus counselor or victim advocate if you feel comfortable doing so.

- a. Seek counseling, whether or not you decide to report the crime or participate in legal action. Professional counseling is available through the Counseling and Psychological Services Center at The College of Saint Rose. Counseling can be beneficial as you work through your reaction to sexual misconduct
- b. You may also choose to file a report with campus security, the Albany Police Department, or the NYS Police. This is your decision. (See "Procedures for Dealing with Sexual Offenses" Section).
- c. If you wish, file a complaint with the Title IX Office, if the accused person is part of The College of Saint Rose community. An investigation for appropriate disciplinary action under the College's prohibition against sexual misconduct will occur with the Title IX Office.
- d. Tell your story soon to avoid forgetting details. Alternatively, write out the details for yourself or use a tape recorder.
- e. Take whatever steps are necessary to work through the incident/assault. This might include talking to your partner, friend or counselor about your feelings. Resume your normal routine as much as possible.
- b. Go with your instincts. Whatever you decide to do is a decision you must feel comfortable with. Your goal is to survive and escape safely. You will react to the crime in the way that makes the most sense to you at the time.

## **B. Students' Bill of Rights:**

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes

and violations are committed, or should have acted in a different manner to avoid such crimes or violations;

7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

### **C. Ways to Protect Yourself:**

There are some practical steps you can take that may decrease the risk of sexual assault.

1. Express your expectations and limits clearly before you get into a sexual situation.
2. Limit alcohol and drug use. They make it more difficult for you to be in control. Never ride with someone who has used alcohol or drugs.
3. Avoid meeting in secluded places and walking alone. If you are concerned, ask campus security to escort you.
4. Try to be aware of attitudes that your date expresses concerning women or men: hostility, unrealistic views of women or men and/or viewing people as "sex objects."
5. Use assertive language such as, "I feel uncomfortable when you don't listen to me or when you touch me like that."
6. Scream "fire" (rather than "rape" or "help"), if you need assistance.
7. Be alert to what is happening around you.

### **D. To reduce your risk for being accused of sexual misconduct:**

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.

2. Understand and respect personal boundaries.
3. **DON'T MAKE ASSUMPTIONS** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you **DO NOT** have consent.
4. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
5. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

**E. Resources:**

There are trained on- and off- campus advocates and counselors who can provide an immediate **confidential** response in a crisis situation:

1. On-Campus:

On Campus Health Provider Contact Information:	Health Services 190 Partridge St., Albany, NY 12203 (518)454-5244 Hours: 8 am – 5 pm
On Campus Mental Health Care Provider Contact Information:	Counseling Center St. Joseph's Hall, 985 Madison Ave., Albany, NY 12203 (518) 454-5200
On Campus Pastoral Counselor Contact Information:	Hubbard Interfaith Sanctuary 959 Madison Ave. Albany, NY 12203

	(518) 454-5250
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2. Off-Campus:

Off Campus Resource for Mental Health and Advocacy:	Albany County Crime Victims and Sexual Violence Center 112 State St., Albany, NY 12207 24-Hour Sexual Assault Hotline: (518) 447-7716
Off-Campus Domestic Violence Services:	Equinox – Domestic Violence Services 95 Central Ave., Albany, NY 12206 24 Hour Hotline – (518) 432-7865
Health Care Providers, Sexual Assault Nurse Examiners (SANE), Rape Kits:	St. Peter’s Hospital Manning Blvd., Albany, NY 12208 (SANE Exams are free)
	Albany Medical Center New Scotland Ave., Albany, NY 12208 (SANE Exams are free)

**F. Memoranda of Understanding:**

The College of Saint Rose has entered into a memoranda of understanding (MOU) with the following agencies, in order to provide additional support services:

- a. Albany County Crime Victim and Sexual Violence Center
- b. Albany Medical Center Sexual Assault Forensic Examiner (SAFE) Program
- c. Albany Police Department
- d. Equinox, Inc.
- e. The Legal Project
- f. St. Peter’s Health Partners Sexual Assault Nurse Examiner (SANE) Program
- g. University at Albany Police Department, The State University of New York

**V. Criminal Complaints:**

In addition to filing an internal complaint, students may file a – criminal complaint with local law enforcement officials. The College is not involved in that process, but will assist a student in filing a complaint if they so desire. Criminal complaints can be filed with the following agencies:

Albany Police Dept., Western Ave., Albany, NY 12203  
(518) 438-4000

University at Albany Police Department, 1400 Washington Ave., Albany, NY  
(518) 442-3130

NYS Police 24-hour hotline 1  
(844) 845-7269

## **VI. College Complaint Process:**

### **A. Filing an Institutional Complaint:**

1. Once the College is in receipt of a complaint, the College will initiate an investigation in accordance with this Policy. Every effort will be made to maintain the privacy of the individuals involved in a complaint under this Policy and will only be shared with others who need to know in order to investigate a complaint and/or seek a resolution.
2. Students who wish to file an internal complaint under this Policy should contact one of the following:

Title IX Coordinator	Amanda M. Bastiani Wellworth Hall, Room 3 963 Madison Ave., Albany, NY 12203 (518) 458-5308
Student Development	Student Development, EAC, Room 210 420 Western Ave., Albany, NY 12203 (518) 454-2023
Campus Safety & Security	Campus Safety & Security 340 Western Ave. Albany, NY 12203 (518) 454-5187

3. Student Reports to Responsible Employees – Responsible Employees are mandatory reporters by law and policy. Accordingly, reports made to Responsible Employees will be relayed to the College’s Title IX Coordinator who will initiate an investigation by the College in accordance with this Policy. Even if a student does not want the College to initiate an investigation, once it is reported to a Responsible Employee, the College, through the Title IX Coordinator, will weigh any request for confidentiality against the College’s obligations to provide a safe, non-discriminatory environment for all members of the College’s campus and community.
4. Privileged and Confidential Reporting – Either as an alternative to the reporting options listed above or in lieu of reporting sexual misconduct to the individuals or offices listed above, students may make privileged and confidential reports of sexual misconduct to certain health or mental health providers or pastoral counselors. While criminal complaints, institutional complaints, and reports to Responsible Employees likely will result in the initiation of an investigation, reports to health or mental health providers or to certain pastoral counselors are privileged and will remain confidential so long as the student filing the report does not represent a threat to his or her self or to other, or there is a continuing threat to the health and safety of the College community. (see Page 61 to 62 for list of confidential resources)

5. Anonymous Reporting - Anonymously disclose a crime or violation to the Safety and Security through the anonymous tip line (518) 454-5275 or online form, <https://onlineforms.strose.edu/anonymous-report/submit> . The College may have a duty to investigate anonymous disclosures to the extent possible, based on the information disclosed.

## **B. Protection and Supportive Measures for All Involved Parties:**

Individuals reporting sexual misconduct and individuals accused of or responding to allegations of sexual misconduct are afforded the following protections and accommodations:

1. When the accused or respondent is a student, to have the College issue a "no contact order" consistent with the College's policies and procedures, whereby continued intentional contact with the protected person would be a violation of College policy and result in additional conduct charges. If the accused and a protected individual observe each other in a public place, it shall be the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused and the protected person may request a prompt review of the need for and terms of a No Contact Order, consistent with College policies and procedures, including potential modification. The requesting party may submit evidence in support of their request. The College may establish an appropriate schedule for the accused to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the protected person.
2. To be assisted by the College's security office in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order;
3. To receive a copy of the order of protection or equivalent when received by the College and have an opportunity to meet or speak with a College official who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person(s).
4. To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension;
5. To receive assistance from campus security in effecting an arrest when an individual violates an order of protection or, if campus security does not possess arresting powers, then to call on and assist local law enforcement in effecting an arrest for violating such an order, provided that nothing in this article shall limit current law enforcement jurisdiction and procedures.
6. When the accused is a student and presents a continuing threat to the health and safety of the community, to subject the accused to interim suspension pending the outcome of a conduct process. Parties may request a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential

modification, in accordance with procedures set forth in Student Responsibility and Social Conduct, and shall be allowed to submit evidence in support of their request;

7. When the accused is not a student but is a member of the College's community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable union contracts, employee handbooks, and rules and policies of the College;
8. To obtain reasonable and available supportive and/or safety measures that effect a change in academic, housing, employment, transportation, immigration or visa assistance or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the College's policies and procedures. Parties may request and consistent with the institution's policies and procedures, be afforded a prompt review of the need for and terms of any supportive and/or safety measures that directly affects them, and shall be allowed to submit evidence in support of their request.

### **C. Initial Remedial Actions:**

1. The College will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, misconduct, or retaliation. Such actions could include but are not limited to: no contact orders, providing counseling and/or medical services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.
2. The College will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassment, misconduct or retaliation.
3. The College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the College's ability to provide the accommodations or protective measures.

### **D. Immunity from Campus Conduct Process:**

The College strongly encourages the reporting of incidents of sexual misconduct. The health and safety of every student at the Institution is of utmost importance. The College of Saint Rose recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault

to Institution's officials or law enforcement will not be subject to the College's Student Responsibility and Social Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

#### **E. Handling Reports of Sexual Misconduct:**

1. Reports should be filed as soon as practicable after an incident of alleged sexual misconduct. The complainant is encouraged to provide as much of the following information as possible:
  1. the name of the person or persons allegedly responsible for the action; if a College employee the department and position of said person(s); if a student the address of that person, if known.
  2. a description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
  3. the alleged effect of the incident(s) on the complainant's position, academic standing or other conditions of enrollment (student status);
  4. the names of other individuals who might have been subject to the same or similar action;
  5. the steps the complainant has taken to try to stop the behavior; and
  6. any other information the complainant believes to be relevant to the complaint.
2. Investigation Process:
  1. The Title IX Coordinator is responsible for ensuring that an impartial investigation begins within a reasonable time after a complaint has been filed. The College of Saint Rose attempts to complete investigations within sixty business days, which excludes weekends and holidays. In certain circumstances, the investigation time frames may need to be extended and the Title IX Coordinator has full authority to extend or modify all time frames set forth in this Policy. In such instances, all parties to the complaint will be notified.
  2. Upon receipt of a complaint, the Title IX Coordinator will open a formal case file and assign two of the Trained Investigators who will direct the investigation and confer with the Title IX Coordinator on supportive and/or safety measures for the alleged victim, or other necessary remedial short-term actions.

In most cases, two of the Trained Investigators conduct the investigation. However, the Trained Investigators might work cooperatively with another designated employee or individual external to the College, as determined by the Title IX Coordinator. Throughout the investigation, at least two College employees shall attend all interviews with the complainant, respondent and witnesses so that information obtained during the interviews can be corroborated. In certain cases, the College may appoint a third party to conduct the investigation. Witnesses will be strongly encouraged not to disclose the fact that they have been interviewed or the nature of the inquiry to others in order to maintain the integrity of the investigation.

3. Preliminary Review: The Trained Investigators will take the initial following steps:
  1. Determine the identity and contact information of the complainant (whether that is the alleged victim, the individual who filed a College Incident Report, or a College representative).
  2. In coordination with the campus Title IX Coordinator, initiate any necessary remedial actions.
  3. Meet with the complainant to obtain details of the incident and provide information regarding resources, academic accommodations, and interim measures that might be available.
  4. Identify the policies allegedly violated and other key issues (e.g. power differential, alcohol/drug involvement).
  5. Conduct a preliminary investigation to determine if there is reasonable cause to charge the accused individual, and what policy violations should be included as part of the complaint.
  6. If there is insufficient evidence to support reasonable cause, the complaint should be closed with no further action. If there is sufficient evidence to support reasonable cause, the investigation will proceed to step e) below.
4. Full Investigation: Upon determining with the Title IX Coordinator that there is sufficient evidence for a full investigation, the Trained Investigators shall:
  - i. Prepare the notice of charges and provide a copy to the complainant and respondent.
  - ii. Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan in consultation with the Title IX Coordinator, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses including the complainant and the respondent.
  - iii. Complete the investigation promptly, and without unreasonable deviation from the intended timeline.
  - iv. At the conclusion of the investigation, draft and submit a detailed written report which includes the following components:
    - a) A summary of the complaint;
    - b) A summary of the response from the respondent;
    - c) A summary of the statements and evidence obtained during the investigation;
    - d) A recommendation on whether a violation of this Policy occurred based on a Preponderance of the Evidence standard and an explanation to support the finding;
    - e) If the recommendation is that the Policy was violated, the recommendation must include a statement about the severity of the violation;
    - f) A recommendation as to the disciplinary action(s) to be taken, if there was a Policy violation.
5. Decision Process:

1. If the decision is that the respondent is found not responsible for the charges filed, the Trained Investigators share that outcome with both the complainant and the respondent without significant delay between each party's notification. Upon notification, either party has the right to appeal in accordance with the Appeal Process section of this Policy.
2. If the Trained Investigators find that the respondent violated this Policy, the process is as follows:
  - i. If the respondent is a student:
    1. The Trained Investigators will inform the complainant and respondent of the investigation outcome within five (5) business days of the determination and without significant delay between each party's notification.
      - a. Notification will be made in writing and may be delivered by one or more of the following methods:
        - i. In person.
        - ii. Mailed to the local or permanent address of the parties as indicated in official College records.
        - iii. Emailed to the parties' College-issued email account.
      - b. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
    2. The notification will specify:
      - a. The finding on each alleged Policy violation.
      - b. Any possible sanctions that may result which the College is permitted to share according to state or federal law.
      - c. The rationale supporting the essential findings to the extent the College is permitted to share that information under state or federal law.
      - d. The opportunity to write an impact statement explaining how the possible sanctions may affect each party and the date which the impact statements are due.
    3. The final decision will be sent by the methods outlined previously and will be sent without a significant delay between each party's notification. This will include:
      - a. The finding on each alleged policy violation.
      - b. Any changes that occurred prior to finalization.
      - c. Sanction(s) to be applied.
      - d. Any appeal options that are available.
    4. Transcript Notation
      - If the respondent is found responsible for a crime of violence,

as defined by the Clery Act, a notation will be made on the student's transcript indicating that the student has been "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation."

- If the respondent withdraws from the College while such conduct charges are pending, and declines to complete the disciplinary process, the College shall make a notation on his/her student transcript that the student "withdrew with conduct charges pending." If the finding of responsibility is vacated, the notation will be removed from the student's transcript.

ii. If the respondent is an employee (faculty, administrator, or staff):

5. The investigator will share the findings with the complainant and update the complainant on the status of the investigation and the outcome. The complainant will also have an opportunity to submit an impact statement before sanctions are determined.
6. The investigator will determine the appropriate sanctions in conjunction with the Title IX Coordinator and the Associate Vice President for Human Resources. The investigator will present the findings and sanction to the respondent.
7. If the sanction is termination of the respondent's employment, the College will follow the applicable employee handbook or union contract.
8. The complainant may appeal the finding and/or sanctions by following the Appeal Process section of this Policy. The respondent may file a grievance in accordance with the applicable employee handbook or union contract.

iii. If the respondent is a third party:

9. The investigator will share the findings with the complainant and update the complainant on the status of the investigation and the outcome.
10. The investigator will determine the appropriate sanctions in conjunction with the Title IX Coordinator and the Associate Vice President for Human Resources. The investigation will present the findings and sanction to the respondent. The sanctions may include a permanent no-contact order and barred from the College's campus, including any future employment and or

educational opportunities.

11. If the respondent is employed by a contractor on campus, the College may require the contractor to terminate the respondent's employment in order to continue the contract.
  12. The complainant may appeal the finding and/or sanctions by following the Appeal Process section of this Policy.
3. Appeal Process: Complainants and/or respondents wishing to appeal decisions made during the handling of complaints under this Policy may submit a written petition to the Student Conduct Office (SCO) within two days of receipt of the decision. The SCO will share the appeal with the other party who may also wish to file a response. All appeals and responses are then forwarded to the Appeals Hearing Board for initial review to determine if the appeal meets one or more of the following grounds for appeal and is timely:
- a) A procedural error occurred that significantly impacted the outcome of the hearing
  - b) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
  - c) The sanctions imposed are substantially disproportionate to the severity of the violation.

If the Appeals Hearing Board finds that the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the documentation from the investigation is forwarded to the Appeals Hearing Board for consideration. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately.

#### **F. Privacy:**

- a. All inquiries, complaints and investigations are treated with respect and attention to the privacy of the complainant. Information is revealed strictly on a need-to-know basis. Although the identities of the complainant and respondent are usually revealed to the respondent and witnesses, the College prohibits retaliation of any form toward any party.
- b. A copy of the investigation report and the final decision is included in the student's or employee's file only if the investigation concludes that the respondent engaged in prohibited conduct.
- c. All information pertaining to a harassment complaint or investigation is maintained by the Title IX Coordinator and the Associate Vice President for

Human Resources in secure files. These secure files will be kept separate from all other human resources or student files maintained by the College, except when the investigation concludes that the complaint was reckless or frivolous.

- d. Where the respondent is found not responsible for the alleged violation(s), the investigation should be closed. When facts obtained in the investigation do not support the allegation, the investigation will be closed. If subsequently there is additional information discovered related to the allegation the investigation will be re-opened.
- e. The College prohibits retaliation in any form for complainants and witnesses.

## **VII. Non-Retaliation**

Retaliation against the individual who initiates a sexual misconduct complaint, participates in an investigation, or pursues legal action, or any witness is prohibited. This includes behavior on the part of the respondent or other related persons, including acquaintances, friends, and family members. Although independent action will be taken against anyone engaging in retaliation for making a report of sexual misconduct, the respondent is responsible for discouraging such actions and will also be held responsible to the extent of their involvement in the retaliation.

## **VIII. Active Bystander**

Active Bystanders are individuals who decide to intervene when they observe a situation or see actions that might be harassment or sexual violence.

### **Some simple steps to becoming an Active Bystander:**

- **Notice the situation:** Be aware of your surroundings.
- **Interpret it as a problem:** Do I recognize that someone needs help?
- **Feel responsible to act:** See yourself as being part of the solution to help.
- **Know what to do:** Educate yourself on what to do.
- **Intervene safely:** Take action but be sure to keep yourself safe.

### **How to Intervene Safely using the three D's of Bystander Intervention:**

- **Direct** – Directly intervening, in the moment, to prevent a problem situation from happening
- **Delegate** – Seeking help from another individual, often someone who is authorized to represent others, such as a police officer or campus official.
- **Distract** – Interrupting the situation without directly confronting the offender.

### **Other options:**

- Call the police (911) or Campus Security 24/7: (518) 454-5187 for support.
- Or call the National Sexual Assault Hotline at 1 (800) 656.HOPE.

## **IX. Education**

The College offers a number of programs over the course of the academic year, addressing sexual assault, domestic/dating violence, stalking, and related topics, including bystander intervention strategies. A specific program is presented to all new incoming students during orientation, in addition to the required online sexual assault prevention and alcohol and substance abuse prevention education courses. Further programming is offered by various offices and student organizations including residence life, the counseling center, and campus safety and security. Pursuant to federal law, students and employees will be educated and updated about security procedures, personal safety, crime prevention and sexual assault, domestic/dating violence, and stalking in all ways that are necessary and appropriate to alert the College community. This may include: posting appropriate flyers, community tabling, mass e-mail messages, placing articles in the student newspaper, social media messaging, classroom announcements, in-classroom presentation, and emergency meetings.

Program/ Activity	Description	Frequency
Orientation Presentation	Provided by the Title IX Coordinator and Director of Prevention Education, in partnership with Campus and community agencies	Annual requirement for first year/new students
EverFi/Foundry-Online Sexual Assault Prevention for Undergraduates	An online program that addresses sexual assault, interpersonal violence, stalking and bystander intervention	Annual requirement for all new/incoming undergraduate students, new athletes, new student club officers
EverFi/Foundry-Online AlcoholEdu	An interactive online program that incorporates the latest evidence-based prevention methods to create a highly engaging user experience, inspiring students to reflect on and consider changing their drinking habits.	Annual requirement for all new/incoming undergraduate students
EverFi/Foundry-Online Sexual Assault Prevention for Graduate Students	An online program that addresses sexual assault, interpersonal violence, stalking and bystander intervention	Annual requirement for all new/incoming graduate students
EverFi/Foundry-Online courses for Faculty and Staff, Harassment and Discrimination	Online prevention program that reviews Title IX, Title VII, and Clery Act reporting obligations	Ongoing requirement for all new employees; annual requirement for all employees

One Love Foundation-films, workshops, resources	A film-based, guided discussion programs focused on relationship abuse, focused on bystander intervention developed by the One Love Foundation	Offered throughout the year
Social media awareness campaigns	Variety of awareness activities/campaigns promoting healthy relationships	Offered throughout the year
Title IX and Clery: How to respond and report & Campus Safety	New Employee Training on Title IX, the Clery Act, and campus safety and security provided by the Title IX Coordinator and Director of Prevention Education, and the Director of Safety and Security	Scheduled every two months throughout the year for all new employees in conjunction with Human Resources as part of onboarding orientation
SUNY Student Conduct Institute trainings for Title IX and Conduct Team	Campus Title IX and Conduct team members are required to attend trainings that are offered in person and/or on-line in accordance with federal and state laws	Ongoing throughout the year
EverFi/Foundry-Online Clery Act Basics Course	Online course that includes an overview of the Clery Act reporting requirements	Annual requirement for all Campus Security Authorities (CSA's)
Take Back the Night	Awareness march for survivors of sexual violence and advocates, in partnership with Albany County Crime Victim & Sexual Violence Center and Albany County colleges and universities	Annually
Various topic-based programs, workshops, trainings	Programming on any of the following, but not limited to: sexual harassment, sexual misconduct/violence, interpersonal violence/relationship abuse, types of abuse including technology abuse, healthy relationships, consent, bystander intervention strategies, how to respond to disclosure, how to help a friend	Offered throughout the year in partnership with other departments, student clubs and organizations, community agencies, and faculty

**X. Sanctions possible for students under the College's Policies:**

- a. Censure
- b. Anger Management Program
- c. Attendance at Educational Programs
- d. Behavioral Contract
- e. Conflict Management Training
- f. Educational Service Hours
- g. Reflective Exercises
- h. Removal from College Housing
- i. Interim Suspension
- j. Restrictions
- k. Restitution
- l. Persona Non Grata
- m. Disciplinary Probation
- n. Disciplinary Suspension
- o. Disciplinary Dismissal

***Sanctions possible for employees under the College's Policies include written warning up to and including termination.***

**XI. Criminal Penalties under New York State Law:**

Article 130 of the New York State Penal Code defines sexual offenses and provides information about the penalties associated with each crime.

**A. The following are excerpts from the NYS Penal Code:**

**Sexual Misconduct:**

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or dead human body.

Sexual misconduct is a class A misdemeanor.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-20.html>.

**Rape:**

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-25.html>

A person is guilty of rape in the second degree when:

1. Being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or
2. He or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-30.html>

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-35.html>

### **Criminal Sexual Act:**

A person is guilty of **criminal sexual act in the third degree** when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Criminal sexual act in the third degree is a class E felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-40.html>

A person is guilty of **criminal sexual act in the second degree** when:

1. Being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-45.html>

A person is guilty of **criminal sexual act in the first degree** when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-50.html>

### **Forcible Touching:**

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-52.html>

### **Sexual Abuse:**

A person is guilty of **persistent sexual abuse** when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

Persistent sexual abuse is a class E felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-53.html>

A person is guilty of **sexual abuse in the third degree** when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-55.html>

A person is guilty of **sexual abuse in the second degree** when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-60.html>

A person is guilty of **sexual abuse in the first degree** when he or she subjects another person to sexual contact:

1. By forcible compulsion;
2. When the other person is incapable of consent by reason of being physically helpless;
3. When the other person is less than eleven years old; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-65.html>

A person is guilty of **aggravated sexual abuse in the fourth degree** when:

1. He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.
3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the fourth degree is a class E felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-65-a.html>

A person is guilty of **aggravated sexual abuse in the third degree** when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.
4. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.
5. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the third degree is a class D felony.

<http://codes.findlaw.com/ny/penal-law/pen-sect-130-66.html>

A person is guilty of **aggravated sexual abuse in the second degree** when he or she

inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.
4. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a class C felony. <http://codes.findlaw.com/ny/penal-law/pen-sect-130-67.html>

A person is guilty of **aggravated sexual abuse in the first degree** when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.
4. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the first degree is a class B felony. <http://codes.findlaw.com/ny/penal-law/pen-sect-130-70.html>

## **B. Penalties:**

### **Class A Misdemeanor:**

1. Imprisonment of up to one year and/or a fine of up to \$1,000

<http://codes.findlaw.com/ny/penal-law/pen-sect-70-15.html>, <http://codes.findlaw.com/ny/penal-law/pen-sect-80-05.html>.

### **Felonies:**

- e) Class B felony - imprisonment of at least five years and no more twenty-five years and/or a fine of up to \$30,000
- f) Class C felony - imprisonment of at least three and one-half years and no more than fifteen years and/or a fine of up to \$15,000
- g) Class D felony - imprisonment of at least two years and no more than seven years and/or a fine of up to \$5,000
- h) Class E felony - imprisonment of at least one and one-half years and no more than four years and/or a fine of \$5,000

<http://codes.findlaw.com/ny/penal-law/pen-sect-70-80.html>,  
<http://codes.findlaw.com/ny/penal-law/pen-sect-80-00.html>.

## The College of Saint Rose

### Policy Number: Title IX Grievance Policy

### Responsible Office: Title IX and Human Resources Origination

Date: August 13th, 2020

Revision Date:

### I. Policy and Purpose

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution **must** respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

See, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>

Based on the Final Rule, The College of Saint Rose (the College) will implement the following Title IX Grievance Policy, effective August 14, 2020.

In recent years, "Title IX" cases have become a short-hand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, the College must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process. **Only** incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

The College of Saint Rose remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

Specifically, our campus has:

- A Sexual Harassment and Misconduct Policy that defines certain behavior as a violation of campus policy, including sections addressing Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and related sex-based offenses;
- A Student Responsibility and Social Conduct, that defines other behaviors as a violation of campus policy;
- And the Policy and Procedures for Handling Complaints of Discrimination and Harassment for Employees.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Sexual Harassment and Misconduct Policy, <https://www.strose.edu/title-ix/documentation/#sexual-harassment-misconduct-policy>, or the Student Responsibility and Social Conduct policy, <https://www.strose.edu/title-ix/documentation/#student-responsibility-social-conduct-policy>, through a separate grievance proceeding.

The elements established in the Title IX Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the College for any violation of the Sexual Harassment and Misconduct Policy or the Student Responsibility and Social Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

Our existing Title IX office and reporting structure remains in place. What has changed is the way our Title IX office will handle different types of reports arising from sexual misconduct, as detailed in full throughout Section 2.

## **II. Definitions:**

### **A. Covered Sexual Harassment**

For the purposes of this Title IX Grievance Policy, “covered sexual harassment” includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;

- a. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
  - c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
  5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New York State's (NYS) domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of NYS.
  6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.
    - a. Course of conduct: Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by an action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
    - b. Reasonable person: A reasonable person under similar circumstances and with similar identities to the victim.
    - c. Substantial emotional distress: Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the

Sexual Harassment and Misconduct Policy or the Student Responsibility and Social Conduct.

**B. Consent**

For the purposes of this Title IX Grievance Policy, and in accordance with NYS Article 129-B, affirmative “consent” means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. a) Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. b) Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. c) Consent may be initially given but withdrawn at any time. d) Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. e) Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. f) When consent is withdrawn or can no longer be given, sexual activity must stop.

**C. Education Program or Activity**

For the purposes of this Title IX Grievance Policy, The College of Saint Rose’s “education program or activity” includes:

- Any on-campus premises
- Any off-campus premises that the College has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the College’s programs and activities over which the College has substantial control.

**D. Formal Complaint**

For the purposes of this Title IX Grievance Policy, “formal complaint” means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within the College’s education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

**E. Complainant**

For the purposes of this Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

#### **F. Relevant evidence and questions**

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

“Relevant” evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Title IX Grievance Process:

- Evidence and questions about the complainant’s sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
  - They concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(6)(i).

Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.

- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

#### **G. Respondent**

For the purposes of this Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

#### **H. Privacy vs. Confidentiality**

Consistent with the Sexual Harassment and Misconduct Policy and the Student Responsibility and Social Conduct, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean the College offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

#### **I. Disability Accommodations**

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically

requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

## **I. General Rules of Application:**

### **A. Effective Date**

This Title IX Grievance Policy will become effective on August 14, 2020, and will only apply to formal complaints of sexual harassment brought on or after August 14, 2020. Complaints brought prior to August 14, 2020 will be investigated and adjudicated according to the Title IX Grievance Policy if a case is not complete by that date.<sup>1</sup>

### **B. Revocation by Operation of Law**

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in this manner, any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under the existing Sexual Harassment and Misconduct Policy or the Student Responsibility and Social Conduct.

### **C. Non-Discrimination in Application**

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

### **D. Making a Report Regarding Covered Sexual Harassment to the Institution**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Amanda M. Bastiani

Title: Director of Prevention Education & Response, and Title IX Coordinator

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<sup>1</sup> This specific provision may be subject to additional guidance from OCR (which will be shared, if issued).

Office Address: Wellworth Hall 963 Madison Ave., Albany, NY 12203

Email Address: [bastiana@strose.edu](mailto:bastiana@strose.edu), or title ix@strose.edu

Telephone Number: 518-458-5308

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

#### **E. Responsible Employees:**

Responsible Employees are mandatory reporters and include all employees (faculty, administrators, and staff) as well as student employees such as Resident Assistants, unless exempted as outlined in the Confidential Reporting and Resources section of this Policy below. As mandatory reporters, Responsible Employees are required to report all details of an incident of sexual harassment, sexual assault, dating violence, domestic violence, stalking, and any other sexual misconduct, including the identity of the victim, the identity of the alleged perpetrator (if revealed), the date and location of the incident and details regarding the incident if known, to the appropriate office for purposes of initiation of an investigation and appropriate action. Responsible Employees are trained to provide information and support and appropriate referral to confidential or private reporting resources. Responsible Employees are also required to provide Clery Act statistical information and/or information for a Timely Warning as warranted.

**Any failure to report an incident of sexual misconduct may result in disciplinary action being brought against the Responsible Employee, up to and including termination of employment.**

#### **F. Private Reporting Options**

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinator or designee
- *Other Officials with Authority (required to report known details to Title IX Coordinator):*
  - a. *Jeffrey Knapp, Associate VP for Human Resources and Deputy Title IX Coordinator, 518-454-5138*
  - b. *Jennifer Richardson, Assistant VP for Student Development and Deputy Title IX Coordinator, 518-454-2023*
  - c. *Steve Stella, Director of Safety and Security, 518-454-5187*
  - d. *Craig Tynan, Registrar, 518-458-5464*
  - e. *Gerald Lorentz, Dean, School of Arts & Humanities, 518-454-2800*

- f. *Ian MacDonald, Dean, School of Mathematics and Sciences, 518-454-5266*
  - g. *Lori Ancil, Associate VP and Director of Athletics, 518-454-5282*
  - h. *Phylicia Coley, Director of Residence Life, 518-454-5295*
  - i. *Rajarshi Aroskar, Dean, Huether School of Business, 518-454-2122*
  - j. *Shai Butler, Vice President for Student Development & Chief Diversity Officer, 518-454-5299*
  - k. *Steven Ralston, Provost and Vice President for Academic Affairs, 518-454-5160*
  - l. *Theresa Ward, Acting Dean, Thelma P. Lally School of Education, 518-454-5208*
- *Other Reporting Options on Campus:*
    - a. *Campus Security, 518-454-5187*
    - b. *Residence Life, 518-454-5295*
    - c. *Albany Police, 518-458-5660 or 911*
    - d. *UAlbany Police 518-442-3131*
    - e. *Senior Investigator, NYSP Campus Sexual Assault Victims Unit, 1-844-845-7269*
    - f. *Saint Rose Anonymous Tip Line, 518-454-5275, <https://onlineforms.strose.edu/anonymous-report/submit/>*

The following offices may provide **confidentiality**:

- Confidential Reporting and Resources:
  1. Counseling & Psychological Services, 518-454-5200
  2. Health Services, 518-454-5244
  3. Spiritual Life, 518-454-5250
- Off Campus Confidential Assistance:
  1. The Albany County Crime Victim and Sexual Violence Center, 518-447-7716 (24-hr hotline, free counseling for students)
  2. Equinox, Inc., 518-432-7865 (24-hour domestic violence hotline, free services)
  3. In Our Own Voices, 518-432-4188

4. The Legal Project, 518-435-1770
5. Albany Medical Center, 518-262-3131 (sexual assault exams are free and not processed thru student's insurance)
6. Albany Memorial Hospital, 518-471-3221 (sexual assault exams are free and not processed thru student's insurance)
7. St. Peter's Hospital, 518-525-1550, (sexual assault exams are free and not processed thru student's insurance)
8. National Sexual Assault Hotline, 1-800-656-HOPE (4673)
9. National Domestic Violence Hotline, 1-800-799-7233
10. National Stalking (and all crime) Victim Helpline, 1-855-484-2846
11. Crisis Text Line, Text HOME to 741741 for free, 24/7 crisis support in the U.S.

## **II. Non-Investigatory Measures Available Under the Title IX Grievance Policy:**

### **A. Supportive Measures**

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from the College regardless of whether they desire to file a complaint, as appropriate. Supportive measures are non-disciplinary and non-punitive.

As appropriate, supportive measures may include, but not be limited to:

- Counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services
- restrictions on contact between the parties (no contact orders, issuing a persona non grata, and/or assistance processing an order of protection)
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

*See 85 Fed. Reg. 30401.*

## **B. Emergency Removal**

The College of Saint Rose retains the authority to remove a respondent from the College's program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If the College determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. The Respondent will meet with the Title IX Coordinator or Designee and the Director of Safety and Security to be notified that an emergency removal is necessary and be provided with a formal letter. The respondent will have three (3) business days to challenge the removal determination in a letter sent to the Vice President for Student Development.

## **C. Administrative Leave**

The College retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process, consistent with the Policy and Procedures for Handling Complaints of Discrimination and Harassment for Employees

### **III. The Title IX Grievance Process**

#### **A. Filing a Formal Complaint**

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days, which does not include days that the College is closed, after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of the College, including as an employee. For complainants who do not meet this criteria, the College will utilize existing policy in the Student Responsibility and Social Conduct <https://www.strose.edu/title-ix/reporting/>.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. The College will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Title IX Grievance Policy, the Sexual Harassment and Misconduct Policy, or the Student Responsibility and Social Conduct prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

A complainant who files a Formal Complaint may elect, at any time, to address the matter through the Institution's Informal Resolution Process. Information about this process is available here:

<https://www.strose.edu/title-ix/documentation/#informal-resolution-process>.

## **B. Informal Resolution**

A complainant who files a Formal Complaint may elect, at any time, to address the matter through the Institution's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through an informed written consent. Information about this Process is available here: <https://www.strose.edu/title-ix/documentation/#informal-resolution-process>

## **C. Multi-Party Situations**

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

## **D. Determining Jurisdiction**

The Title IX Coordinator or designee will determine if the instant Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in the College's education program or activity;  
and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, the College will investigate the allegations according to the Grievance Process.

## **E. Allegations Potentially Falling Under Two Policies**

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

## **F. Mandatory Dismissal**

If any one of these elements are not met, the Title IX Coordinator or designee will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

## **G. Discretionary Dismissal**

The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the Title IX

Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by the College; or,
- If specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in “Appeals,” below.

#### **H. Notice of Dismissal**

Upon reaching a decision that the Formal Complaint will be dismissed, the institution will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

#### **I. Notice of Removal**

Upon dismissal for the purposes of Title IX, the College retains discretion to utilize the Sexual Harassment and Misconduct Policy, <https://www.strose.edu/title-ix/documentation/#sexual-harassment-misconduct-policy>, or the Student Responsibility and Social Conduct <https://www.strose.edu/title-ix/documentation/#student-responsibility-social-conduct-policy>, to determine if a violation of the Sexual Harassment and Misconduct Policy or the Student Responsibility and Social Conduct has occurred. If so, the College will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal of the allegations to the Sexual Harassment and Misconduct process or the conduct process.

#### **J. Notice of Allegations**

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

## **K. Contents of Notice**

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process including any informal resolution process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);
- A statement that, according to the Student Responsibility and Social Conduct under Furnishing False Information prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

## **L. Ongoing Notice**

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

## **M. Advisor of Choice and Participation of Advisor of Choice**

The College of Saint Rose will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

The College has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are

required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of the College.

The College will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The College's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and the College cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The College will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the College.

#### **N. Notice of Meetings and Interviews**

The College will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

#### **O. Delays**

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Assistant Director of Student Conduct, or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five-day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five-day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator, Assistant Director of Student Conduct, or designee shall have sole judgment to grant further pauses in the Process.

### **IV. General Rules of Investigations**

Investigators designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

The College and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the College and does not indicate responsibility.

The College cannot access, consider, or disclose medical records without a waiver from the party (or parent,

if applicable) to whom the records belong or of whom the records include information. The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

#### **A. Inspection and Review of Evidence**

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
2. inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review through an electronic format or a hard copy. The Institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report.

The institution will provide copies of the parties' written responses to the investigator to all parties and their advisors, if any. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to photograph or otherwise copy the evidence, disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

#### **B. Inclusion of Evidence Not Directly Related to the Allegations**

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed, or may be

appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors, if any. See, 85 Fed. Reg. 30026, 30438 (May 19, 2020).

### **C. Investigative Report**

The Investigators designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, and provide that Report to the parties at least ten (10) business days prior to the hearing (in electronic format or hard copy) for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report. The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

## **V. Hearing**

### **A. General Rules of Hearings**

The College will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through a private, password-protected video conference platform account with waiting rooms for all parties to be in until they are needed for the hearing. This technology will enable participants simultaneously to see and hear each other. At its discretion, the College may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording or transcript will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

### **B. Continuances or Granting Extensions**

The College may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the College will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

### **C. Newly-discovered Evidence**

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Administrative Hearing Chair will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Administrative Hearing Chair answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

#### **D. Participants in the live hearing**

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

##### *Complainant and Respondent (The Parties)*

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party. 85 Fed. Reg. 30026, 30361 (May 19, 2020).
  - For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a “prior statement” that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint. See, OCR Blog (May 22, 2020), available at <https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html>
- The College will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party’s participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party.

- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions. See 34 C.F.R. § 106.45(b)(6)(i).
- The parties shall be subject to the institution's Rules of Decorum, <https://www.strose.edu/title-ix/documentation/#rules-of-decorum-policy>
- *The Decision-maker*
  - The hearing body will consist of a panel of three (3) decision-makers.
  - No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
  - No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
  - The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
  - The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

#### *Advisor of choice*

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).

- If neither a party nor their advisor appear at the hearing, the College will provide an advisor to appear on behalf of the non-appearing party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
- *Advisors shall be subject to the institution's Rules of Decorum and may be removed upon violation of those Rules, <https://www.strose.edu/title-ix/documentation/#rules-of-decorum-policy>.*

#### *Witnesses*

- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing. 85 Fed. Reg. 30026, 30347 (May 19, 2020).
- *Witnesses shall be subject to the institution's Rules of Decorum <https://www.strose.edu/title-ix/documentation/#rules-of-decorum-policy>.*

#### **E. Hearing Procedures**

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- Administrative Hearing Chair will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Administrative Hearing Chair or other panel members will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after Administrative Hearing Chair or other panel members conducts its initial round of questioning; During the Parties' cross-examination, Administrative Hearing Chair or other panel members will have the authority to pause cross-examination at any time for the purposes of asking Administrative Hearing Chair or other panel members' own follow up questions; and any time necessary in order to enforce the established rules of decorum. <https://www.strose.edu/title-ix/documentation/#rules-of-decorum-policy>.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Administrative Hearing Chair or other panel members. A Party's waiver of cross-examination does not eliminate the ability of the Administrative Hearing Chair or other panel members to use statements made by the Party.

#### **F. Live Cross-Examination Procedure**

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, Administrative Hearing Chair or other panel members will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Administrative Hearing Chair or other panel members may be deemed irrelevant if they have been asked and answered.

### **G. Review of Recording**

The recording of the hearing will be available for review by the parties within five (5) business days, unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

## **III. Determination Regarding Responsibility**

### **A. Standard of Proof**

**The College** uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

### **B. General Considerations for Evaluating Testimony and Evidence**

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that the College allow parties to call "expert witnesses" for direct and cross examination. The College does not provide for expert witnesses in other proceedings. While the expert

witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that the College allow parties to call character witnesses to testify. The College does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that the College admit and allow testimony regarding polygraph tests (“lie detector tests”) and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness’ conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Administrative Hearing Chair may draw an adverse inference as to that party or witness’ credibility.

### **C. Components of the Determination Regarding Responsibility**

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the Student Responsibility and Social Conduct, if any, the respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient’s education program or activity will be provided by the recipient to the complainant; and

6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

#### **D. Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the College within ten (10) business days of the completion of the hearing.

#### **E. Sanctions Possible for Students Under the Title IX Grievance Process:**

- a. Censure
- b. Anger Management Program
- c. Attendance at Educational Programs
- d. Behavioral Contract
- e. Conflict Management Training
- f. Educational Service Hours
- g. Reflective Exercises
- h. Removal from College Housing
- i. Interim Suspension
- j. Restrictions
- k. Restitution
- l. Persona Non Grata
- m. Disciplinary Probation
- n. Disciplinary Suspension
- o. Disciplinary Dismissal

**F. Sanctions Possible for Employees Under the Title IX Grievance Process:** written warning, termination.

#### **G. Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

#### **H. Appeals**

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within {three (3) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The sanction is disproportionate, or otherwise inappropriate to the proven violation.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals may be no longer than five (5) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeal Hearing Board comprised of three (3) individuals, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision-maker in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties and include rationale for the decision.

### **I. Retaliation**

The College will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its

implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment. *Refer to the Immunity Statement in the General College Policies and Procedures section of the Student Handbook.*

Complaints alleging retaliation may be filed according to the Student Responsibility and Social Conduct or the Policy and Procedures for Handling Complaints of Discrimination and Harassment for Employees.